

ALSO INSIDE: The Oklahoma Citizens Participation Act
The Sale Leaseback • End-of-Life Decisions

THE OKLAHOMA BAR Journal

Volume 90 — No. 7 — September 2019



AWARDS | BAR BUSINESS | CLE | SOCIAL EVENTS

THURSDAY,
NOVEMBER 7, 2019
9 - 11:30 A.M.

Cox Convention Center
1 Myriad Gardens
Oklahoma City, OK

MCLE 3/1



TEXAS CREDIT PENDING

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WWW.OKBAR.ORG/ANNUALMEETING



2019 ANNUAL MEETING PLENARY

TOPICS INCLUDE:

The Malpractice of Hunches:

Data Analytics to Serve Clients and Run a Successful Firm

Clients ask lawyers the most important questions facing their families and trust lawyers for their expertise. But lawyers answer these questions, for the most part, based on limited experience (at best) or hunches (at worst). Businesses analyze data for every part of their business, from marketing and supply chain to personnel and sales – every part except law. As clients seek to make more data-driven decisions, what obligation do law firms have to collect and refine data about opposing parties, judges, outcomes, and costs? Under the Model Rules of Professional Conduct, are lawyers obligated to employ and supervise artificial intelligence and data analytics tools? Maps are an apt metaphor for legal analytics, in particular, the difficulty that travelers experienced in the age before maps.

- Ed Walters, CEO, Fastcase

The Future is Now: What You Need to Know (Panel)

Artificial intelligence, data analytics, digital client files, alternative fee agreements, cloud computing and legal technology training in law schools have been the topics of discussion among thought leaders for some time. These topics are not some possible future of law, but items today's lawyers need to understand today to deliver high quality services to their clients and be competitive in the marketplace. Panelists will address these subjects and others in this fast-paced and broad ranging discussion.

- Moderator: Jim Calloway, OBA MAP Director

- Panelists: Ed Walters, Mark Robertson and
a representative from legal education

Cyber-ethics: Legal Ethics in a Digital Age

Technology often seems to change everything. But the principles of legal ethics, confidentiality and duty to the clients remain critical. This session will focus on legal ethics in a digital age including such topics as the ethics of cloud computing and a lawyer's duty to protect confidences in an age where it seems everyone is yielding their privacy to digital convenience, social media use by lawyers and clients, ethical challenges with email and fee-based online lawyer referral services.

- OBA General Counsel Gina Hendryx & Jim Calloway



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WEDNESDAY,
NOVEMBER 6, 2019
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PROGRAM PLANNER/
MODERATOR:

Sarah Lee Gossett Parrish,
PLLC, OKC

THIS PROGRAM WILL NOT BE LIVE WEBCAST

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2019
PRE-ANNUAL
MEETING

CANNABIS POTPOURRI

TOPICS INCLUDE:

- **Understanding the Four Stages of a Legal Marijuana Enterprise: Formations, Application, Operation, and Exit**
Steve Schain, Hoban Law, Denver
- **My Employee Has a Medical Marijuana License and Uses at Work ... Now What?**
Vic Albert, Shareholder, Ogletree Deakins
- **What Lawyers Need to Know About Policy and Regulations in Oklahoma**
General Counsel, Oklahoma Medical Marijuana Authority
- **Compliance**
Sarah Lee Gossett Parrish
- **Tax Consequences**
Summer Wilkinson, CPA, Dallas
- **Defending Criminal Charges**
Sonja Porter, OKC
- **The Future of Medical Cannabis (Panel Discussion)**
Moderator: Sarah Lee Gossett Parrish

TUITION: Early registration by November 1, 2019 is \$150. Registrations received after November 1, 2019 date is \$175 and walk-ins are \$200. For a \$10 discount, enter coupon code FALL2019 at checkout when registering online for the in-person program. Members licensed 2 years or less may register for \$75 for the in-person program (late fees apply).

THE OKLAHOMA BAR Journal

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Good Things Happen at Annual Meeting

By Charles W. Chesnut

IT WAS NOVEMBER 1983. The OBA Annual Meeting was being held at Shangri-La on Grand Lake. Ben Owens of Miami was president of the OBA. It was Wednesday night and the President's Reception was in full swing in the ballroom. A young lawyer then, I was active in the Young Lawyers Division. My buddies and I were standing around talking shop when I looked up and a beautiful girl was walking across the ballroom floor toward us. She came up to me and introduced herself. We had met a year or so before and she wondered if I recalled the meeting. For once in my life, I was speechless. My YLD friend with whom I had been talking was about a foot shorter than I was. He immediately picked up on my not-so-quick reaction and announced that *he* was Chuck Chesnut and *he* remembered her. I called her the next day and asked her out. We were married three months later and are still married 35 years later.

Good things happen at annual meetings.

This year, the Annual Meeting returns to Oklahoma City. For the first time ever, it will be held at the Renaissance Convention Center Hotel. We have a number of entertaining activities in store. There are lots of reasons to come to the Annual Meeting of the Oklahoma Bar Association.

For me, the primary reason I started attending was to make contacts and see old friends. My father and I used to have a running debate about how you get ahead in life. He con-

tended that it was who you know. I contended that it was what you know. Later in life, I resolved the issue – at least for myself. Who you know often gets your foot in the door. What you know – or more accurately, what you know and how you perform – keeps it there. In any event, the Annual Meeting is a golden opportunity to enlarge your circle of acquaintances and contacts.

Next, there is always quality continuing legal education sponsored by the OBA CLE Department or by the OBA's various sections. Over the years, it has been a great way to keep up with the most recent developments in Oklahoma law. Great speakers, great content!

Finally, there are always lots of fun events and this year will be no different. As part of your registration, you can receive a full-day pass to Oklahoma City's new streetcar system that serves Midtown, Downtown and Bricktown – good for Wednesday with unlimited rides. Use it during the day to take in the sights, visit one of the many museums or see the Oklahoma City National Memorial. Then, after the President's Reception on Wednesday evening, use it to participate in a pub crawl in Midtown. What an opportunity to hang out with friends and colleagues! You don't have to do the pubs; you can just ride, visit and people watch – that's always entertaining.

The Annual Meeting is an opportunity to support your bar association, renew old acquaintances and make new ones, get educated on the latest developments in Oklahoma law, hear great speakers and – this year – to sightsee Downtown, Midtown and Bricktown from the comfort of Oklahoma City's new streetcar. It's going to be fun. Please make plans to attend. You won't regret it!

LAWSUIT UPDATE

On a different note, many of you are aware that the members of Supreme Court of Oklahoma, the Board of Governors and the executive director of the OBA have been named individually as defendants in their representative capacity in a lawsuit filed in federal court in the Western District of Oklahoma by one of our members. I think many are curious as to the details of the lawsuit and its current status. I know this comes as no surprise, but the defendants have been advised by counsel not to discuss the details of the lawsuit. However, if any of you are interested in knowing more about it, the pleadings are available on PACER, a service that provides online access to United States court records and documents.



Chuck

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HIGHLIGHTS

Cannabis Potpourri | 7-Hour CLE

**Wednesday Morning &
Afternoon**

Join a host of experts for an all-day, pre-Annual Meeting program. Sarah Lee Gossett Parrish has put together an excellent program taught by a diverse group of experts from both the local and national arena. Topics include the stages of legal marijuana enterprise, medical marijuana use at work, defending criminal charges, intellectual property and more.



Midtown Pub Crawl Wednesday Evening

Join your friends and colleagues for a fun trip up to Midtown on Oklahoma City's new streetcar! The event is free with Annual Meeting registration, but please indicate if you'll be participating on the registration form. Participants will be provided an all-day streetcar pass good through midnight Wednesday, plus a map of participating pubs that will be providing specials and discounts for the event. Sponsored by LawPay.



President's Reception

Wednesday Evening

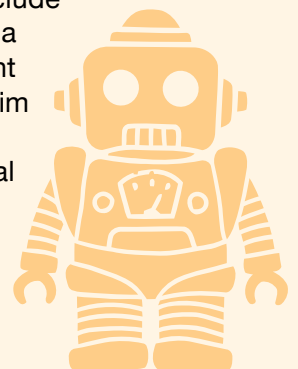
Join President Chuck Chesnut on Wednesday evening to catch up with friends from around the state at the President's Reception. The event is free with Annual Meeting registration and complimentary buffet and drink tickets will be provided.



The Future is Now – What You Need to Know and Cyber Ethics – Legal Ethics in a Digital Age | 3-Hour CLE

Thursday Morning

Start Thursday morning with luncheon keynote speaker Ed Walters, CEO and co-founder of Fastcase, who will present "The Future is Now - What You Need to Know," which will be followed by a panel discussion. The morning program will conclude with OBA General Counsel Gina Hendryx and OBA Management Assistance Program Director Jim Calloway discussing "Cyber Ethics – Legal Ethics in a Digital Age." The program includes one hour of MCLE ethics credit. Annual Meeting registrants receive a discount on this program.





Annual Luncheon

Thursday at Noon

Keynote speaker Ed Walters, CEO and co-founder of Fastcase, will present “Real Intelligence About Artificial Intelligence” during the

Annual Luncheon on Thursday at noon as part of the OBA Annual Meeting. OBA award winners will also be honored at this event. Annual Meeting registrants receive a discount on this luncheon. Sponsored by the OBA Family Law Section



Delegates Breakfast

Friday Morning

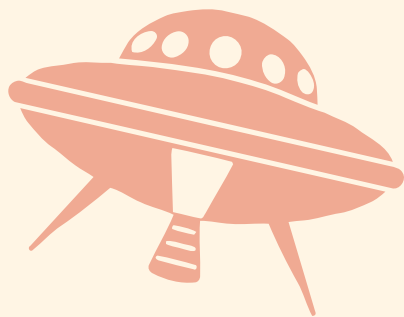
Kick off the last day of the Annual Meeting with a generous breakfast and a presentation by retired NFL referee Walt Coleman. Like most judges and

lawyers, as a referee for more than two decades, Mr. Coleman has been no stranger to unpopular decisions. As “one of the most maligned yet anonymous men in the world,” he will present a humorous view of “Turning Boos into Cheers: How Effective Are You?” The breakfast will be a ticketed event, free for delegates or only \$30 for nondelegates.

Out of This World Party

Thursday Evening

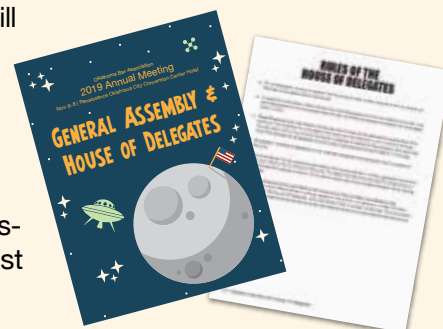
Join your peers for an “Out of This World” party Thursday night. Set your dance moves to stun and unwind in a ballroom far, far away from a day of meetings and presentations. A complimentary buffet and drink tickets will be provided. Co-hosted by the Oklahoma Bar Association and Oklahoma Bar Foundation.



General Assembly and House of Delegates

Friday Morning

The most important association business of the year takes place Friday morning – OBA award presentations, updates from judicial and OBA leaders, elections and consideration of resolutions. For resolutions to be published in the official General Assembly and House of Delegates publication, proposed resolutions in bill format must be submitted to Executive Director John Morris Williams by Oct. 1; deadline to be published in the Oct. 26 *Oklahoma Bar Journal*, resolutions in bill format must be received by Oct. 15.





ANNUAL LUNCHEON

Artificial Intelligence: How to Run a Smarter Practice

ED WALTERS, CEO AND

co-founder of Fastcase, will present “Real Intelligence About Artificial Intelligence” during the Annual Luncheon on Thursday, Nov. 7, at noon as part of the OBA Annual Meeting.

Artificial intelligence (AI) is an emerging frontier for the practice of law, but some breathless press reports make AI seem like magic at best or killer robots coming to take your job at worst. AI tools available to law firms today are very impressive, which means in just a short time they will be nothing short of amazing. There are currently several AI legal research tools that scan the brief you are drafting, or the one you received from your opponents, and offer intelligent suggestions or flag errors.

Some AI tools may strike lawyers as science fiction, however in a short time lawyers may be criticized for not using them. For example, a judge in Ontario recently denied a large part of an attorney fee request, stating, “If artificial intelligence sources were

employed, no doubt counsel’s preparation time would have been significantly reduced.”

Mr. Walters will cover AI tools for both large and small law firms, like AI contract drafting and analysis already in wide use today and judicial analytics tools that offer insights into judge’s propensities. He will break down AI in language that you don’t

have to be a computer scientist to understand. You don’t want your law firm to be left behind.

Mr. Walters has led Fastcase, an online legal research software company based in Washington, D.C., to become one of the world’s largest legal publishers, currently serving more than 900,000 subscribers from around the globe. Mr. Walters is also an adjunct professor at the Georgetown University Law Center and Cornell Tech, where he teaches The Law of Robots and The Law of Autonomous Vehicles.

Before founding Fastcase, Mr. Walters worked at Covington & Burling in Washington, D.C., and Brussels. He also worked in the White House during the George H. W. Bush administration in the Office of Media Affairs and the Office of Presidential Speechwriting.

The cost to attend the event is \$50 with Annual Meeting registration and \$60 for nonregistrants. This is a presentation you won’t want to miss – reserve your spot today!

What AI Can Do for You

- Analyze briefs and flag errors
- Improve legal research
- Suggest clauses in contracts
- Reduce tedious document review time
- Limit repetitive tasks

Oklahoma Bar Association
ANNUAL LUNCHEON
Thursday, Nov. 7 | Noon

REAL INTELLIGENCE
ABOUT
ARTIFICIAL INTELLIGENCE
LEARN HOW TO USE ARTIFICIAL INTELLIGENCE TO RUN A SMARTER PRACTICE

PRESENTED BY

ED WALTERS
CEO & CO-FOUNDER OF FASTCASE



Demystify law firm tech tools used to better serve clients, including legal research, suggesting clauses in contracts and reducing tedious document review and repetitive tasks.



Sponsored by the Family Law Section | www.okbar.org/annualmeeting



HOUSE OF DELEGATES




Dear County Bar Presidents:


Thank you to the County Bar Presidents of:

Bryan, Canadian**, Choctaw, Cimarron, Ellis, Grant, Kay**, McClain, McCurtain, McIntosh, Oklahoma, Pittsburg, Pushmataha, Seminole, Washita and Woodward** counties for submitting your delegate and alternate selections for the upcoming OBA Annual Meeting. (**Reported, awaiting election)

Listed below are the counties that have not sent their delegate and alternate selections to the offices of the Oklahoma Bar Association as of Aug. 16, 2019.



Adair	Craig	Jackson	Murray	Rogers
Alfalfa	Creek	Jefferson	Muskogee	Sequoyah
Atoka	Custer	Johnston	Noble	Stephens
Beaver	Delaware	Kingfisher	Nowata	Texas
Beckham	Dewey	Kiowa	Okfuskee	Tillman
Blaine	Garfield	Latimer	Okmulgee	Tulsa
Caddo	Garvin	LeFlore	Osage	Wagoner
Carter	Grady	Lincoln	Ottawa	Washington
Cherokee	Greer	Logan	Pawnee	Woods
Cleveland	Harmon	Love	Payne	
Coal	Harper	Major	Pontotoc	
Comanche	Haskell	Marshall	Pottawatomie	
Cotton	Hughes	Mayes	Roger Mills	



Please help us by sending the names of your delegates and alternates now. In order to have your delegates/alternates certified, email, mail or fax delegate certifications to OBA Executive Director John Morris Williams, c/o Debbie Brink, P.O. Box 53036, Oklahoma City, OK 73152-3036, fax: 405-416-7001 or debbieb@okbar.org.

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

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

Oklahoma Bar Association

DELEGATES BREAKFAST

Friday, Nov. 8 | 8:30 am

TURNING BOOS INTO CHEERS

HOW EFFECTIVE ARE YOU?

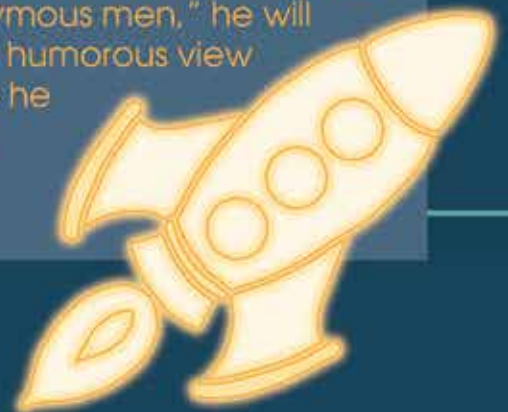
PRESENTED BY

WALT COLEMAN

RETIRED NFL REFEREE



Like most judges and lawyers, as a referee for more than two decades, he has been no stranger to unpopular decisions. As one of Earth's "most maligned yet anonymous men," he will present a humorous view of lessons he learned.



www.okbar.org/annualmeeting



2020 OBA BOARD OF GOVERNORS VACANCIES



Nominating Petition deadline was 5 p.m. Friday, Sept. 6, 2019

OFFICERS

President-Elect

Current: Susan B. Shields, Oklahoma City
Ms. Shields automatically becomes OBA president Jan. 1, 2020 (One-year term: 2020)
Nominee: **Michael C. Mordy, Ardmore**

Vice President

Current: Lane R. Neal, Oklahoma City (One-year term: 2020)
Nominee: **Vacant**

BOARD OF GOVERNORS

Supreme Court Judicial District Two

Current: Mark E. Fields, McAlester, Atoka, Bryan, Choctaw, Haskell, Johnston, Latimer, LeFlore, McCurtain, McIntosh, Marshall, Pittsburg, Pushmataha and Sequoyah counties (Three-year term: 2020-2022)
Nominee: **Vacant**

Supreme Court Judicial District Eight

Current: Jimmy D. Oliver, Stillwater, Coal, Hughes, Lincoln, Logan, Noble, Okfuskee, Payne, Pontotoc, Pottawatomie and Seminole counties (Three-year term: 2020-2022)
Nominee: **Vacant**

Supreme Court Judicial District Nine

Current: Bryon J. Will, Yukon, Caddo, Canadian, Comanche, Cotton, Greer, Harmon, Jackson, Kiowa and Tillman counties (Three-year term: 2020-2022)
Nominee: **Robin L. Rochelle, Lawton**

Member At Large

Current: James R. Hicks, Tulsa, Statewide (Three-year term: 2020-2022)
Nominee: **Amber Peckio Garrett, Tulsa**

NOTICE

This issue went to press before the deadline, and the list of nominees may not be complete. See www.okbar.org/annualmeeting for updates.

Summary of Nominations Rules

Not less than 60 days prior to the annual meeting, 25 or more voting members of the OBA within the Supreme Court Judicial District from which the member of the Board of Governors is to be elected that year, shall file with the executive director, a signed petition (which may be in parts) nominating a candidate for the

office of member of the Board of Governors for and from such judicial district, or one or more county bar associations within the judicial district may file a nominating resolution nominating such a candidate.

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

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

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

attendance at the session at which the election is held.

See Article II and Article III of OBA Bylaws for complete information regarding offices, positions, nominations and election procedure.

Elections for contested positions will be held at the House of Delegates meeting Nov. 8, during the Nov. 6-8 OBA Annual Meeting.

Terms of the present OBA officers and governors will terminate Dec. 31, 2019.

Nomination and resolution forms can be found at www.okbar.org/governance/bog/vacancies.

OKLAHOMA BAR ASSOCIATION NOMINATING PETITIONS

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

OFFICERS

President-Elect

Michael C. Mordy,
Ardmore

Nominating Petitions have been filed nominating Michael C. Mordy for President-Elect of the Oklahoma Bar Association Board of Governors for a one-year term beginning January 1, 2020.

A total of 389 signatures appear on the petitions.

BOARD OF GOVERNORS

Supreme Court Judicial District No. 9

Robin L. Rochelle,
Lawton

Nominating Petitions have been filed nominating Robin L. Rochelle for election of Supreme Court Judicial District No. 9 of the Oklahoma Bar Association Board of Governors for a three-year term beginning January 1, 2020.

A total of 27 signatures appear on the petitions.

A Nominating Resolution has been received from the following county:
Comanche County

Member at Large

Amber Peckio Garrett,
Tulsa

Nominating Petitions have been filed nominating Amber Peckio Garrett for election of Member at Large of the Oklahoma Bar Association Board of Governors for a three-year term beginning January 1, 2020.

A total of 53 signatures appear on the petitions.





2019 RESOLUTION



The following resolution will be submitted to the House of Delegates at the 115th Oklahoma Bar Association Annual Meeting at 11 a.m. Friday, Nov. 8, 2019, at the Cox Convention Center in Oklahoma City.

RESOLUTION NO. ONE:

Proposed amendment to Rules of the Supreme Court of Oklahoma for Mandatory Continuing Legal Education

Whereas the Continuing Legal Education Task Force of the Oklahoma Bar Association (OBA) was charged with studying and evaluating the quality and delivery of education programs to OBA members;

Whereas the Continuing Legal Education Task Force and the OBA Mandatory Continuing Legal Education Commission met in joint session on June 20, 2019, to discuss the potential amendment of Mandatory Continuing Legal Education Rules relating to the number of ethics credits that should be required;

Whereas the enhancement of Continuing Legal Education programs for OBA members on issues related to the fitness to practice law and recognizing and assisting clients and others in the profession with substance use disorders and mental health

challenges is significant to providing quality legal services to the public;

Whereas OBA members currently are required to obtain one (1) legal ethics credit each year.

Whereas expanding the definition of legal ethics under the existing Mandatory Continuing Legal Education Rules and requiring an additional legal ethics credit each year will give OBA members greater opportunity for educational programs that address serious issues that impact the legal profession and the public.

Whereas the suggested change to the Mandatory Continuing Legal Education Rules **will not increase the total number of credits** from the currently required twelve (12) total credits per year but will only require that an additional legal ethics credit be obtained each year by OBA members who are required to annually report their Mandatory Continuing Legal Education hours.

BE IT RESOLVED by the House of Delegates of the Oklahoma Bar Association that the Association amend Rule 7, Regulations 3.6 and 4.1.3 of the Rules of the Supreme Court of Oklahoma for Mandatory Continuing Legal Education, as published in *The Oklahoma Bar Journal* and posted on the OBA website at www.okbar.org.

(Requires 60% affirmative vote for passage. OBA Bylaws Art. VIII Sec. 5.) (Submitted by OBA Continuing Legal Education Task Force and Mandatory Continuing Legal Education Commission.)

PROPOSED CHANGES TO THE RULES OF THE SUPREME COURT OF OKLAHOMA FOR MANDATORY CONTINUING LEGAL EDUCATION

RULE 7. REGULATIONS

The following Regulations for Mandatory Continuing Legal Education are hereby adopted and shall remain in effect until revised or amended by the Mandatory Continuing Legal Education Commission with approval of the Board of Governors and the Oklahoma Supreme Court.

3.6 Instructional Hour. Each attorney must complete 12 instructional hours of CLE per year, with no credit for meal breaks or business meetings. An instructional hour must contain at least 50 minutes of instruction.

Legal Ethics and Professionalism CLE. Effective January 1, 2021, of the 12 required instructional hours of CLE each year, at least two hours must be for programming on Legal Ethics and Professionalism,

legal malpractice prevention and/or mental health and substance use disorders.

PROGRAM GUIDELINES FOR LEGAL ETHICS AND PROFESSIONALISM CLE

Legal Ethics and Professionalism CLE programs will address the Code of Professional Conduct and tenets of the legal profession by which a lawyer demonstrates civility, honesty, integrity, fairness, competence, ethical conduct, public service, and respect for the Rule of Law, the courts, clients, other lawyers, witnesses and unrepresented parties. Legal Ethics and Professionalism CLE may also address legal malpractice prevention and mental health and substance use disorders.

Legal Malpractice Prevention programs provide training and education designed to prevent attorney malpractice. These programs focus on developing systems, processes and habits that reduce or eliminate attorney errors. The programs may cover issues like ensuring timely filings within statutory limits, meeting court deadlines, properly protecting digital client information, appropriate client communications, avoiding and resolving conflicts of interest, proper handling

of client trust accounts and proper ways to terminate or withdraw from client representation.

Mental Health and Substance Use Disorders programs will address issues such as attorney wellness and the prevention, detection and/or treatment of mental health disorders and/or substance use disorders which can affect a lawyer's ability to provide competent and ethical legal services.

Programs addressing the ethical tenets of other disciplines and not specifically pertaining to legal ethics are not eligible for Legal Ethics and Professionalism CLE credit but may meet the requirements for general CLE credit.

Regulation 4.1.3

The program must deal primarily with matters related to the practice of law, professional responsibility, legal ethics, professionalism, mental health or substance use disorders related to attorneys. Programs that address law practice management and technology, as well as programs that cross academic lines, may be considered for approval.



OUT OF THIS WORLD PARTY

THURSDAY, NOV. 7 / 5:30 P.M.

PART OF THE OBA ANNUAL MEETING - OPEN TO ALL!

Co-hosted by



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REGISTRATION



Shoot for the moon with your law practice this year! Join your peers for great speakers, great events and good times with great friends at this year's Annual Meeting. See what's included with your Annual Meeting registration below. Plus, choose from optional CLE courses with nationally recognized speakers and add-on luncheons.

What's included in your Annual Meeting registration:

- Conference gift: *On Legal AI* by Joshua Walker, a book that looks at how to leverage practical legal automation and how to avoid falling prey to its dangers
- Wednesday President's Reception and Midtown Pub Crawl events, including an Oklahoma City Streetcar all-day pass for Wednesday
- Thursday evening social event
- OBA continental breakfast and hospitality refreshments daily
- Discount on registrants' Annual Luncheon ticket and Thursday's CLE

HOW TO REGISTER



Online

Register online at
www.okbar.org/annualmeeting



Mail

OBA Annual Meeting
P.O. Box 53036
Okla. City, OK 73152



Phone

Call Mark at
405-416-7026 or
800-522-8065



Fax/Email

Fax form to
405-416-7092 or email
to marks@okbar.org

DETAILS

Location

Activities will take place at Renaissance Oklahoma City Convention Center Hotel (10 N Broadway Ave) or Cox Convention Center (1 Myriad Gardens) unless otherwise specified.

Parking

Parking will be available in several lots and garages at or near Annual Meeting activities. See a map at www.okbar.org/annualmeeting.

Hotel

Fees do not include hotel accommodations. For reservations at the Renaissance Oklahoma City Convention Center Hotel, call 405-228-8000 (toll-free: 800-468-3571) and reference the OBA, or go to www.okbar.org/annualmeeting. A discount is available on reservations made on or before Oct. 15.

Cancellation

Full refunds will be given through Nov. 1. No refunds will be issued after that date.

CLE Materials

You will receive electronic CLE materials in advance of the seminar.

Special Needs

Please notify the OBA at least one week in advance if you have a special need and require accommodation.

Name _____

Badge Name (if different from roster) _____ Bar No. _____

Email _____

Address _____

City _____ State _____ Zip _____ Phone _____

Name of nonlawyer guest _____

Check all that apply: ☐ Judiciary ☐ Delegate ☐ Alternate

Meeting Registration

Check the box next to your choice.

*New members sworn in this year

On or before Oct. 15

Member

☐ \$75

New Member*

☐ \$0

Oct. 16 or after

Member

☐ \$100

New member*

☐ \$25

MEETING REGISTRATION SUBTOTAL \$ _____

CLE

Check the box(es) next to your choice(s).

Wednesday

Cannabis Potpourri

7-hour program covering stages of legal marijuana enterprise, medical marijuana use at work, defending criminal charges, intellectual property and more.

On or before Nov. 1

☐ \$150

Nov. 2 or after

☐ \$175

Thursday

The Future is Now – What You Need to Know and Cyber Ethics – Legal Ethics in a Digital Age

3-hour program, includes 1 hour ethics

On or before Oct. 15

with Annual Meeting registration

☐ \$50

without Annual Meeting registration

☐ \$100

Oct. 16 or after

with Annual Meeting registration

☐ \$75

without Annual Meeting registration

☐ \$125

CLE SUBTOTAL \$ _____

EVENTS & LUNCHEONS

Midtown Pub Crawl with Wednesday OKC Streetcar Pass

Only available to Annual Meeting registrants and their guest (check all who are attending) Lawyer ☐ Guest ☐

OU College of Law Luncheon

_____ # of tickets at \$45 \$ _____

TU College of Law Luncheon

_____ # of tickets at \$45 \$ _____

OCU School of Law Luncheon

OCU luncheon registration is available by calling 405-208-7100.

Annual Luncheon with meeting registration

_____ # of tickets at \$50 \$ _____

Annual Luncheon without meeting registration

_____ # of tickets at \$60 \$ _____

Delegates Breakfast for nondelegates and alternates

_____ # of tickets at \$30 \$ _____

Delegates Breakfast for delegates (no charge)

(check if attending as a delegate) ☐

EVENTS & LUNCHEONS SUBTOTAL \$ _____

PAYMENT

☐ Check enclosed: Payable to *Oklahoma Bar Association*

TOTAL COST \$ _____

Credit Card: ☐ Visa ☐ Mastercard ☐ American Express ☐ Discover

Card #: _____

CVV# _____

Exp. Date _____

Authorized Signature _____



EVENTS

All events will be held at the Renaissance Oklahoma City Convention Center Hotel or Cox Convention Center unless otherwise specified. Submit meeting room and hospitality suite requests to Craig Combs at craigc@okbar.org by 9 a.m. Sept. 30 to be included in the printed program.

WEDNESDAY, NOV. 6

- CLE: Cannabis Potpourri
- Oklahoma Law School Alumni Luncheons
- Committee and Section Meetings
- President's Reception
- Midtown Pub Crawl
- Hospitality Suites

THURSDAY, NOV. 7

- CLE: The Future is Now – What You Need to Know and Cyber Ethics –
 - Legal Ethics in a Digital Age
- Committee and Section Meetings
- Annual Luncheon
- Out of This World Party
- Past Presidents Dinner
- Hospitality Suites

FRIDAY, NOV. 8

- Delegates Breakfast
- General Assembly
- House of Delegates

The Sale Leaseback

Another Tool in the Toolbox

By Jeff Tracy

LOOKING BACK on my law school career, my securities class was one of the most valuable classes I took, but not for the reason you would suspect. I am not a securities lawyer, and I have never wanted to build a securities practice. I have, however, routinely used the information I learned in that class as a way to ground myself in another area of law, build on a base understanding of another concept or provide insights into a certain way of thinking on a related topic. I have used what I learned in that class exactly how the professor hoped we would – as a tool in my proverbial legal toolbox to provide value to clients by providing counsel beyond their original request and to exceed their expectations.

A sale leaseback (SLB) is a great tool in the transactional attorney's toolbox. For a real estate practitioner or those focused on mergers and acquisitions (M&A), a SLB provides the seller of a business that has real estate holdings with an additional revenue source to justify a higher selling price. It also provides a mechanism to recapitalize a business without taking on additional investors, leveraging the business or selling the business outright. Conversely, it provides opportunities for a buyer of a company with owned real estate to capitalize on the delta between the book value of

the real estate and the actual market value of a single-tenant triple net lease. Furthermore, it allows a buyer to be more aggressive in their pricing when making an offer on an opportunity, knowing that they will create value on the backend through the SLB. The remainder of this article describes the various types of net leases that may serve as the basis for a SLB, provides background on SLBs in general and evaluates the value proposition for business owners and corporations. It will also provide an example of the value that can be created through a SLB's strategic deployment on M&A transactions.

WHAT IS A SALE LEASEBACK?

A SLB is a financial transaction where an asset owner sells that asset on the open market and leases it back from the buyer under a long-term net lease, allowing for the seller of the asset to continue to utilize the asset uninterrupted for a set period of time. While the transaction can be for any asset, historically, real estate has been the best candidate for SLBs. Through a SLB for real estate, the seller typically executes a triple net lease where the seller-turned-tenant is responsible for the majority if not all expenses relating to the property, including taxes, maintenance and/or capital improvements. Typically, the

lease terms (*i.e.*, term length, rental rate, expense structure, etc.) vary from lease to lease and, as will be discussed in more detail below, may be used as leverage to secure better pricing from the eventual purchaser of the real estate.

WHAT IS A NET LEASE?

A net lease is simply a lease where the tenant operates the building(s) and, in addition to rent, is responsible for various costs related to the operation of that building(s). There are degrees of variation in most net leases but, at the highest level, net leases can generally be broken down into two groups – no landlord responsibilities and those with some degree of landlord responsibilities.

A net lease with no landlord responsibilities is referred to as a triple net (NNN) or absolute triple net (absolute NNN) lease. In short, a NNN or absolute NNN lease provides for no landlord responsibilities with the tenant being directly responsible for all expenses, including property taxes, maintenance and capital expenses and improvements. That is, the tenant is required to coordinate and manage all maintenance, improvements and payment of all expenses associated with its operation of the building. Some professionals will make a distinction between a NNN lease and an

absolute NNN lease. An absolute NNN lease is often described as “mailbox money” for the landlord because they have no responsibilities other than paying the debt service on the property, if any. Others describe this as being a simple NNN lease. Some describe a NNN lease as requiring the landlord to provide for the initial payment of the expenses and then seek reimbursement from the tenant. Under all scenarios, the tenant is ultimately responsible for the costs, but it is important to review the lease to determine the level of engagement required from the landlord and whether the expense payments are direct or reimbursed to the landlord.

Alternatively, a net lease where the landlord has levels of financial or capital repairs or improvement responsibilities is usually referred to as a double net (NN) lease. These NN leases can take on a variety of forms. For example, there are NN leases where the tenant is responsible for all expenses except specifically identified expenses, usually roof and/or structure repairs and replacement. Some NN leases require the landlord to pay for all capital expenses and improvements. Like the NNN and absolute NNN, the key is to ensure that you review the lease to determine the specific landlord obligations.



Regardless of the structure, a NNN or NN lease provides value to both the landlord and the tenant. For the landlord, a net lease property provides a very stable, nearly guaranteed long-term tenant and rental income stream with any rent escalations increasing the net operating income (NOI), since the tenant is required to pay some or all of the expenses. The net lease structure also provides limited downside risk for the landlord as there is limited exposure to the expenses and costs associated with vacancy of the property. Finally, as noted above, while there can be varying degrees of engagement required from the landlord (*i.e.*, less for NNN and more for NN), this level of engagement is often significantly less than the time and effort required to manage a multitenant, multifamily or single-family rental asset. Similarly, tenants also prefer the net lease structure. Tenants like the stability that comes from a long-term lease as well as the ability to control many of the expenses related to the operation of the asset. Many times, there are also favorable tax treatments of operating leases versus owning the asset.

SALE LEASEBACKS FOR BUSINESS OWNERS AND CORPORATIONS

SLBs, and the resulting net lease structure, provide a variety of benefits to current business owners who own their real estate and may act as a way for owners to convert the owned real estate into capital. Business owners are often looking for ways to extract some of the equity in their businesses, but to do this, many owners wrongly believe that the only way to “cash out” is to sell some or all of the company. A SLB, however, provides a way to monetize the underlying real estate asset while providing the owner of the business with a long-term net lease to operate under. The owner can essentially “cash out” the equity in the underlying real estate while retaining ownership and operation of the overall business. In addition, the SLB provides the business owner with access to additional capital outside of the traditional financing options through the proceeds of the SLB. Financing for small businesses can be burdensome to apply for and difficult to obtain, but a SLB serves as a substitute to traditional financing. These proceeds can then be reinvested in the business through the purchase of new equipment, expanding to

new lines of business, opening new operation centers or stores, hiring additional employees or acquiring other businesses.

Similarly, benefits abound for large corporations who utilize SLBs. Like the small business owner, a larger corporation can reinvest the proceeds back into its business by expanding the business, buying new equipment or investing more heavily in its employees. In addition, the proceeds can be used to pay down debt and improve the financial strength of the company. Importantly, for public companies, there is a positive correlation between market returns and those companies that utilize SLB proceeds to reinvest in the business rather than paying down debt.¹

SALE LEASEBACKS IN M&A TRANSACTIONS

While SLBs create value for businesses regardless of when they occur, utilizing SLBs at the time of acquiring a new company can exponentially expand those benefits. SLBs, when used in the M&A transaction setting, capitalize on the value arbitrage as a result of the divergence between valuation multiples of the operating company and the company-owned real estate. That is, the multiple that is paid for the business

A SLB, however, provides a way to monetize the underlying real estate asset while providing the owner of the business with a long-term net lease to operate under.

Value Creation with SLB			
	Value w/o SLB	SLB Adj.	Value w/ SLB
2018 EBITDA	\$5	(\$0.8)	\$4.2
2018 Rent Expense	-	0.8	\$0.8
2018 EBITDAR	\$5	\$0	\$5
EBITDA Multiple ¹	6x	-	6x
Equity	\$15	-	\$10.2
Revolver	5	-	\$5
Term Loan ²	10	-	\$10
Mezzanine	0	-	\$0
Other Debt/Long-term Liabilities	0	-	\$0
Real Estate Note	0	\$0	\$0
Total Debt ³	15	-	\$15
Less: Cash	0	-	\$0
Net Debt	15	-	15
TEV	\$30	-	\$25.2
Value Extracted from SLB ⁴	-	-	11.4
Total Value	\$30	-	\$36.6
Incremental Value Created by SLB ⁽⁴⁾	-	-	\$6.6

Source: Stan Johnson Company

(USD in millions)

1. Estimate based on market EBITDA multiples for similar companies
2. Combines RE and equipment senior debt
3. Assumes the company is financed with a combined senior loans and mezzanine debt of 3x EBITDA
4. Does not account for effect of potential taxable gains or transaction costs

(i.e., six times EBITDA, nine times EBITDA, etc.) is often much lower than the multiple that can be put on the owned real estate after the SLB transaction.

As an example, the owner of a business is selling her widget company, WidgetCo, to a private equity group, PEGroup. WidgetCo has 2018 earnings before interest, tax, depreciation and amortization (EBITDA) of \$5 million and is being acquired at a six multiple (i.e., \$30 million). WidgetCo has three owned locations in major markets that total 100,000 square feet with an average industrial rental rate of \$8 per square foot across all three properties. PEGroup is acquiring WidgetCo with an equal debt-to-equity split.

Based on this scenario, the seller of WidgetCo is bound by the market rate multiple for her type of business. That is, while there are some small variances that can be achieved to the overall market rate, the typical sales price is limited to what the overall market is willing to pay for a widget

company. In this case, there is no other way for the WidgetCo owner to extract additional value from the sale of the business beyond the market rate of a six multiple. If, however, the owner of WidgetCo proposes that PEGroup executes a SLB at the time of acquisition on the three owned properties – or if the owner executes a SLB prior to offering the business for sale – the owner can extract additional value from the real estate resulting in a sale price that could be substantially more than book value or of the six multiple that she would be getting on the business.

Here's how this works.² 2018 EBITDA is \$5 million. There is no rental expense currently because the three properties are owned. As a result, earnings before interest, tax, depreciation, amortization and rent (EBITDAR) remains at \$5 million and the resulting value of the business is \$30 million (i.e., \$5 million multiplied by six). If, however, a SLB is executed, the overall evaluation of the business improves to \$36.6 million. 2018

EBITDA remains at \$5 million while EBITDAR is reduced to \$4.2 million, since the business will have a new rental obligation of \$800,000 per year at the conclusion of the SLB (\$8 per square foot multiplied by the total square footage of the three facilities totaling 100,000 square feet). As a result, at the same six multiple, the value of the business drops to \$25.2 million, a reduction of \$4.8 million. If the sale of the real estate is factored in at a 7% cap rate³ with a net operating income of \$800,000 through a triple net lease, the real estate is valued at \$11.4 million, bringing the total value of the asset to \$36.6 million – an arbitrage of \$6.6 million or a 22% increase in the value of the overall business. *In other words, through a SLB, the buyer bought the entire business, including the real estate, at a six multiple and then sold the real estate at a 14.3 multiple, resulting in a value creation of \$6.6 million.*

Importantly, as noted above, numerous factors can impact the overall value of the real estate in the context of a SLB. A longer lease term will drive higher pricing as compared to a shorter lease term. If the tenant or guarantor of the lease has investment grade credit, this will significantly impact the capitalization rate that the owner can demand for the real estate. The amount of rent charged back to the owner-turned-lessee will also impact the overall value of the SLB transaction. For example, for the WidgetCo illustration, a 50-basis-point improvement in cap rate results in an additional \$900,000 in proceeds, even with the rent held constant. Lease term also has a dramatic impact on value. If the tenant agrees to a 20-year lease rather than a 10-year lease, they can expect to extract an additional \$2.3 million in proceeds.

SLB Proceeds						
Rent (psf)	Cap Rate					
		6.50%	6.75%	7.00%	7.25%	7.50%
	\$7.50	\$11.5m	\$11.1m	\$10.7m	\$10.3m	\$10.0m
	\$7.75	\$11.9m	\$11.5m	\$11.1m	\$10.7m	\$10.3m
	\$8.00	\$12.3m	\$11.9m	\$11.4m	\$11.0m	\$10.7m
	\$8.25	\$12.7m	\$12.2m	\$11.8m	\$11.4m	\$11.0m
	\$8.50	\$13.1m	\$12.6m	\$12.1m	\$11.7m	\$11.3m

SLB Proceeds				
Rent (psf)	Lease Term			
		20 yrs	15 yrs	10 yrs
	\$7.50	\$11.5m	\$10.7m	\$9.4m
	\$7.75	\$11.9m	\$11.1m	\$9.7m
	\$8.00	\$12.3m	\$11.4m	\$10.0m
	\$8.25	\$12.7m	\$11.8m	\$10.3m
	\$8.50	\$13.1m	\$12.1m	\$10.6m

Incremental Value Attributable to SLB						
Rent (psf)	Cap Rate					
		6.50%	6.75%	7.00%	7.25%	7.50%
	\$7.50	\$7.0m	\$6.6m	\$6.2m	\$5.8m	\$5.5m
	\$7.75	\$7.3m	\$6.8m	\$6.4m	\$6.0m	\$5.7m
	\$8.00	\$7.5m	\$7.1m	\$6.6m	\$6.2m	\$5.9m
	\$8.25	\$7.7m	\$7.3m	\$6.8m	\$6.4m	\$6.1m
	\$8.50	\$8.0m	\$7.5m	\$7.0m	\$6.6m	\$6.2m

Incremental Value Attributable to SLB				
Rent (psf)	Lease Term			
		20 yrs	15 yrs	10 yrs
	\$7.50	\$7.0m	\$6.2m	\$4.9m
	\$7.75	\$7.3m	\$6.4m	\$5.0m
	\$8.00	\$7.5m	\$6.6m	\$5.2m
	\$8.25	\$7.7m	\$6.8m	\$5.4m
	\$8.50	\$8.0m	\$7.0m	\$5.5m

Source: Stan Johnson Company

The implications of the dramatic increase in value are obvious. For a seller, they can achieve a higher value for their business through a higher multiple. More importantly, this kind of SLB analysis, at a minimum, provides a seller with the data and information they need to support an aggressive asking price, even if the price does not fully account for the full arbitrage in value created through the SLB. In the example above, this allows a seller to ask for a six and a half or seven multiple on the business rather than the market rate of six with the data to back up the increase in value that they can present to a buyer. In short, this analysis provided the seller with the most powerful weapon in a negotiation – information.

For a buyer, the value that is created through a SLB allows them to identify opportunities where the value of the real estate is significantly undervalued and allows them to be more aggressive in their pricing if they know the underlying value and economics of the real estate. In addition, a SLB provides a buyer with better

financing options and, likely, the ability to bring less equity to the closing table. As illustrated above, if our example buyer, PEGroup, was going to purchase WidgetCo without a SLB, they would be required to bring \$15 million in cash/equity as well as secure debt service for \$15 million. In the scenario above, if PEGroup anticipated purchasing WidgetCo for \$30 million but planned on doing a SLB at closing, rather than bringing the full \$30 million in debt and equity at closing, they would only need to bring \$19.6 million (*i.e.*, \$30 million purchase price minus the \$11.4 million in proceeds from the SLB), significantly reducing their equity and debt service need.

CONCLUSION

We started this article with the premise that it is important for all attorneys, regardless of practice area, to constantly add tools to their proverbial toolboxes to enable them to provide additional value to clients beyond the client's original request. The information you have gleaned from this article

has, hopefully, provided you with another tool in your toolbox for the next time a client calls you asking about SLBs, business valuations or commercial real estate. How much value can you add to a client who is selling a business if you ask if they have considered a SLB to provide more aggressive pricing on their deal? How much value can you provide to a private equity firm acquiring a business if you ask if they have run a SLB analysis to see if there is an arbitrage that can be realized through the sale and leaseback of the owned real estate? Many times, in the practice of law, simply asking the question is just as valuable as having the answer.

ABOUT THE AUTHOR

Jeff Tracy is an associate at Stan Johnson Company. He focuses on the disposition and acquisition of net lease office, retail and industrial properties nationwide with a focus on providing sale leaseback and zero cash flow advisory services to corporations, high net worth individuals, family offices and private equity firms.

ENDNOTES

1. "[W]e find abnormal market returns are positively correlated with the price-earning (P/E) ratio and negatively correlated with debt structure," write Wells and Whitby. In short, they conclude that "the market perceives sale-and-leaseback funds likely to be used for growth as value enhancing while firms likely to use funds to meet debt obligations experience lower event returns." Wells, Kyle and Ryan Whitby, 2012, "Evidence of Motives and Market Reactions to Sale and Leasebacks," *Journal of Applied Finance*, Vol. 22, No. 1, 2012.

2. This is a very simplistic example. In practice, we would run a cash flow analysis, a real estate financing and valuation model, debt schedule, new debt amortization schedule and a new real estate debt amortization table to ensure that all necessary debt coverage rates remained intact and that no covenants from the acquiring group were breached. With that said, very rarely do we find that a SLB does not improve the financials of the overall transaction.

3. The cap rate is simply a measure of value at a moment in time. Several factors would go into this determination, including, but not limited to, length and structure of the lease, credit of the tenant and guarantor and quality of the underlying real estate.

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Through the Tapestry of Life

In Search of Guiding Legal Principles in End-of-Life Decisions

By Mbili M. Mwafulirwa

THROUGHOUT HUMANITY'S unfolding story, death has been one of the few constants. "Death comes for all of us."¹ Despite humanity's long history and familiarity with death, the end-of-life experience is still laden with complexity. How death happens and why are questions that invite more questions than answers. The law does provide some answers. An unjustified killing, for example, is unlawful. Death imposed as part of the death penalty or as the result of justified deadly force is lawful. A competent adult can choose (in real time or through advance directives) to refuse lifesaving medical care, and a surrogate can, in limited circumstances, make end-of-life choices on behalf of an incapacitated patient. This is a nonexhaustive list. Outside those limited situations, there are few hard and fast rules. Few questions that intertwine law, morality and ethics have fixed rules: death stands as no exception.

No other setting best encapsulates those end-of-life complexities as the medical field, the subject of this article. In that setting, as in countless other end-of-life situations, the penultimate question is this: at what point does a single life lose its intrinsic value or worth to warrant being ended or not

being preserved? That kind of analysis, as will become apparent, puts personal liberty interests on a head-on collision with criminal laws, ethics vs. morals, law vs. religion, the interests of the few vs. those of the many, the promise of healing vs. ending a life.

This article highlights those end-of-life complexities that are part of the tapestry of life from the delivery room to the grave, while outlining the basic guiding legal principles.

A HOBSON'S CHOICE OF A LIFETIME²

Consider the *true-life* plight of two loving parents and their newly born twin girls, Jodie and Mary (fictitious names).³ Although the twins each had a separate brain, heart, arms, legs and several other vital organs, they were born conjoined at the lower abdomen.⁴ Mary's heart and lungs were weak and could not adequately oxygenate her body. If Mary had been born separate from her sister, her respiratory system would have failed. Fortunately for Mary, she could rely on her sister's heart and lungs to oxygenate her body.⁵ The problem for the children was that the stronger twin's respiratory system could not bear this heightened load forever; unless the doctors alleviated the additional pressure, both children would die.

The only good news for the twins was that the doctors could have separated the children, but at a grave cost. The act of separation guaranteed with virtual certainty that the weaker twin would die.⁶ The distraught parents were devout Catholics who believed in the inviolate sanctity of human life and could not agree to sacrifice any of their children.⁷ The twins' doctors turned to the courts. From this and several end-of-life fact patterns, difficult legal questions abound. What guiding legal principles inform the decision-making process? Was the withdrawal of treatment to the weaker twin in this context legitimate medical care or was it affirmative, purposeful destruction of life? Put differently, was this intentional conduct that would, with virtual certainty, lead to death which is normally the domain of the criminal law? If it is the latter, is it justifiable? If yes, how? If it is legitimate medical care, as opposed to criminal conduct, how is the distinction drawn in this specific context of the conjoined twins. This article addresses those difficult questions.

SELF-DEMISES – THE GOVERNING PRINCIPLES

When a person takes their own life, the criminal law is not offended: suicide is not a crime.⁸



The reasons for this are both moral and practical. In a practical sense, there is real difficulty in punishing a dead person.⁹ After all, when a person dies, they are no longer available to face the consequences of their criminal actions – the axe of retribution tends to fall on the remaining innocents, the decedent's family.¹⁰ On the moral front, the law appreciates that those who take their lives generally do so because "of medical and psychological anguish,"¹¹ but with attempted and failed suicides, the law imposes punishment.¹² The U.S. Supreme Court has upheld government regulation in this area to preserve the sanctity of human life because the U.S. Constitution does not afford us the right to commit suicide alone or with help from others.¹³

END-OF-LIFE PROBLEMS AND GUIDING LEGAL PRINCIPLES

End-of-life situations are most complex when a person other than the putative decedent 1) plays a central role in the end-of-life decision; or 2) is involved in accelerating a demise. Each is addressed below.

Governing Considerations in the End-of-Life Decision Making Process

The competent adult – an informed decision to die. When a competent adult ends their life, unless a suicide note (or the like) is left behind, both the decision-making process and the decedent's motivations are uniquely subjective to the patient. Likewise, as noted, a self-demise (or suicide) is not a crime.¹⁴ Beyond the suicide context, the law allows a competent adult to pre-fix an end-of-life decision through devices like do not resuscitate (DNR) forms, advanced directives, health proxies and living wills. These prearranged devices allow medical providers and chosen surrogates to discern and honor a patient's prior expressed desires.¹⁵ As long as the patient was competent when they executed the prearranged end-of-life instrument, the law considers it valid.¹⁶ The assumption in this analysis is that the medical providers would have no moral or religious objection to carrying out a patient's real-time or advanced end-of-life directives. If there were any such concerns, the law, including a respected body of

professional guidance, requires that a willing provider should assume care from the objecting medical provider.¹⁷

The vicarious decision to die – death with help from others. The end-of-life complexities become more pronounced in the vicarious stage when someone other than the patient has to make an end-of-life decision.¹⁸ This scenario tends to arise when 1) the patient has, at the time, a perceivable lack of mental capacity because of illness, injury or infancy, to direct treatment; or 2) when an instrument designates a proxy without providing clear guidance on how they should make the end-of-life decision. It is in this vicarious stage that the decision process is most complicated because, as the U.S. Supreme Court has recognized, end-of-life decisions require value-based assessments that implicate societal norms and morals and invite deep-seated policy considerations.¹⁹ In similar vein, Justice Scalia noted,

The point at which life becomes worthless, and the point at which the means necessary to preserve

it become extraordinary or inappropriate are neither set forth in the Constitution nor known to the nine Justices of this Court any better than they are known to nine people picked at random from the Kansas City telephone directory.²⁰

Again, questions abound. Whose interests are best advanced by an end-of-life decision – the patient, the patient’s family, the affected community²¹ or some other consideration?²²

If a court or governmental actor is involved in the decision, the First Amendment requires that sincerely held religious convictions not be dismissed out of hostility or convenience.²³ The moral and religious convictions that the state actor must contemplate are generally those of the patient, not so much of the substitute decision makers (as it is the patient’s best interests, not of those of the surrogate, at issue) and, of course, the medical providers’ moral convictions are also important.²⁴ Thus, if a hospital (or doctor or nurse) involved in the end-of-life process harbors deep-seated religious or moral objections, a court cannot override those.²⁵ These are some of the weighty questions that need addressing.

The U.S. Supreme Court engaged in a somewhat similar multifactor analysis in *Cruzan*, the case of a Missouri woman in a permanent vegetative state. In *Cruzan*, the court held that there is no federal constitutional right to die and states could impose heightened procedures – an evidentiary hearing subject to clear and convincing evidence requirements – among others, to determine an incapacitated patient’s wishes about withdrawal of treatment.²⁶ Oklahoma has comprehensive laws that address a surrogate’s right to direct an incapacitated person’s medical treatment. In

its present form, Oklahoma law allows surrogates (delineated in the statute to include a spouse, among others, or family members) to give informed consent with regard to all manner of medical treatment decisions for an incapacitated patient.²⁷

Oklahoma law allows parents and legal guardians to make all manner of medical treatment decisions for their children, including end-of-life decisions.²⁸ This tracks what the U.S. Supreme Court has generally long recognized about the parent-child relationship: “that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life’s difficult decisions.”²⁹ It is against that background that the law’s preference that “[p]arents can and must make those [difficult] judgments” is best understood.³⁰

The U.S. Supreme Court has, however, recognized that the government may override a parent’s wishes “when [a child’s] physical or mental health is jeopardized.”³¹ The Supreme Court has emphasized that those instances are rare and usually only come into play when there are colorable claims of abuse or neglect, not simply because the government or child disagrees with a parent’s otherwise rational decision.³² In other words, according to the Supreme Court, state interference with parental authority is defensible, for example, when a parent deprives her child adequate medical care or significantly impedes the exercise of a constitutional right.³³ In the end-of-life context involving children, courts generally get involved when there is a conflict between family members, or with medical providers or any other person with standing to assert the best interests of the child (*e.g.*, guardian *ad litem* or the Oklahoma Department of Human Services).³⁴ As the Oklahoma Supreme Court’s decision in the *Baby F* case generally

guides, the child’s best interests should guide an Oklahoma court’s decision-making in an end-of-life situation.³⁵

The Problems of Accelerated Demises **Accelerated demises generally.**

The law remains unwavering in its commitment to punish and hold accountable those who accelerate or assist, even remotely, the intended death of another person without basis. To begin with, as noted, assisting someone else to commit suicide is a crime.³⁶ Similarly, a person’s purposeful or active curtailment of another’s life is generally punished by the homicide laws; even then, the law admits a few exceptions. The law excuses, for example, clear instances of self-defense or defense of another; or when one person kills another while imposing lawful criminal punishment; or death as the result of justified use of deadly force.³⁷ The decedent’s consent is not a defense to the criminal or civil consequences of an intentional accelerated death; that is why mercy killings, for example, are punishable.³⁸ Likewise, generally the killing of another person done out of necessity, rage or while acting outside the scope of legal privilege, or as part of a cruel and unusual punishment, are all unlawful.³⁹

Accelerated demises in the medical context. When a putative decedent is born alive, their life and personal integrity receive the protection of the law.⁴⁰ Moreover, and as noted, under the personal autonomy principle, every competent adult can refuse any form of medical treatment.⁴¹ In fact, the right to refuse lifesaving treatment and hydration has a constitutional dimension, which effectively stands as a barrier against arbitrary governmental interference.⁴² Here, it is also important to distinguish, on the one hand, a medical doctor’s decision to withdraw lifesaving

treatment or give legitimate medical treatment that poses a *risk* of death and that may incidentally cause an early demise. That form of treatment is generally not a crime. On the other hand, the purposeful administration of excessive amounts of medication to bring about an expedited death or assisting a suicide are both crimes.⁴³ Specific to medical providers, the U.S. Supreme Court has stated that the latter acts conflict with a physician's duties as a healer.⁴⁴

The criminal law's tolerance for treatment that has the known *incidental* effect of accelerating a patient's death warrants more analysis. This issue often arises with terminal patients who receive palliative care and treatment which, when the dosage increases, may invariably lead to death.⁴⁵ What is the difference between palliative care of that kind and euthanasia or doctor-assisted suicide, which are both generally crimes? After all, each leads to an accelerated demise. The difference is that in the lawful context (*e.g.*, palliative care), the primary purpose for the treatment is not to take the patient's life, but it is to alleviate pain and death is merely an incidental consequence.⁴⁶ That differs from euthanasia of which purposeful administration of lethal medication, for example, is the primary purpose and *intended consequence*, rather than *bona fide* medical treatment.⁴⁷ As Justice Holmes famously observed, "a deed is not done with intent to produce a consequence *unless that consequence is the aim of the deed*."⁴⁸ In recent times, Justice Gorsuch has argued in his seminal book on assisted suicide and euthanasia that doctor-assisted suicide differs from euthanasia in that in the former, the patient generally takes the last act causing death, while in the latter the medical provider does.⁴⁹

The problem of the conjoined twins. The problem of the conjoined twins is unlike most end-of-life medical decisions because in that situation the doctors had to arguably take affirmatively the life of A so that B may live, instead of only dealing with a single patient.⁵⁰ As noted, generally the criminal law permits doctors to withdraw or provide legitimate medical treatment even if it has the *incidental consequence* of hastening death without penalty, but generally those who affirmatively end the life of another generally face homicide-related sanctions.⁵¹ If the law does not excuse intentional mercy killings by loving and caring

treatment that mirrors what the doctors had to do for the conjoined twins.⁵⁴ On that view, the doctors would violate the law.

In the specific context of the conjoined twins, the doctors performed the separation operation. The courts found legal justification in a defense of another/self-defense rationale; that is, the stronger twin herself or medical providers needed to preserve the stronger twin's life from her "aggressor" sister.⁵⁵ Ordinarily, the criminal law permits A to take the life of B in self-defense or defense of another.⁵⁶ The self-defense and defense of another rationales would appear irreconcilable with Oklahoma law

As noted, generally the criminal law permits doctors to withdraw or provide legitimate medical treatment even if it has the *incidental consequence* of hastening death without penalty, but generally those who affirmatively end the life of another generally face homicide-related sanctions.

relatives,⁵² for example, one possible view holds that there might be little difference in principle why similarly ending human life (albeit in the medical context) should be treated differently. After all, the U.S. Supreme Court has made clear that "in the law what is sauce for the goose is normally sauce for the gander."⁵³ If that logic were applied to its ends, there would appear to be no permissible medical

in this context. To begin, since the stronger twin could not have acted *herself* against her so-called "aggressor" because of infancy, the medical providers had to act on her behalf.⁵⁷ As a result, self-defense logically appears not to fit (for a clear absence of "*self*"). Likewise, the defense of another or fatal-force-to-prevent-a-felony rationales appear unavailing for two reasons. First, the fiction that the weaker

In vicarious end-of-life decisions, there are vexing questions about the best interests of the patient; the determination is fact-specific with no easy answers.

twin was committing a felony against her sister simply cannot withstand scrutiny. Neither twin caused the harmful condition that threatened their lives; it occurred naturally. Finally, an infant of that age could not possibly form the necessary mens rea to support that kind of a crime.⁵⁸ As a result, under Oklahoma law, those homicide concepts appear ill-suited to the situation at hand.

Another plausible view is that the separation was legitimate medical treatment. To quote Justice Holmes again, “a deed is not done with intent to produce a consequence *unless that consequence is the aim of the deed*.”⁵⁹ The twins’ medical providers’ intentions for performing the operation were clear: they wanted to save the life of a patient, the stronger twin. Viewed through those lenses, the conclusion that this was legitimate treatment appears inescapable. The stronger twin needed urgent medical care. Because the twins were conjoined, whatever lifesaving treatment was given to the stronger twin would also affect her sister, with varying consequences. As a result, any death to the weaker twin from the operation would be an incidental consequence of rendering legitimate medical care to the stronger

twin. The law does not generally criminalize legitimate medical care that has the *incidental consequence* of hastening a patient’s death.⁶⁰

Finally, a word about the “best interests” analysis. In vicarious end-of-life decisions, there are vexing questions about the best interests of the patient; the determination is fact-specific with no easy answers.⁶¹ For the stronger twin, her best interests were in being alive, while for her sister an impending death was inevitable with or without medical intervention: against that backdrop, at most, the weaker-twin could only hope for a dignified end.⁶²

CONCLUSION

Death is a sophisticated subject with few and fast hard rules. If there is any semblance of a principled approach in this area, it is best seen in cases of competent adults who choose (in real time or through advanced directives) to refuse lifesaving treatment. Beyond that, complexity exists. No one size solution fits all cases.

Author’s note: an earlier version of this paper was presented to the judges and lawyers at the Hudson Hall Wheaton Chapter of the American Inn of Court.

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ENDNOTES

1. Paul Kalanithi, *When Breathe Becomes Air* 114 (Random House 2016).
2. In “literary usage, a *Hobson’s choice*... denote[s] no choice at all.” Bryan A. Garner, *Garner’s Modern English Usage* 466 (4th ed. 2016) (italics in original).
3. See J.F.O. McAllister, “Kill Mary to Save Jodie?” (Sept. 10, 2000), content.time.com/time/magazine/article/0,9171,54436,00.html (last seen April 27, 2019).
4. *Id.*
5. *Id.*
6. *Id.*
7. *Id.*
8. See *Washington v. Glucksberg*, 521 U.S. 702, 774 (1997) (Souter, J., concurring).
9. See *U.S. v. Parsons*, 367 F.3d 409, 411-417 (5th Cir. 2004) (en banc); *U.S. v. Dudley*, 739 F.2d 175, 177 (4th Cir. 1984).
10. *Glucksberg*, 521 U.S. at 713; see also *Boyd v. State*, 1910 OK CR 87, 108 P.431, 431.
11. *Glucksberg*, 521 U.S. at 730 (citations omitted).
12. See, e.g., 63 O.S. §3141.3 (assisting another to commit or attempt suicide is a crime).
13. See *Glucksberg*, 521 U.S. at 716.
14. *Id.* at 774 (Souter, J., concurring).
15. See *Cruzan v. Dir. Mo. Dep’t of Health*, 497 U.S. 261, 289-290 (1990) (O’Connor, J., concurring); The President’s Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, *Making Health Care Decisions* vol. 1, 155-166 (October 1982) (noting importance of advance directives); 15 O.S. §§1001-1020 (power of attorney); 58 O.S. §§1071-1077 (power of attorney); 63 O.S. §§3101-3102A (advanced directives law); *id.* §§3131.1-3131.14 (DNR statute); 63 O.S. §§3080.1-3080.5 (hydration and nutrition laws).
16. See, e.g., *Hold v. Bentley*, 2018 OK CIV APP 62, ¶¶17, 13-16, 439 P.3d 426, 428-429.
17. See 63 O.S. §3080.5(A); §3101.9; §3131.8(C); see also *Making Healthcare Decisions* at 3 (“Patients are not entitled to insist that health care practitioners furnish them services *when to do so would violate either the bounds of acceptable practice or a professional’s own deeply held moral beliefs*.”) (emphasis added).
18. See *Cruzan*, 497 U.S. at 280.
19. *Id.* at 277 (end-of-life decisions implicate “perplexing question[s] with unusually strong moral and ethical overtones.”).
20. See *Cruzan*, 497 U.S. at 294 (Scalia, J., concurring).
21. See *Hobby Lobby Stores, Inc. v. Sebelius*, 723 F.3d 1114, 1152 (10th Cir. 2013) (Gorsuch, J., concurring) (“All of us face the problem of complicity. All of us must answer for ourselves whether and to what degree we are willing to be involved in the wrongdoing of others.”).
22. Cf. *id.* (Gorsuch, J., concurring) (“For some, religion provides an essential guidance... about what constitutes wrongful conduct...”).
23. See *Citizens United v. Fed. Elect. Comm’n*, 558 U.S. 310, 326 (2010) (“Courts, too, are bound by the First Amendment”); *Masterpiece*

Cakeshop, Ltd v. Colo. Civil Rights Comm'n, 138 S.Ct. 1719, 1732 (2018) (“The official expressions of hostility to religion” by a decisionmaker “at any point in the proceedings” is “inconsistent with what the Free Exercise Clause requires.”).

24. *In Matter of Jobes*, 529 A.2d 434, 444-445 (N.J. 1987); see also *Making Health Care Decisions* at 3-5, *supra* note 15.

25. See generally 63 O.S. §3080.5(A) (allowing physicians to refuse to participate in end-of-life care); accord §3101.9; §3131.8(C); *Making Health Care Decisions* at 3-4, *supra* note 15; see, also e.g., generally *Burwell v. Hobby-Lobby Stores, Inc.*, 134 S.Ct. 2751, 2768-2769 (2014) (corporations and their owners can make religious objections on behalf of their owners).

26. *Cruzan*, 497 U.S. at 267-286.

27. See 63 O.S. §§3102.4-3102A.

28. *Id.*; See also *in re Barry*, 445 So.2d 365, 371 (Fla. App. 1984) (In granting petition, court held that parents could make end-of-life decision for minor child, even without prior court order).

29. *Parham v. J.R.*, 442 U.S. 584, 602 (1990).

30. *Id.* at 603.

31. *Id.*

32. *Id.* at 602-603.

33. *Id.* at 603 (citations omitted).

34. See, e.g., *In re Drabick*, 200 Cal. App. 3d 185, 198 (1988) (“Patients make their own treatment decisions with the advice of their physicians. Family members, and sometimes other persons, participate when the patients cannot. Courts, on the other hand, become involved only when... there are disagreements.”), *cert. denied*, 488 U.S. 958 (1988); accord *In re Jobes*, 529 A.2d at 451; see also 10A O.S. §1-3-102(C)(2) (court can make end-of-life decision for child in DHS custody).

35. See, e.g., *Baby F v. Okla. Cnty. Dist. Ct.*, 2015 OK 24, ¶121, 348 P.3d 1080, 1088.

36. *Glucksberg* 521 U.S. at 710; accord 21 O.S. §§817-818; 63 O.S. §3141.3 (assisting a suicide or an attempt to do so is a crime); 12 O.S. §1051, *et seq.* (civil remedy for wrongful death).

37. See *Mullaney v. Wilbur*, 421 U.S. 684, 692 (1975) (generally only death in the course of enforcing the law, self-defense or defense of another, or accidental death are justified); 21 O.S. §§691-733.

38. See *Edinburgh v. State*, 1995 OK CR 16, ¶¶13-16, 896 P.2d 1176, 1179-1180.

39. See *United States v. Holmes*, 26 F.Cas. 360 (E.D. Pa. 1842) (necessity of possibly dying of hunger did not excuse murder of fellow crew member); *Wood v. State*, 1971 OK CR 232, ¶9, 486 P.2d 750, 752 (heat of passion defense does not justify homicide; it only reduces murder to manslaughter); *People v. Mehserle*, 206 Cal. App. 4th 1125, 1155, 142 Cal. Rptr. 3d 423, 448 (2012) (police officer convicted for unlawful homicide due to excessive force); *Valdes v. Crosby*, 450 F.3d 1231, 1244 (11th Cir. 2006) (excessive use of force resulting in death is unlawful).

40. See *Glucksberg*, 521 U.S. at 710-714; *Cruzan*, 497 U.S. at 296 (Scalia, J., concurring).

41. See 63 O.S. §3101.8(A); see also *Scott v. Bradford*, 1979 OK 165, ¶9, 606 P.2d 554, 556.

42. *Cruzan*, 496 U.S. at 279; *Glucksberg*, 521 U.S. at 723.

43. See *Cruzan*, 496 U.S. at 273-274; 63 O.S. §3141.4 (A)&(B) (neither the withdrawal of lifesaving treatment nor dispensing medication to alleviate pain are crimes).

44. See *Glucksberg*, 521 U.S. at 732-733 (citing various leading medical bodies' ethical codes).

45. See *Compassion in Dying v. Wash.*, 79 F.3d 790, 840 (9th Cir. 1996) (Beezer, J.,

dissenting), *overruled on other grounds*, *Glucksberg*, 521 U.S. 702.

46. *Id.* at 858 (Kleinfield, J., dissenting).

47. See *id.* at 840 (Beezer, J., dissenting); *id.* at 858 (Kleinfield, J., dissenting).

48. *Id.* (Kleinfield, J., dissenting) (quoting *Abrams v. U.S.*, 250 U.S. 616, 627 (Holmes, J., dissenting)).

49. Neil Gorsuch, *The Future of Assisted Suicide and Euthanasia* 6 (Princeton Univ. Press 2006).

50. See “Siamese twins: the judgment,” Sept. 22, 2000, BBC, news.bbc.co.uk/2/hi/health/937586.stm (last accessed July 23, 2019).

51. See text accompanying note 36.

52. See *Edinburgh*, 1995 OK CR 16, ¶¶13-16, 896 P.2d at 1179-1180.

53. *Heffernan v. City of Patterson*, 136 S.Ct. 1412, 1418 (2016).

54. See *Glucksberg*, 521 U.S. at 732-733 (various medical bodies' ethical codes condemn affirmative and active steps to end a life as being inconsistent with the medical role of healer).

55. *Siamese twins: the judgment*, *supra* at note 50.

56. See 21 O.S. §§733; accord *O.W.M. v. State*, 1997 OK CR 49, ¶¶13-15, 946 P.3d 257, 261.

57. See *Kill Mary to Save Jodie?*, *supra* at note 3.

58. See 21 O.S. §§733.

59. *Abrams*, 250 U.S. at 627 (Holmes, J., dissenting) (emphasis added).

60. 63 O.S. §3141.4 (A)&(B).

61. See 63 O.S. §§3102.4-3102A; see, e.g., *Baby F*, 2015 OK 24, ¶¶17-20, 348 P.3d at 1087-88.

62. See, e.g., *Siamese twins: the judgment*, *supra* at note 50.



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The Oklahoma Citizens Participation Act as a General Early Dismissal Procedure

By Aaron F. W. Meek and Noah E. W. Meek



IN 2014, THE OKLAHOMA Legislature passed the Oklahoma Citizens Participation Act (OCPA), which is codified in Okla. Stat. Tit. 12, §§1430-40. The Oklahoma Court of Civil Appeals has stated “[i]t is clear that the OCPA provides a new summary process/dismissal procedure in certain cases ...”¹ Case law suggests that this new law may develop into a general early dismissal procedure applicable to many different types of Oklahoma civil cases.

This article gives a brief outline of how the OCPA is likely to be interpreted in the event that Oklahoma courts agree with Texas case law pertaining to the nearly identical original version of the Texas Citizens Participation Act (TCPA) as amended June 14, 2013, with respect to the meaning of the OCPA,² outlines some key practice pointers for scenarios where an OCPA motion has been or may be filed and discusses a crucial element of the OCPA which the Oklahoma Supreme Court may interpret differently than the Texas Supreme Court has interpreted a similar provision in the TCPA.

HISTORY OF ANTI-SLAPP LEGISLATION IN OKLAHOMA

Oklahoma enacted a limited anti-SLAPP³ statute in 1981.⁴ This statute, by its language, is only applicable to particular types of libel, such as in a legislative or judicial proceeding, in the discharge of an official duty or in reporting on a legislative or judicial proceeding or official acts.⁵ However, Oklahoma courts have applied it liberally to protect the right to petition and related activities.⁶ After several states adopted broad anti-SLAPP legislation, the Oklahoma Legislature followed suit in 2014 and unanimously passed the Oklahoma Citizens Participation Act.⁷

There are currently only two reported decisions by the Oklahoma Supreme Court involving the OCPA: *Steidley v. Singer*⁸ and *Anagnost v. Tomecek*.⁹ Both of these cases addressed the question of whether the OCPA applies retroactively, and in both cases, the Oklahoma Supreme Court held that it does not.¹⁰

However, the OCPA is almost word-for-word, but, perhaps importantly, not comma-for-comma identical to the June 14, 2013, version of the TCPA, which was originally enacted in 2011.

During its relatively short existence, Texas courts have developed a substantial body of case law – over 300 reported decisions – pertaining to the TCPA. It is appropriate to interpret this large body of case law as an indication of the significance of the TCPA and thus also the OCPA. These Texas cases provide Oklahoma practitioners with reference materials when interpreting the OCPA, some of which is considered legally persuasive in Oklahoma courts.¹¹ Furthermore, the Oklahoma Court of Civil Appeals has recently issued opinions that adopt, or favorably cite, significant portions of Texas’ TCPA jurisprudence.¹²

The TCPA had been interpreted so expansively by Texas courts and had become such a powerful force that, shortly before this writing, the Texas governor signed House Bill 2730,¹³ which took effect Sept. 1, 2019, and which will substantially alter and pare back the TCPA. The TCPA discussion in this paper thus pertains only to the two original versions of the statute in force from June 17, 2011, to Aug. 31, 2019. There has been no effort by the Oklahoma Legislature to reform the OCPA.

Under the OCPA, a party in Oklahoma state courts can bring a motion to dismiss no later than 60 days after service of a legal action by showing by a preponderance of the evidence that the “legal action is based on, relates to or is in response to a party’s exercise of the right of free speech, right to petition or right of association.”

APPLICATION OF THE OKLAHOMA CITIZENS PARTICIPATION ACT

Under the OCPA, a party in Oklahoma state courts can bring a motion to dismiss no later than 60 days after service of a legal action by showing by a preponderance of the evidence that the “legal action is based on, relates to or is in response to a party’s exercise of the right of free speech, right to petition or right of association.”¹⁴ It also appears that OCPA motions may be appropriate in cases involving Oklahoma state law claims in federal court.¹⁵ The court must then set a hearing on the motion no later than 60, 90 or 120 days after service of the motion, depending upon the circumstances,¹⁶ and rule no later than 30 days after the date of the hearing.¹⁷

The OCPA naturally applies to defamation claims and claims traditionally thought of as pertaining to First Amendment rights. However, notwithstanding the OCPA’s inconspicuous location in the slander and libel chapter of Title 12, it is increasingly clear that OCPA anti-SLAPP¹⁸ motions are

also appropriate in a broad range of commercial and tort lawsuits.¹⁹

As a preliminary matter, certain types of actions are exempt from OCPA dismissal, such as government enforcement actions, bodily injury actions, insurance-related actions and actions arising out of certain types of commercial speech.²⁰ At first glance, the commercial speech exemption appears to shield many commercial claims from the possibility of OCPA attack. The Oklahoma Court of Civil Appeals has offered Oklahoma’s initial interpretation of the commercial speech exemption, relying heavily on the case law developed by Texas Courts of Appeals up to that point; however, the Texas Supreme Court subsequently addressed, and narrowly construed, the commercial speech exemption.²¹

The statutory definition of the exercise each of the three types of rights protected by the OCPA first requires a communication.²² The term “communication” is broadly defined to be the “making or submitting of a statement or document in any form or medium, including oral, visual, written,

audiovisual or electronic.”²³ Texas courts have broadly construed this definition such that nearly any communication satisfies the statutory requirement.²⁴ The TCPA has been interpreted to apply to claims based on purely private, illicit communications.²⁵ “Submitting ... a ... document” is a “communication” under the TCPA’s broad definition, and this would include filing an instrument in the real property records.²⁶ A respondent can deny the communication occurred and simultaneously use the alleged communication as the basis for a TCPA motion.²⁷ Even when a communication is not apparent from the face of a claim, the party bringing a TCPA motion can introduce evidence to supply key facts omitted from the nonmovant’s pleading.²⁸

The communication must then fall into one of the three categories of expression protected by the OCPA: the right of free speech, the right of association or the right to petition. These categories of expression are also broadly defined. Indeed, it is now well-established by Texas case law that the TCPA protects communications beyond

those which are protected by the First Amendment or the Texas Constitution. As the Texas Court of Appeals in Austin has explained:

the TCPA's definitions of "exercise of the right of free speech," petition, and association extend considerably beyond – and largely without regard to – the parameters of expression that would actually be protected by the First Amendment or the Texas Constitution.²⁹

The exercise of the right of free speech is defined as "a communication made in connection with a matter of public concern."³⁰ Key to understanding the breadth of the OCPA is the broad definition of "matter of public concern." A "matter of public concern" is defined to be "an issue related to: a. health or safety, b. environmental, economic or community well-being, c. the government, d. a public official or public figure, or e. a good, product or service in the marketplace."³¹ A great deal of business and personal communications will be "in connection with"³² one of the listed matters of public concern.³³ A commercial or employment dispute may implicate the OCPA's "right of free speech" not only because the products purchased and sold by companies are often a "good, product or service in the marketplace," but also because business communications often "relate to" "health or safety," "environmental, economic or community well-being," or "government."³⁴ Texas courts frequently stop their analysis of whether the TCPA applies at the "right of free speech," because the "right of free speech" is so broadly defined that a claim will rarely implicate the "right to petition" or the "right of association" without also implicating the "right of free speech."

The exercise of the right of association is defined as "a communication between individuals who join together to collectively express, promote, pursue or defend common interests."³⁵ Texas courts have interpreted the right of association broadly to extend to private communications between businesspersons about matters of mutual commercial interest.³⁶

The exercise of the right to petition is defined as "a communication in or pertaining to ..." a judicial, official, executive or legislative proceeding.³⁷ The filing of notices of lis pendens as well as certain liens have been held to be an exercise of the right to petition.³⁸ This line of cases could be expanded to the point that the filing many types of instruments in the real property records or other public records could be subject to OCPA protection under the "right of free speech," the "right to petition" or both. Applications and protests to government bodies can be construed as an exercise of the right to petition.³⁹

Because of the liberal interpretation of Oklahoma's 1981 anti-SLAPP statute, Texas' liberal interpretation of the nearly identical TCPA, and the plain language of the OCPA that the act "shall be construed liberally to effectuate its purpose and intent fully."⁴⁰ Oklahoma courts could quite liberally construe the OCPA such that an OCPA motion to dismiss would be successful in cases well beyond what would typically be thought of as relating to free expression.

When a movant's burden is met under the OCPA, the court is required to dismiss the action unless the nonmovant can show "by clear and specific evidence a prima facie case for each essential element of the claim in question."⁴¹ The OCPA does not state whether dismissal should be with or without prejudice. Although

the issue of prejudice has not been addressed as a disputed issue by Texas courts, the Oklahoma Court of Civil Appeals has held that dismissal is with prejudice.⁴²

The nonmovant can use their pleadings and affidavits as evidence to meet their burden,⁴³ but the evidence must be "clear and specific" on each element of each claim against each defendant, including damages and alternative claims.⁴⁴ "Clear and specific" does not mean "clear and convincing," but it does require evidence that "is somewhat more specific than that required to resist a traditional motion to dismiss."⁴⁵ The task of responding to an OCPA motion is rendered even more difficult because, once a party has filed an OCPA motion to dismiss, all discovery is suspended until the court has ruled on the motion, unless the court finds good cause to allow specified and limited discovery related to the motion.⁴⁶ If the nonmovant had planned to uncover evidence to support their case through discovery, the nonmovant will struggle to meet their burden.

If the nonmovant fails to meet their burden, the court is required to dismiss the legal action no later than 30 days following the date of the hearing on the motion.⁴⁷ Even if the nonmovant meets their burden to show a prima facie case, the movant may still obtain dismissal by establishing by a preponderance of evidence each essential element of a valid defense to the nonmovant's claim.⁴⁸ However, an Oklahoma court has limited such defenses to those that turn solely on a question of law.⁴⁹

In Texas, once a legal action is dismissed pursuant to the TCPA, the court would then be required to assess court costs, attorney fees, including attorney fees to recover attorney fees, and some amount of sanctions, and the court may also assess other expenses and

substantial sanctions against the nonmovant.⁵⁰ As discussed below, this may not be the case in Oklahoma. If a court finds an OCPA motion was frivolous or filed solely with the intent to delay, the court *may* assess court costs and attorney fees against the movant.⁵¹ Thus, at least in Texas, the nonmovant typically bears the majority of the risk of an adverse court cost and attorney fees award.

PRACTICAL POINTS

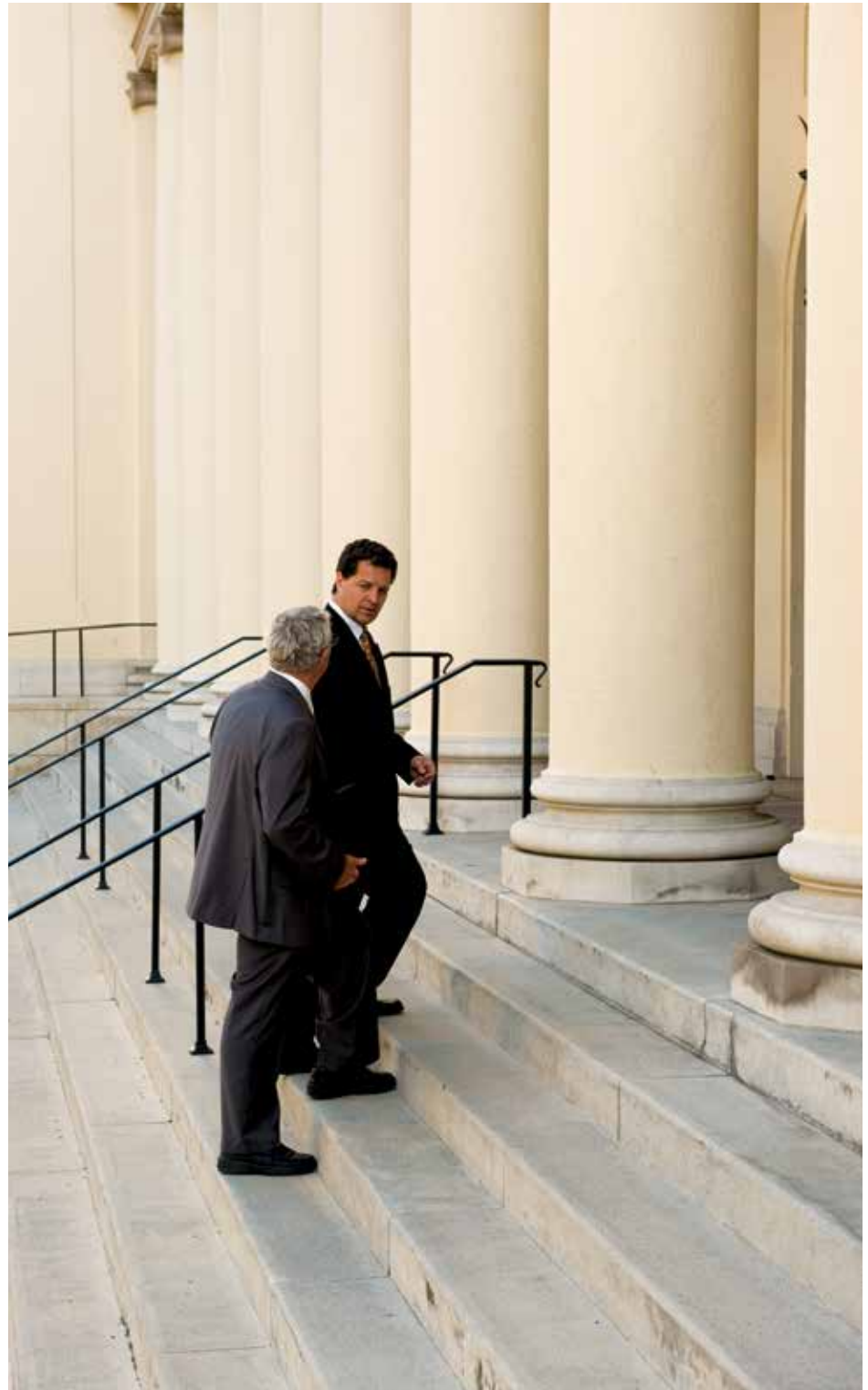
Attorneys representing respondents should, as a standard element of their preliminary and ongoing case review process, analyze each new claim to determine if an OCPA motion to dismiss is appropriate. Attorneys representing claimants should now be increasingly wary of including weak or unmeritorious claims in their petition or as counterclaims. Claims that have even a small chance of being subjected to OCPA attack should be pled clearly and with sufficient detail that the complaint alone contains sufficient facts in support of each element of each claim to satisfy the requirement that the claimant establish by “clear and specific evidence a prima facie case for each essential element of the claim.”⁵² It is thus fair to say the OCPA has significantly altered the way many claims should be pled. While notice pleading remains the general requirement in Oklahoma,⁵³ bare notice pleading will not provide sufficient evidence to defeat many OCPA motions to dismiss.⁵⁴

Both parties in a case in which an OCPA motion may be filed should seek discovery as early as possible to maximize the likelihood of obtaining discovery before an OCPA motion is filed and all discovery is stayed. As a practical matter, trial courts may be more willing to grant leave for limited discovery under the OCPA

if the discovery requests are served before the OCPA motion is filed.

One way the OCPA may become a trap for the unwary is in cases when there is an acrimonious business dispute and a plaintiff sues with a fairly strong claim for breach of contract but also brings harder-to-prove, but

perhaps more emotionally satisfying, claims for fraud, conspiracy, breach of fiduciary duty or defamation. Texas courts have held that claimants cannot avoid the consequences of a TCPA motion by nonsuiting (voluntarily dismissing) their weaker claims after a TCPA motion to dismiss has



been filed.⁵⁵ In the example above, the claimant may face partial dismissal and an adverse award of costs and attorney's fees at the outset of their case and will likely be unable to conduct discovery on even the strong breach of contract claim until the OCPA motion is resolved. Being placed on the defensive so early in litigation would no doubt be unnerving and have powerful psychological effects on the client.

The OCPA is of course of great importance to litigation attorneys, but it should not be disregarded by nonlitigators. The law will also play an important role in transactional law scenarios. For example, transactional attorneys should consider the propriety of negotiating OCPA restrictions or waivers into contracts.⁵⁶

BUT WHAT ABOUT THOSE SERIAL COMMAS?

The TCPA provides that "(a) If the court orders dismissal of a legal action under this chapter, the court shall award to the moving party: (1) court costs, reasonable attorney's fees, and other expenses incurred in defending against the legal action as justice and equity may require; and (2) sanctions ... sufficient to deter the party who brought the legal action from bringing similar actions ..."⁵⁷ In the case of *Sullivan v. Abraham*,⁵⁸ the Texas Supreme Court was charged with determining whether principles of justice and equity may be applied to modify the award of court costs, attorney fees and other expenses to a prevailing TCPA movant, or whether the award of court costs and attorney fees is mandatory and justice and equity applies only to other expenses. The court delved into textual and grammatical analysis and concluded that considerations of justice and equity can only be applied to other expenses, and therefore the award

of court costs and reasonable attorney fees is mandatory.⁵⁹

The *Sullivan* court identified three primary bases for its holding: the use of a serial comma, the use of the term "other expenses" and the failure to include a comma either after "other expenses" or "legal action."⁶⁰ The provision in the OCPA pertaining to the award of court costs, attorney's fees and other expenses is nearly identical to the corresponding provision in the TCPA.⁶¹ The OCPA also uses the term "other expenses" and also does not include a comma either after "other expenses" or "legal action," but, perhaps crucially, it does not include a serial comma (also known as an Oxford comma). The seemingly innocuous decision by Oklahoma legislators to eschew serial commas, whether intentional or merely a matter of stylistic preference, could therefore have enormous consequences. In due course, Oklahoma courts will be required to determine if the lack of a serial comma in the OCPA is sufficient for Oklahoma courts to diverge from the Texas Supreme Court and find that an award of court costs and attorney fees is discretionary under the OCPA.

It is noted that in *Anagnost* and *Steidley*, the Oklahoma Supreme Court stated that, under the OCPA, the trial court "may award costs, sanctions and attorney fees to the moving party."⁶² These cases did not implicate the question of whether the award of court costs and attorney's fees is mandatory, and this is therefore in the nature of dicta at most, but the use of "may" suggests that the Oklahoma Supreme Court might view an award of court costs and attorney's fees as discretionary. Also, in *Barnett v. Hall, Estill*, the United States District Court for the Northern District of Oklahoma determined that justice and equity did not require an award of costs,

attorney fees and other expenses under the circumstances of the case, but noted the defendants had "cited no case in which a court interpreting the OCPA [had] made such an award."⁶³ Finally, at the time the OCPA was enacted in 2014, the Texas Supreme Court had not yet addressed any part of the TCPA, and the prevailing view among Texas Courts of Appeals was that an award of court costs and attorney's fees under the TCPA was discretionary.⁶⁴

CONCLUSION

In time, the OCPA may prove to be as revolutionary in Oklahoma as the original TCPA had become in Texas. Oklahoma practitioners of all types are encouraged to acquaint themselves with the OCPA and the significant and relevant body of TCPA case law south of the Red River or risk finding themselves flat-footed when confronted with a seemingly irrelevant motion that could quickly put a costly end to their client's claims.

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ENDNOTES

1. *Krimbill v. Talarico*, 417 P.3d 1240, 1244 (Okla. Civ. App. 2017).

2. *Compare* Okla. Stat. Ann. Tit. 12, §§1430-40 (West Supp. 2015) with Tex. Civ. Prac. & Rem. Code Ann. §§27.001-27.011 (West, Westlaw through end of the 2017 Regular and First Called Sessions of the 85th Legislature) (as amended by H.B. 2935, 83rd Leg., Reg. Sess. (Tex. 2013)).

3. "SLAPP" stands for "strategic lawsuit against public participation."

4. Tit. 12, §1443(1).

5. *Id.*

6. See generally Laura Long, Note, "Slapping Around the First Amendment: An Analysis of Oklahoma's Anti-SLAPP Statute and It's Implications on the Right to Petition," 60 *Okla. L. Rev.* 419 (2007).

7. See *Krimbill v. Talarico*, 417 P.3d 1240, 1244-45 (Okla. Civ. App. 2017).

8. 389 P.3d 1117 (Okla. 2017).

9. 390 P.3d 707 (Okla. 2017).

10. See Mbilike M. Mwafurirwa, "Suing on Shifting Sands: The Oklahoma Constitution, Retroactive Legislation and the Scramble for Clarity," 88 *Okla. B.J.* 935 (2017).

11. *Krimbill*, 417 P.3d at 1244-45; see also *Barnett v. Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.*, 18-CV-00064-TCK-FHM, 2018 WL 4038117, at *6 (N.D. Okla. Aug. 23, 2018) ("Texas cases interpreting the TCPA will be highly persuasive in this Court's analysis of the OCPA").

12. See *Krimbill*, 417 P.3d 1240; *Southwest Orthopaedic Specialists, P.L.L.C. v. Allison*, 439 P.3d 430 (Okla. Civ. App. 2018).

13. H.B. 2730, 86th Leg., Reg. Sess. (Tex. 2019).

14. Okla. Stat. Ann. Tit. 12, §§1432, 1434 (West Supp. 2015); *Krimbill*, 417 P.3d at 1249.

15. *Barnett*, at *2-6; *contra* *Bruning v. City of Guthrie*, CIV-15-0003-HE, 2015 WL 4925995, at *10 (W.D. Okla. Aug. 18, 2015); see generally Mbilike M. Mwafurirwa, "Second Time's a Charm: Oklahoma Citizens Participation Act's Applicability in Federal Court," 89 *Okla. B.J.* 24 (September 2018).

16. Tit. 12, §1433; see also *Anderson v. Wilken*, 377 P.3d 149 (Okla. Civ. App. 2015).

17. Tit. 12, §1434(A).

18. Dismissal motions filed pursuant to the TCPA, OCPA and other states' anti-SLAPP statutes are frequently generically referred to as "SLAPP motions," or, more appropriately, "anti-SLAPP motions."

19. See *Krimbill*, 417 P.3d at 1247 n.8 (noting that "[i]t would be a mistake to consider the Act as applying only to classic libel suits"); see, e.g., *Allison*, 439 P.3d 430.

20. Tit. 12, §1439.

21. See *Krimbill*, 417 P.3d at 1250-51; *Castleman v. Internet Money Ltd.*, 546 S.W. 684 (Tex. 2018).

22. Tit. 12, §1431.

23. *Id.*

24. See *Lippincott v. Whisenhunt*, 462 S.W.3d 507, 509 (Tex. 2015); *ExxonMobil Pipeline Co. v. Coleman*, 512 S.W.3d 895, 901 (Tex. 2017).

25. E.g., *Elite Auto Body LLC v. Autocraft Bodywerks, Inc.*, 520 S.W.3d 191, 198 (Tex. App. – Austin 2017) (holding that misappropriation of trade secrets involves communication under TCPA, as does illegal conduct involving communication not protected by the First Amendment).

26. See *Quintanilla v. West*, 534 S.W.3d 34, 43 (Tex. App. – San Antonio 2017).

27. *Hersh v. Tatum*, 526 S.W.3d 462, 467 (Tex. 2017).

28. See *Harwood v. Gilroy*, 04-16-00652-CV, 2017 WL 2791321, at *3 (Tex. App. – San Antonio 2017).

29. *Cavin v. Abbott*, 545 S.W.3d 47, 63 (Tex. App. – Austin 2017, no pet.).

30. Okla. Stat. Ann. Tit. 12, §1431(3) (West Supp. 2015).

31. Tit. 12, §1431(7).

32. See *Southwest Orthopaedic Specialists, P.L.L.C. v. Allison*, 439 P.3d 430, 434-35 (Okla. Civ. App. 2018).

33. E.g., *Lona Hills Ranch, LLC v. Creative Oil & Gas Operating, LLC*, 549 S.W.3d 839, 845-47 (Tex. App. – Austin 2018) (communications related to the continuing validity of an oil and gas lease are free speech); *Quintanilla v. West*, 534 S.W.3d 34, 43-46 (Tex. App. – San Antonio 2017) (filing a lien in the real property records is free speech); *ExxonMobil Pipeline Co. v. Coleman*, 512 S.W.3d 895, 901 (Tex. 2017) (employer's internal communications about the employee's firing related to the employee's failure to meet safety standards is free speech).

34. E.g., *Grant v. Pivot Tech. Sols., Ltd.*, 03-17-00289-CV, 2018 WL 3677634, at *6-7 (Tex. App. – Austin 2018) (finding claims related to government certification as a Historically Underutilized Business were related to government and economic well-being).

35. Tit. 12, §1431(2).

36. E.g., *Elite Auto Body LLC v. Autocraft Bodywerks, Inc.*, 520 S.W.3d 191, 205 (Tex. App. – Austin 2017) (finding claims for violation of the Texas Uniform Trade Secrets Act, unfair competition, breach of fiduciary duty and civil conspiracy all implicated the right of association); see also *Grant*, at *8.

37. Tit. 12, §1431(4).

38. See *Quintanilla v. West*, 534 S.W.3d 34, 46-47 (Tex. App. – San Antonio 2017) (also holding that the filing of a lien was an exercise of the right of free speech); *James v. Calkins*, 446 S.W.3d 135, 147-48 (Tex. App. – Houston [1st Dist.] 2014); *Martin v. Bravenec*, 04-14-00483-CV, 2015 WL 2255139, at *6 (Tex. App. – San Antonio 2015).

39. See *Spencer v. Overpeck*, 04-16-00565-CV, 2017 WL 993093 (Tex. App. – San Antonio 2017) (reports to law enforcement and filing petition for injunctive relief implicate the right to petition); *Long Canyon v. Cashion*, 517 S.W.3d 212, 219-22 (Tex. App. – Austin 2017) (presuit demand letter implicates the right to petition); *Lona Hills Ranch, LLC v. Creative Oil & Gas Operating, LLC*, 549 S.W.3d 839, 848 (Tex. App. – Austin 2018) (complaint to the Texas Railroad Commission was an exercise of the right to petition).

40. Tit. 12, §1440(B); see also *Krimbill v. Talarico*, 417 P.3d 1240, 1245 (Okla. Civ. App. 2017).

41. Tit. 12, §1434; see *Krimbill*, 417 P.3d at 1246; *Southwest Orthopaedic Specialists, P.L.L.C. v. Allison*, 439 P.3d 430, 436 (Okla. Civ. App. 2018).

42. *Allison*, 439 P.3d at 440-41; see also *Abatecola v. 2 Savages Concrete Pumping, LLC*, 14-17-00678-CV, 2018 WL 3118601, at *14 (Tex. App. – Houston [14th Dist.] 2018); *Krimbill*, 417 P.3d at 1246.

43. Tit. 12, §1435; *Krimbill*, 417 P.3d at 1246-47.

44. See *Allison*, 439 P.3d at 436-38; *In re Lipsky*, 460 S.W.3d 579, 593 (Tex. 2015); *Grant v. Pivot Tech. Sols., Ltd.*, 03-17-00289-CV, 2018 WL 3677634, at *10-13 (Tex. App. – Austin 2018).

45. *Allison*, 439 P.3d at 436; see also *In re Lipsky*, 460 S.W.3d at 590; *Krimbill*, 417 P.3d at 1246.

46. Tit. 12, §§1432, 1435(B).

47. Tit. 12, §1434.

48. Tit. 12, §1434(D).

49. *Krimbill*, 417 P.3d at 1249.

50. *Sullivan v. Abraham*, 488 S.W.3d 294 (Tex. 2016), *rev'd* *Sullivan v. Abraham*, 472 S.W.3d 677 (Tex. App. – Amarillo 2014); *Cruz v. Van Sickle*,

452 S.W.3d 503, 526-27 (Tex. App. – Dallas 2014, pet. struck) ("Attorney's Fees to Recover Attorney's Fees"), *abrogated on other grounds by Sullivan v. Abraham*, 488 S.W.3d 294, 299 (Tex. 2016); *Rich v. Range Res. Corp.*, 535 S.W.3d 610, 613-14 (Tex. App. – Fort Worth 2017, pet. denied) (failure to award at least nominal sanctions is error, but not reversible error); see also *Abatecola v. 2 Savages Plumbing, LLC*, 14-17-00678-CV, 2018 WL 3118601, at *13-14 (Tex. App. – Houston [14th Dist.] 2018, no pet.); but see *Barnett v. Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.*, 18-CV-00064-TCK-FHM, 2018 WL 4038117, at *11 (N.D. Okla. Aug. 23, 2018) (declining to award even nominal sanctions under OCPA).

51. Tit. 12, §1438(B).

52. Tit. 12, §1434(C); *Krimbill*, 417 P.3d at 1246-47.

53. *Gens v. Casady Sch.*, 177 P.3d 565, 569 (Okla. 2008).

54. *Krimbill*, 417 P.3d at 1246-47; see also *In re Lipsky*, 460 S.W.3d 579, 590-91 (Tex. 2015).

55. *Abatecola*, 2018 WL 3118601, at *13-14 (stating that "TCPA motions to dismiss survive nonsuit because, unlike a nonsuit, the TCPA motion to dismiss might also allow the movant to obtain a dismissal with prejudice, attorney's fees, and sanctions").

56. See, e.g., *Lona Hills Ranch, LLC v. Creative Oil & Gas Operating, LLC*, 549 S.W.3d 839, 848 (Tex. App. – Austin 2018) (finding that a complaint to the Texas Railroad Commission was an exercise of the right to petition, but that the TCPA movant had "contractually restricted its normally unrestricted constitutional right to petition").

57. Tex. Civ. Prac. & Rem. Code Ann. §27.009(a) (Westlaw, Westlaw through end of the 2017 Regular and First Called Sessions of the 85th Legislature) (subsequently amended by H.B. 2730, 86th Leg., Reg. Sess. (Tex. 2019)).

58. 488 S.W.3d 294 (Tex. 2016).

59. *Id.*

60. *Id.* at 299.

61. *Compare* Civ. Prac. & Rem. §27.009(a) (subsequently amended by H.B. 2730, 86th Leg., Reg. Sess. (Tex. 2019)) with Tit. 12, §1438(A)(1).

62. *Steidley v. Singer*, 389 P.3d 1117, 1119 (Okla. 2017); *Anagnost v. Tomecek*, 390 P.3d 707, 710 (Okla. 2017).

63. *Barnett v. Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.*, 18-CV-00064-TCK-FHM, 2018 WL 4038117, at *11 (N.D. Okla. Aug. 23, 2018).

64. See *Sullivan v. Abraham*, 472 S.W.3d 677, 681-82 (Tex. App. – Amarillo 2014) (holding "the sums awarded can be no more than what is reasonable but may be less than that in view of pertinent considerations of justice and equity"), *rev'd*, 488 S.W.3d 294 (Tex. 2016).



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There Is No Place Like Home

By John Morris Williams

IN JUNE, THE CLE TASK FORCE completed its work, and the final report will soon be presented to the Board of Governors. A related resolution is on the agenda for the House of Delegates. The resolution proposes to expand the definition of legal ethics and increase the required hours from one to two per year. It does not increase the overall total number of hours required. The expanded definition will include attorney wellness programming. The proposed resolution is available in this issue of the bar journal on page 14.

The task force looked at all things CLE and closely examined our demographics. The OBA is still the market leader in Oklahoma, however, that share is about 30% and continues to decline. The biggest competition is “free” CLE. Free CLE is a good thing, and the OBA tries to provide its share. However, “free” is never really free when you consider time spent on programming, materials and other logistical costs regardless of who the provider is. There is no question, it is an online world. About one-half of OBA CLE programs are obtained online. Even with “free” programs, there are attendant costs in its production.

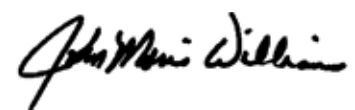
Free or not, no other provider provides the consistent level of high-quality, online programs as the OBA CLE Department. There are nearly 1,000 providers that produce programs that qualify for OBA MCLE credit. None of them provide the wide range of quality, Oklahoma-related programs comparable to the OBA CLE. It is true there are low-cost providers that offer packages and reduced cost CLE. I’m not suggesting they may not have their place in the market, however, our investigation lead me to continue to believe that high-quality, Oklahoma-specific CLE has no better provider than the OBA for overall value.

This year, our CLE Department themed their catalog “There Is No Place Like Home.” I thought they really captured the essence of what the CLE Task Force concluded. No one besides the OBA and its affiliated entities offers consistent, relevant, quality CLE on such a wide range of topics. I encourage you to shop local if you need MCLE credit. I also encourage you to let us know the kind of programs you want to see. We are here for OBA members, and we will always strive to improve our programming to ensure you get what you need and want.

In the emerging area of online CLE, there will continue to be changes in delivery methods to attempt to make the experience more valuable to online learners. One thing that always has to be considered is that with technology comes the potential for technical problems. Unfortunately, many of the ones we have experienced in the past were beyond our control. The good news is that we think we now have an easy and reliable platform and are always just a phone call or email away to assist our members to ensure a hassle-free experience. We understand many OBA members sell time for a living and it is important to us that you don’t waste time struggling with technical difficulties.

It is true, for a comprehensive CLE experience there is no place like home. Whether it is in person or online, we strive to produce member-centered, friendly and valuable CLE experiences. Our promise is that we will strive to meet those goals every day. Our bottom line is enhancing OBA members’ professional lives.

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Program Planner/Moderator - Jim Calloway, Director, Management Assistance Program,
Oklahoma Bar Association

Schedule

8:30am	Registration and Continental Breakfast
9:00am	The Business of Law Jim Calloway and Julie Bays OBA Management Assistance Program
10:00am	How to Manage – Everything! Jim Calloway and Julie Bays OBA Management Assistance Program
11:00am	Break
11:10am	Professional Liability Insurance & Risk Management Phil Fraim, President, Oklahoma Attorneys Mutual Insurance Company
11:40am	Fastcase, MyOKBar & More Jim Calloway and Julie Bays OBA Management Assistance Program
12:00pm	Lunch – provided by Oklahoma Attorneys Mutual Insurance Company
12:30pm	Tools of the Modern Law Office Jim Calloway and Julie Bays OBA Management Assistance Program
1:00pm	Break/Discussion
1:20pm	Trust Accounting and Legal Ethics Gina Hendryx, OBA General Counsel
2:00pm	Trust Accounting Tools Jim Calloway and Julie Bays OBA Management Assistance Program
2:10pm	Break
2:20pm	Professionalism in the Practice of Law Judge David Lewis, Presiding Judge, Oklahoma Court of Criminal Appeals
2:50pm	Break
3:00pm	How to Succeed in Law Practice Jim Calloway, Director, OBA Management Assistance Program
4:00pm	Adjourn

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Artificial Intelligence and Everyday Law Practice

By Jim Calloway

ARTIFICIAL INTELLIGENCE (AI) will be the focus of the 2019 OBA Annual Meeting Thursday CLE and luncheon in November. It is quite amazing how quickly AI has moved from the legal tech crowd to a mainstream subject for lawyers. Not many years ago most lawyers would have believed that AI tools would never impact their lives. No doubt, many still believe that.

For many practicing lawyers, AI made its first appearance with document review.

Let's take a quick look at recent history. Discovery in litigation used to almost exclusively involve getting businesses and individuals to provide sworn depositions and turn over paperwork they held. Sometimes the parties held the records and sometimes a third party held the records, such as a health care provider. When computers entered the workplace, many more documents were generated including massive numbers of emails.

Emails were quick and intimate. People put many things into emails that would never be placed into an official business record. Sometimes the emails contradicted an official business record and sometimes they contained other important evidence, but how do you examine thousands and then tens of thousands of emails?

For some smaller cases the cost was too high, but larger firms with larger matters hired squadrons of lower-paid contract lawyers for document review – spending hours reviewing emails to flag ones the litigators would review.

Document review was supposedly low-stress legal work, but it was also mind-numbing work with no potential career advancement, which was its own kind of stress. Document review paid the bills and provided a flexible work arrangement, but even as the lawyers flipped through email after email, others were wondering if technology could do it better. There were twists and turns, court rulings and many different tools and theories along the way (I recall one year it seemed that half the vendors at ABA TECHSHOW were e-discovery tools), but a consensus has developed that technology-assisted review (TAR) powered by AI is a more efficient method of processing volumes of digital documents in most cases. Today's tools utilize machine learning for even more accurate results.

As TAR emerged it seemed that every legal publication ran some story along the line of whether AI would be taking away jobs from lawyers. After all, there are many less lawyers doing document review today, but there are also

many more lawyers with expertise in all phases of e-discovery working with powerful analysis tools. It is similar to the story of automaton in manufacturing – the more routine a task, the more likely technology will be doing it at some point. However, technology also opens new roles and opportunities for those who learn new skills and embrace the change.

Today, AI tools are doing more tasks that seem like sophisticated legal work. The OBA has recognized CaseText as a member benefit. It is a powerful and fascinating tool. Upload a brief or complaint into CaseText's artificial intelligence search, CARA, and it will locate cases on the same facts, legal issues and jurisdiction as that matter. This past summer other brief review tools were announced. Legal technology journalist Robert Ambrogi noted on his *LawSites* blog the announcements of new brief review tools from Thomson Reuters and Bloomberg Law.¹ As he noted, that technology is now becoming mainstream. Will due diligence soon include processing your brief and your opponent's brief through one of these tools before your work is finalized?

Earlier this year, the ABA Intellectual Property Law Section published *AI and the Young Attorney: What to Prepare for*

*and How to Prepare.*² This is a great read for lawyers of all ages. The authors view AI as “a substantial threat to (but not the end of) the current legal model.” I’m not as alarmed but do believe lawyers ignore AI at their peril. I do agree that young lawyers should focus on becoming technologically proficient and paying attention to “the human element” will be critical for success. Solving people’s problems, whether in the business or personal context, will remain the most rewarding part of law practice.

Prediction of judges’ rulings based on data analytics is another AI development. While judges understandably are skeptical of this class of tools, we were all shocked when France recently banned the practice and adopted criminal penalties for those who would dare to publish judicial data.³

The OBA Annual Meeting is a good opportunity to learn from Fastcase CEO Ed Walters, who will be the Thursday CLE and luncheon speaker. He is also an adjunct professor at the Georgetown University Law Center and at Cornell Tech, where he teaches The Law of Robots and The Law of Autonomous Vehicles. Not only were those topics not offered when most of us were in law school, but they were not even imaginable outside of science fiction when we were in law school.

That’s how technology is changing the world – for better and for worse. It brings challenges and opportunities.

After all, while those lawyers doing document review back in the early days were not the most highly compensated lawyers, an electronic discovery expert today has a powerful and very marketable skill.

Paying attention to where AI is today will have a significant impact on your career in the future. I hope to see you at the 2019 OBA Annual Meeting.

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

ENDNOTES

1. Bob Ambrogi, “With New Products from Thomson Reuters and Bloomberg Law, Brief Analysis Goes Mainstream” *Law Sites Blog*, July 23, 2019, www.lawsitesblog.com/2019/07/with-new-products-from-thomson-reuters-and-bloomberg-law-brief-analysis-goes-mainstream.html.
2. Kurt Watkins and Rachel E. Simon, “AI and the Young Attorney...,” www.americanbar.org/groups/intellectual_property_law/publications/landslide/2018-19/january-february/ai-young-attorney/, Jan. 16, 2019.
3. Jason Tashea, “France bans publishing of judicial analytics and prompts criminal penalty,” *ABA Journal*, June 7, 2019, www.abajournal.com/news/article/france-bans-and-creates-criminal-penalty-for-judicial-analytics.

Law Practice Tips Blog Update

My *Law Practice Tips* blog has been online since 2005. After a hiatus of several months, I am re-launching it on the LexBlog network. Those who previously subscribed to receive the blog posts via email or RSS feeds will have to re-subscribe under the new platform. Visit www.lawpracticetipsblog.com to see the new layout and subscribe to receive future posts where you will receive tips on law practice management and cutting-edge legal technology developments.

Attorney Discipline Decisions

By Gina Hendryx

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

IN THE MATTER OF THE REINSTATEMENT OF GOFORTH, 2019 OK 1

The Oklahoma Supreme Court approved the petitioner's reinstatement to the roll of attorneys after a 26-year absence from the practice of law. Carol Goforth was admitted to practice law in Oklahoma on Oct. 18, 1984. She practiced with a Tulsa firm until May 1989 when she moved to Newark, New Jersey, to accept a full-time teaching position at Seton Hall School of Law. In 1993, she moved to Fayetteville, Arkansas, and joined the faculty of the University of Arkansas School of Law where she continues to teach a range of business law courses. In 1991, petitioner's name was stricken from the Oklahoma roll of attorneys for her failure to pay membership dues. At the reinstatement hearing, petitioner testified that she regretted allowing her license to lapse, but that her career had been focused solely on teaching and that she had not practiced law while employed as a law professor. A petitioner for reinstatement must show they possess the competence and learning in the

law required for admission. If they have been suspended or terminated for more than five years, there is a rebuttable presumption they will be required to retake the regular bar examination. In determining competency, our precedent has placed an emphasis on law-related work history following suspension. The court has also considered other ways a petitioner has kept abreast of the law including the completion of continuing legal education courses and the reading of bar journals.¹ The court approved Goforth's reinstatement to the practice of law holding that her extensive contributions and work experience qualify her for readmittance without the necessity of retaking the Oklahoma Bar Exam.

STATE EX REL. OKLA. BAR ASS'N V. BEDNAR, 2019 OK 12

In this decision, the Oklahoma Supreme Court ordered the disbarment of Oklahoma City attorney Alexander L. Bednar for multiple incidents of attorney misconduct. He was also ordered to pay the costs of his disciplinary case in the amount of \$20,298.13. The court found that Bednar failed to respond to the bar's lawful demand for information on pending grievances and noted multiples examples of Bednar's lack of candor, abusive discovery tactics, bad faith delay attempts and strategy of improperly seeking the recusal of judges in civil

cases wherein he was both advocate and litigant. After considering the lengthy record, exhibits and trial panel's report, the Oklahoma Supreme Court found numerous rule violations:

Upon careful examination, we find that the record of disciplinary proceedings supports a finding, upon a clear and convincing standard, that Respondent violated ORPC 1.1, 1.3, 3.1, 3.2, 3.3, 3.4, 4.2, 4.4(a), 8.1(b), 8.2(a), 8.4(c)-(d) and RGDP 1.3 and 5.2. Respondent failed to uphold his obligations to cooperate in the grievance process or properly respond to inquiries throughout the disciplinary proceeding. He has repeatedly failed to act in good faith, asserted frivolous claims and issues, and demanded irrelevant and oppressive discovery. He has failed to competently represent his clients or to exercise due diligence in verifying the truth of pleadings he submitted. Respondent continually persisted in unauthorized communications with a person represented by counsel after reiterated requests to desist. He lacked candor with the court and failed to make reasonable efforts to expedite litigation or notify defendants in actions he filed. Finally, Respondent submitted fraudulent filings, directly and intentionally

misrepresented facts, and knowingly disobeyed a court order. Respondent's behavior is prejudicial to the administration of justice and has caused numerous parties unnecessary pecuniary loss and personal harm.²

In determining disbarment to be the appropriate discipline, the court stated:

We are convinced, under a clear and convincing standard, of Respondent's sustained abuse of the legal system and retaliatory harassment of opposing counsel and the courts. We see no real evidence that Respondent appreciates the seriousness of his fraud and deceit, examples of which saturate the record. He adamantly denies his wrongdoing and attempts to justify some of the most maligning and egregious behaviors the court has encountered. Our promulgated rules governing licensed attorneys require much more, and in fact, were fashioned to protect the public from this type of delinquency. Anything less than disbarment would invite further victimization and greater disintegration of public confidence in the legal system of this State. Likewise, to avoid disparate treatment, consistency requires that we disbar Respondent.³

IN THE MATTER OF THE REINSTATEMENT OF HUTSON, 2019 OK 32

The Oklahoma Supreme Court denied reinstatement to Janet Bickel Hutson holding she did not meet the burden of proof necessary for reinstatement but did propose recommendations for Hutson to pursue prior to seeking reinstatement. In 2006, Hutson pled guilty to criminal charges of offering false evidence, possession of a controlled dangerous substance and perjury. As a result of her criminal convictions, Hutson was stricken from the roll of attorneys on Sep. 25, 2007. In 2018, Hutson petitioned for reinstatement. In denying her petition, the court stated:

We recommend that she reapply for reinstatement in six months after doing the following: 1) maintain sobriety, and refrain from abusing prescribed medications or illegal drugs; 2) submit to random drug testing and pass; 3) abide by her Lawyers Helping Lawyers Contract, continue counseling, and have her counselor submit monthly progress reports of her continued care and treatment; 4) follow her counselor's recommendations regarding attendance of Twelve Step Program meetings; and 5) continue to make regular payments to her tax and student loan obligations.⁴

Ms. Hendryx is OBA general counsel.

ENDNOTES

1. *Goforth* at ¶17.
2. *Bednar* at ¶64.
3. *Bednar* at ¶71.
4. *Hutson* at ¶35.



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Oklahoma Bar Foundation Announces 2019 Court Grant Recipients

THE OKLAHOMA BAR

Foundation announces 2019 Court Grants totaling \$187,306.59. These grants provide modern updates and solutions to technology that improve the administration of justice in 14 county courts.

2019 COURT GRANT RECIPIENTS

- **Adair County** - \$3,309.90
Enhanced capabilities to Smart Boards purchased with 2017 OBF Court Grant funds
- **Atoka County** - \$8,145.64
Upgrades to audio system and purchase of Smart TV
- **Coal County** - \$6,996
Upgrades to audio system and courtroom technology
- **Hughes County** - \$6,746
70-inch interactive display board and accessories
- **Love County** - \$9,494
Equipment to provide live audio/video feed between jail and courtroom
- **Mayes County** - \$69,057.27
Replacement of audio/video equipment and two Smart Boards
- **Pittsburg County** - \$7,200
Tablets for court and six attorneys for deprived docket, tablet accessories and document scanner

- **Seminole County** - \$13,492
Two 70-inch Smart Boards and accessories
- **Wagoner County** - \$21,112.13
Audio enhancements for courtrooms #1 and #2 and Hard of Hearing system and connector for courtroom #4
- **Third Judicial District** - \$41,744.65
Skype Carts for Greer, Harmon, Jackson, Kiowa and Tilman counties for court reporting use

ABOUT THE GRANTS

In 2008, the Oklahoma Bar Foundation created the Court Grant Fund through generous cy pres donations. Since then, \$980,390.59 in funding has been awarded to 60 of the 77 counties in Oklahoma, with some counties receiving multiple grants.

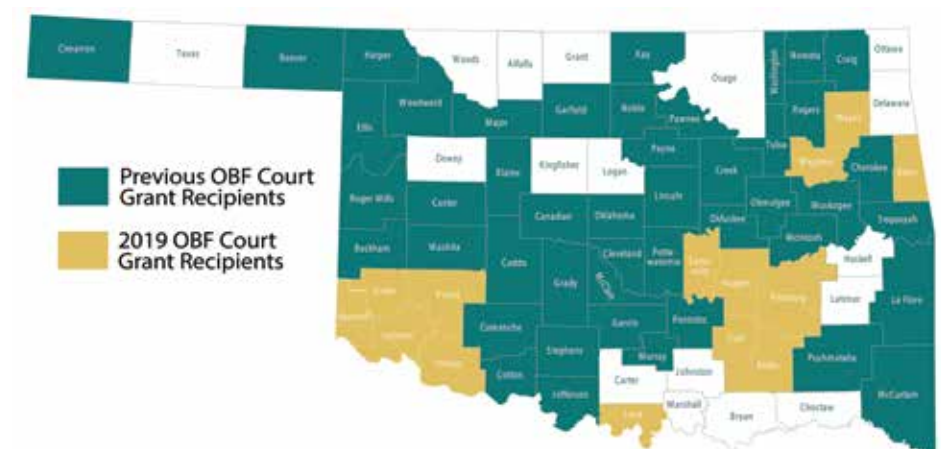
District and appellate courts in Oklahoma can apply annually to receive grant funding for courtroom technology and needs related to the administration of justice. Applications are typically due each year in the spring.

Grant announcements are made on the OBF website and social media. Those interested in applying should email foundation@okbar.org to be placed on a notification list. Those on the list will receive an email with the link to the online Court Grant Application once it is live.

A list of all Court Grant recipients can be found online at www.okbarfoundation.org/grants/court-grants/.

The Oklahoma Bar Foundation funds law-related nonprofits, court improvements and law school scholarships.

Find more news and information at www.okbarfoundation.org.





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:

BancFirst • Bank of Oklahoma • Bank of Cherokee County • Blue Sky
Citizens Bank of Ada • City National • First Oklahoma Bank • First State Anadarko
First State Noble • Grand Savings Bank • Great Plains Bank • Herring Bank Altus
McClain Bank • McCurtain County National Bank • Security Bank
Stockmans Bank • The First State Bank • Valliance



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2020 YLD Leadership

Voting Opens Oct. 2, Closes Oct. 25

By Nathan D. Richter

IT'S YLD ELECTION SEASON.

Worry not. You are not likely to see political ads on your television, yard signs, spam bots inundating your inbox or relentless requests for campaign donations. You may, however, see “vote for me” posts on social media. It takes only a second to like/share, FYI.

Oklahoma City attorney Jordan Haygood will become the Young Lawyers Division chair next year, and many YLD members have stepped forward to run for office to become part of the 2020 leadership team.

If you have been in practice 10 years or less, you are a YLD member and can vote. The offices up for election are:

- Executive Offices: chair-elect, treasurer and secretary
- District 2: One seat; Atoka, Bryan, Choctaw, Haskell, Johnson, Latimer, LeFlore, McCurtain, McIntosh, Marshall, Pittsburg, Pushmataha and Sequoyah counties
- District 3: One seat; Oklahoma County
- District 4: One seat; Alfalfa, Beaver, Beckham, Blaine, Cimarron, Custer, Dewey, Ellis, Garfield, Harper, Kingfisher, Major, Roger Mills, Texas, Washita, Woods and Woodward counties

- District 6: One seat; Tulsa County
- District 8: One seat; Coal, Hughes, Lincoln, Logan, Noble, Okfuskee, Payne, Pontotoc, Pottawatomie and Seminole counties
- At-Large: Three seats; all counties
- At-Large Rural: One seat; all counties except Oklahoma and Tulsa counties

Please take time to read the background information about the candidates and be prepared to vote. It's easy. No polling place to drive to – the electronic ballot with candidates in contested races will be emailed to you on Oct. 1. Polls will open Oct. 2 and remain open through Oct. 25.

Be sure the OBA roster contains your current email address. To verify, log into MyOKBar or call the Membership Department at 405-416-7080 if you are not sure.

Ballots must be cast no later than 5 p.m. Friday, Oct. 25. If you do not receive a ballot, email nathan@dentonlawfirm.com so we can send you one. Uncontested offices will be deemed elected by acclamation. Election results will be announced at the YLD November meeting to be held in conjunction with the OBA Annual Meeting in Oklahoma City Nov. 6-8.

2020 LEADERSHIP

2020 Chair



Jordan Haygood

Jordan Haygood has been a member of the OBA Young Lawyers Division board for five years

and is currently the co-chair of the OBA YLD Membership Committee, the OBA YLD liaison to the OBA Disaster Relief Committee and OBA Law School Committee and a member of the OBA Health Law Section. He is currently serving young lawyers on a national scale for Oklahoma as a voting member for the American Bar Association YLD House of Delegates.

Mr. Haygood is currently an in-house attorney for SSM Health – Oklahoma where he is responsible for assisting the regional general counsel in overseeing and managing legal affairs for SSM Health St. Anthony Hospital – Oklahoma City, Shawnee and its operating entities.

Mr. Haygood is admitted to practice in the United States District Court for the Western District of Oklahoma and certified to practice in the United States Bankruptcy Court for the Western District of Oklahoma. He currently

serves as a board member for Diversity Center of Oklahoma Inc. and Rebuilding Together, OKC.

He graduated from the OCU School of Law in 2013 where he received the 2013 Dean's Service Award from Dean Valerie K. Couch. He is also a 2005 graduate of Texas Christian University where he received his B.S. in news-editorial journalism from the Bob Schieffer College of Communication.

Mr. Haygood resides in Oklahoma City with his partner, Marty, and their pug, Carlos. When they aren't catching some rays at Lake Eufaula, they can be found spending time with family and friends, exploring the OKC food scene or traveling.

2020 Immediate Past Chair



Brandi Nowakowski

Brandi N. Nowakowski is a senior associate with the law firm of Stuart & Clover in Shawnee. She focuses

her practice on probate, adult guardianship, estate planning and real property matters. She, her husband, Chris, and their two sons, Ethan and Zachary, reside in Shawnee. Ms. Nowakowski received her B.B.A. in management

from OU, where she graduated *magna cum laude* in May 2006. She received her J.D. from the OU College of Law in May 2010 and was admitted to the practice of law before all Oklahoma state courts in September 2010. She was later admitted to practice before the United States District Court in the Western District of Oklahoma. She additionally serves on the Supreme Court of the Absentee Shawnee Tribe.

Ms. Nowakowski has actively served on the YLD Board of Directors since January 2012, having served as the District 8 director, secretary, treasurer, chair-elect and chair. In addition, she has served as YLD Community Service Committee chairperson since 2013. She enjoys working with the many attorneys who make our bar association great! She has also previously served on the OBA Law Day Committee and has been selected to serve on the Credentials Committee for the OBA House of Delegates each year since 2012. Additionally, she served on the Clients' Security Fund Task Force and the OBA Budget Committee.

CONTESTED ELECTIONS

The following persons have been nominated and are running contested for the following positions. Results will be announced at the YLD Annual Meeting.

District 3



Dylan Erwin

Dylan Erwin joined Holladay & Chilton in 2018. Prior to entering private practice, Mr. Erwin was an assistant

district attorney for Comanche and Cotton counties. During his time in the DA's office, he was able to hone his skills as a trial attorney while serving the people in his hometown of Lawton. After leaving the DA's office, he brought his trial experience with him into the private sector with Andrews Davis where he worked primarily in their criminal law and civil litigation practice areas. As a criminal defense attorney, he has represented clients in matters ranging from speeding tickets and misdemeanor DUIs to felony drug charges and multidefendant racketeering prosecutions. As a civil litigator, he has handled cases ranging from small claims

disputes to large scale construction litigation, complex business litigation and employment and labor claims on behalf of both the employer and the employee.

A fifth generation Oklahoman, Mr. Erwin graduated *magna cum laude* from OU in 2011 with a Bachelor of Arts degree in English and a minor in classical cultures. He received his J.D. from the OU College of Law in 2014. While in law school, he served as president of the Student Bar Association and vice justice of the Harlan Chapter of Phi Alpha Delta law fraternity. He received the Student Bar Association Prize for his service to the student body, the Public Service Award for his pro bono work in both civil and criminal legal clinics, a Top Ten Speaker Award in moot court and was included on the Dean's List for his academic achievements.

In his free time, he enjoys reading all the books he didn't have time to read while in law school, writing short fiction, traveling and attempting to live out his high school dream of being the front-man of a garage band.



Bryan Lynch

Bryan is an associate attorney at Conner & Winters in Oklahoma City, practicing mostly commercial

and employment litigation. He attended the OU College of Law where he graduated with honors and was inducted into the Order of the Coif and the Order of the Barristers. The recipient of many honors and awards, Mr. Lynch is a member of Phi Beta Kappa, served as a Cortez A.M. Ewing Public Service Fellow and received the Dennis R. Washington Achievement Grant awarded

through the Horatio Alger Association.

Mr. Lynch also received a Bachelor of Arts in letters with an emphasis in constitutional studies from OU, where he graduated *summa cum laude*.



Laura Talbert

Laura Talbert is a shareholder at Stockton Talbert PLLC in Oklahoma City. Her practice primarily

focuses on complex civil litigation and employment law.

Ms. Talbert graduated from the OU College of Law in 2012. After graduating, she worked as a prosecutor. Prior to starting her own firm, she also worked for the Oklahoma Department of Corrections General Counsel's Office.

In her free time, she enjoys playing volleyball, watching the Thunder and cheering on the Sooners. She has been on the YLD board for two years and hopes she is able to continue serving.

District 4



Taylor Venus

Taylor C. Venus is an attorney practicing with the Enid law firm of Long, Claypole & Blakley Law

PLC. Mr. Venus' practice focuses on civil litigation and transactional law for individuals and companies.

Mr. Venus is a native of Ponca City and graduated from OSU with business degrees in economics and finance. During his time at OSU, Mr. Venus had the honor of being Pistol Pete. Thereafter, he obtained his J.D. and MBA at OU. While in law school, he served

as the articles editor for the *Oil & Gas, Natural Resources & Energy Journal* and served as an officer or representative in multiple student organizations.

Mr. Venus has a passion for serving in his local community and with organizations which have transformed his life. In Enid, Mr. Venus is president of the Enid Public Schools Foundation, trustee of the Vance Development Authority, a member of the Board of Adjustment for the City of Enid and actively participates and volunteers with several other groups in northwest Oklahoma. Outside of his community, he has served on his fraternity alumni board since graduating and has participated with the Pistol Pete Alumni Association since its founding.

In his time out of the office, Mr. Venus enjoys spending time with his friends and family, playing golf and being an armchair expert on his favorite sports teams and political views.



Benjamin Barker

Ben Barker is a member of Mitchell DeClerck PLLC in Enid. He is a graduate of OSU (2010)

and the OU College of Law (2013). He represents clients in a variety of matters across northwest Oklahoma; however, his primary focus is criminal defense and family law.

An active member of the Garfield County Bar Association, Mr. Barker has served as Law Day Committee chairman for the past three years. He represented Garfield County as a delegate at the 2018 OBA Annual Meeting and is a member of the Bench and Bar Committee. In 2018, he received the Garfield County Bar

Association Outstanding Young Lawyer Award. He is licensed to practice in Oklahoma, the United States District Court for the Western District of Oklahoma and the District Court of the Cherokee Nation. He is a member of the Oklahoma Criminal Defense Lawyer's Association and has been recognized in the *Oklahoma Criminal Defense Weekly*. In addition to state and local news coverage, his criminal defense work has been featured in the *Washington Post*, *New York Daily News*, the *Daily Mail* (UK) and led to an invitation to appear on *Dr. Phil*.

When not practicing law, he enjoys spending time with his wife and 2-year-old daughter, woodworking, repairing vintage firearms and restoring his '69 Ford truck.

At-Large



Clayton Baker

Clayton Baker is an associate attorney at Davis & Thompson PLLC in Jay. He graduated from the TU

College of Law in 2015 and received his bachelor's degree from Midwestern State University in Wichita Falls, Texas.

Mr. Baker currently serves as an at-large rural director for the OBA Young Lawyers Division, as well as the president of the Delaware County Bar Association. During his time in law school, Mr. Baker served as president of the Student Bar Association, vice president of Board of Advocates and magister for Phi Delta Phi Legal Honors Society. Mr. Baker was elected to membership in the Order of Barristers, received the CALI Award for Excellence in Constitutional Law II and completed the Health Law Certificate Program.



Melanie Dittrich

Melanie Dittrich graduated from the OCU School of Law in 2009 and is a partner

at DeWitt Paruolo & Meek in Edmond. She has served on the OBA YLD Board of Directors since 2017. During her tenure on the board, she has co-chaired the New Attorney Orientation Committee which organizes and distributes bar exam survival kits to all Oklahoma bar exam takers, as well as sponsors refreshments following the swearing-in ceremony for the newly admitted young lawyers and their families. She received the 2017 Outstanding Board Member Award for her commitment to the board.

Dylan Erwin

See bio above.

Bryan Lynch

See bio above.

Laura Talbert

See bio above.

UNCONTESTED ELECTIONS

The following persons have been nominated. They are running uncontested and will be declared elected at the OBA YLD Annual Meeting.

Chair-Elect



April Moaning

April J. Moaning received a Bachelor of Arts in economics from OSU and

earned her J.D. at the TU College

of Law. While pursuing her law degree, she served as vice president of the TU College of Law Black Law Students Association and maintained active involvement in community service organizations. She also received numerous honors and awards, including the CALI Excellence for the Future Award in Torts and the Rocky Mountain Black Law Students Association Best Oral Advocate Award.

Ms. Moaning began her legal career practicing family and criminal defense law. She later served as staff counsel at Liberty Mutual Insurance Co. where she gained experience in the areas of insurance defense and civil litigation matters involving personal injury and property damage. Currently, Ms. Moaning represents clients in family, personal injury and criminal law matters. She also continues to focus on her commitment to community outreach by serving on the OBA Diversity Committee and OBA Young Lawyers Division Board of Directors. She has served on the OBA YLD Board of Directors since January 2015 and has received multiple awards for her involvement and dedication to the board.

Treasurer

Dylan Erwin

See bio above.

Secretary



Caroline Shaffer

Caroline Shaffer is a December 2016 graduate of the TU College of Law. She currently works

at Gibbs Armstrong Borochoff PC handling civil litigation, nursing home defense and family law. She is also a co-chair for the OBA Women in Law Committee's

Networking Subcommittee and a member of the Tulsa County Bar Association and Hudson Hall Wheaton Chapter of the American Inns of Court.

Ms. Shaffer has been serving the OBA on the YLD Board of Directors since 2017. She became the hospitality chair for the YLD in 2018. During her time on the board, she has shown her willingness and effort to help other young lawyers, especially those just emerging into practice, from passing out bar exam survival kits to hosting a swearing-in happy hour for the newly admitted Tulsa area lawyers. As well as attending the TU bar preparation class to provide information about the Oklahoma bar and advice to law students, she has also contributed to the *Tulsa Lawyer Magazine* advocating for firms to expend time and effort into helping their young lawyers grow in their career. She wants to continue to serve on this board to bring more networking opportunities to the young lawyers in Tulsa and make the daunting transition from law school into the legal field easier for newly admitted lawyers.

District 2

No candidate.

District 6

Caroline Shaffer

See bio above.

District 8



Tony Morales

Tony Morales was born and raised in Shawnee and is a 2002 graduate of Shawnee High.

He received his B.A. in journalism from OU in 2006, where he wrote for the school's newspaper, the *Oklahoma*

Daily. In 2011, he obtained his J.D. from the University of Denver Sturm College of Law and was the school's first recipient of their Certificate in Natural Resources and Environmental Law. During law school, he interned with the U.S. Department of Interior, practiced as a student attorney with the school's Environmental Law Clinic and served as a staff editor for *The University of Denver Water Law Review*.

After law school, he worked as an in-house landman for a Denver-based oil and gas E&P where he gained extensive experience in both the field and the board room.

In 2014, Mr. Morales returned to his roots in Oklahoma to join Stuart & Clover. His practice focuses on civil and commercial litigation, oil and gas litigation and A&D, municipal and government law, zoning/land use, business formation, governance and transactions, probates, wills and trusts and mineral title examination.

He is licensed to practice law in Oklahoma and Colorado.

He married his college sweetheart, Annie Coulson, in 2011. They live in Oklahoma City.

At-Large Rural



Scott Cordell

Scott E. Cordell is the assistant general counsel for the OSU Foundation and recently moved from

Enid to Stillwater. He is a native of Chickasha and graduated from the University of Arkansas – Fayetteville in 2009. After teaching English in Chile for six months, he obtained his law degree from the OU College of Law and was admitted to the Oklahoma bar in 2013. He has practiced in both the

private and public sectors working on a wide variety of legal issues.

Mr. Cordell enjoys serving others. In addition to taking an active role in his church, he is an active board member for the OBA Young Lawyers Division. He previously served on the Garfield County Bar Association's Bylaws Committee and the City of Enid Special Sales Tax Oversight Committee.

Outside of work, he enjoys spending time with his wife and family, celebrating life with friends and soaking up the outdoors.

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

FOR YOUR INFORMATION

WOMEN IN LAW COMMITTEE HOSTS ANNUAL CLOTHING DRIVE

The OBA Women in Law Committee hosted its second annual clothing drive Aug. 12-16. The committee received over 200 items including clothing, belts, shoes, purses and jewelry. Additionally, a large bag of Mary Kay skincare products was donated, valuing over \$750.

Drop off locations were available in both Oklahoma City and Tulsa.

The items were donated to Suited for Success, which provides professional clothing and career development services to low-income women who have completed a job training or job readiness program and are actively seeking employment.

Clothing donations are the lifeblood of Suited for Success. If you have professional, work-appropriate clothing or accessories you would like to donate and live in the Oklahoma City area, you may drop them off at Tide Dry Cleaners located in Edmond at 1120 NW 164th Street. Please ensure clothing is on hangers, new or gently worn, in season and clean with sizes clearly marked.



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.



LHL DISCUSSION GROUP HOSTS OCTOBER MEETING

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

OBA MEMBER RESIGNATION

The following member has resigned from the association and notice is hereby given of such resignation:

Michael Lee Nemec
OBA No. 6629
2651 E. 22nd St.
Tulsa, OK 74114

CONNECT WITH THE OBA THROUGH SOCIAL MEDIA

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

ON THE MOVE

Ronald W. Little was elected shareholder at McAfee & Taft. Mr. Little practices family law including prenuptial agreements, complex divorce, child custody and alimony and child support payments.

Kelly M. Hunt joined the Tulsa-based firm of Jones, Gotcher & Bogan PC as of counsel. Ms. Hunt practices litigation surrounding business and oil, gas and energy matters, estate and trust, adoption and guardianship, family matters and real property title and conveyances. **Morgan T. Smith** joined the firm as an associate.

Kaycee Spears Boren of Tulsa was elected shareholder at Pray Walker PC. Ms. Boren practices oil and gas drilling and division order title options and energy transactions. She received her J.D. from the OU College of Law in 2013.

Raymond E. Penny Jr. joined the Tulsa office of Hall Estill as a litigation attorney. He received his J.D. from the TU College of Law in 2017. Mr. Penny practices primarily in the area of complex commercial issues.

Rick L. Denker and **Sara M. Zuhdi** have formed Denker & Zuhdi PLLC. Their firm will practice primarily in the areas of probate, wills, trusts, estate planning, adoption, real estate, expungements and business formations and transactions. Their office is located at 4700 NW 23rd St., Ste. 112, Oklahoma City.

R. Kevin Butler and **Sadie Jo Flynn** have formed Butler & Flynn PLLC, located at 13825 Quail Pointe Dr., Oklahoma City. Their firm will practice primarily family law, divorce, adoption, guardianship, juvenile, criminal and civil litigation.

KUDOS

Elizabeth K. Brown of Oklahoma City was elected to the Board of Directors of the newly formed oil and gas industry advocacy organization, The Petroleum Alliance of Oklahoma. Ms. Brown was formerly a member of the Oklahoma Independent Petroleum Association Board of Directors until its recent merger into the alliance. She is one of four women who serve on the 41-member board.

Darla Kite-Jackson of Norman was named one of the Fastcase 50 honorees for 2019. Created in 2011, Fastcase 50 honors a diverse group of lawyers, legal technologists, policymakers, judges, law librarians, bar association executives and people from all walks of life.

Matthew Morgan of Goldsby was named chairman of the Oklahoma Indian Gaming Association. Mr. Morgan currently serves on the National Indian Gaming Association board.

Michael P. Martin of Stillwater was sworn in as a Northern Oklahoma College regent. Mr. Martin is a member of Martin, Jean and Jackson and his practice focuses on helping injured Oklahomans.

Judge Michael Flanagan of Walters was appointed chairman of the Task Force on the Uniform Representation of Children and Parents in Cases Involving Abuse and Neglect. The task force was created by the Supreme Court of Oklahoma and is charged with determining models of legal representation conducted pursuant

to the Oklahoma Children's Code, to assess training, compensation, practice standards and to make recommendations on the development of rules and procedures, to address uniform compensation and evaluation processes, training requirements and approving appellate advocacy, as well as other related issues in order to protect the rights of children and parents and improve outcomes. Other members of the task force include **Robert A. Ravitz** of Oklahoma City, **Corbin C. Brewster** of Tulsa, **Ronald Baze** of Edmond, **Donna Glandon** of Lawton, **Judge Rebecca Gore** of Pryor, **Mark Morrison** of Durant, **Holly Iker** of Norman, **Gwendolyn Clegg** of Tulsa, **Timothy R. Beebe** of Enid, **Sharon Hsieh** of Oklahoma City, **Judge Doris Fransein** of Tulsa and **Julie Rorie** of Oklahoma City.

IN MEMORIAM

Kellye Bates of Oklahoma City died July 14. She was born Dec. 31, 1968, in Tulsa. She graduated from Putnam City West High School in 1987 and went on to pursue a degree in mass communications at Oklahoma City University, where she graduated *summa cum laude* as valedictorian. At OCU School of Law, Ms. Bates was a merit scholar, law review member, outstanding property law student and graduated in the top five of her class. At the beginning of her law career, she worked for a small firm and focused in wills, trusts and estate planning. In 1997, she began working in the Criminal Appeals Section of the Oklahoma Attorney General's Office. In 2004, she spent time working as a trust attorney at the American Cancer Society. The last half of her career was spent practicing criminal law as a death penalty law clerk for the United States District Court for the Western District of Oklahoma. Memorial contributions may be made in her name to Stephenson Cancer Center.

Robert W. Cox of Tulsa died July 13. He was born May 10, 1945, in Coronado, California. Mr. Cox received his J.D. in 1970 from the University of Michigan Law School in Ann Arbor. He practiced oil and gas law until his retirement from Vintage Petroleum in 2018. Mr. Cox enjoyed vacationing in Hawaii whenever possible.

Judge David P. Cullen of Cherokee died July 3. He was born Sept. 12, 1931. **After serving in the Air Force**, he graduated with his bachelor's degree from OU before pursuing a master's degree in civil engineering. Judge

Cullen received his J.D. from George Washington University Law School in Washington, D.C., during which time he worked in the U.S. Patent Office. His legal career began at Conoco Inc., where he spent over two decades before moving to oversee the legal department of Milestone Petroleum in Denver, Colorado. Judge Cullen then relocated to Cherokee where he went into private practice. He was licensed to practice law in four states. Judge Cullen held the position of associate district judge for Alfalfa County for many years prior to his retirement. Memorial contributions may be made to the Cherokee City Hall Flagpole Fund through Lanman Funeral Home Inc. of Cherokee or to the American Kidney Fund at kidneyfund.org.

Samuel Field Phillips Daniel Jr. of Tulsa died July 14. He was born Dec. 20, 1932, in Tulsa. Mr. Daniel received his J.D. from the OU College of Law in 1959. He spent a majority of his 60 years practicing law at the firm of Dorner, Saunders, Daniel & Anderson LLP. He was best known for his work in the field of family law and business litigation. Mr. Daniel was an adjunct professor at the TU College of Law, where he mentored young lawyers often. He was a fellow of the American College of Trial Lawyers, past president of the Tulsa County Bar Association and a member of the American Academy of Matrimonial Lawyers. **Mr. Daniel was a captain in the Air Force.** He was actively involved with NatureWorks, The Nature Conservatory, Sutton Avian Research Center, Woolaroc Museum and the Tulsa Ballet. A book he wrote for his grandchildren resides

at Woolaroc Museum alongside his bird collection. Memorial contributions may be made to a favorite charity or one of the organizations mentioned above.

Stuart W. Emmons of Oklahoma City died July 2. He was born Aug. 9, 1961, in Stillwater. He graduated from Edmond Memorial High School in 1979. While attending OU, Mr. Emmons pledged Beta Theta Pi and spent his summers interning at the U.S. Attorney's office in Tulsa. He graduated with a bachelor's degree in accounting in 1984 and his J.D. from the OU College of Law in 1987. Following a clerkship with a federal court judge in Oklahoma City, he began his legal career with Federman & Sherwood, where he worked for almost 32 years. Mr. Emmons practiced securities class actions, shareholder derivative cases and consumer class actions. Among other accomplishments, he prepared a case for arguments to the U.S. Supreme Court and appeared at those arguments to assist in the final moot court and preparations. Memorial contributions may be made to the Latino Community Development Agency at 420 SW 10th, Oklahoma City, 73109 or Idacok.com, or to Legal Aid Services of Oklahoma, Inc.

Judge William Arthur Goff of Tulsa died July 8. He was born Aug. 30, 1929, in Sulphur. He graduated from Sulphur High School in 1947 and OU in 1951. **He was commissioned as a second lieutenant in the Air Force and served on active duty in Japan and Korea. Following active duty, he served nine years in the Air Force Reserve, attaining**

the rank of captain. Judge Goff received his J.D. from the OU College of Law in 1956. He spent four years as a trial attorney in the Office of Chief Counsel of International Revenue Service, both in St. Paul, Minnesota, and St. Louis, Missouri. In 1957, Judge Goff moved to Tulsa to practice law in the firm of Martin, Logan, Moyeres, Martin & Conway. In 1971, he was recommended by Oklahoma Sen. Henry Bellmon to fill a vacancy on the United States Tax Court. President Richard Nixon nominated Judge Goff, and he served on the court until 1986 and on Senior Status until 1992. He then returned to Tulsa and practiced law in the firm of Stuart, Biolchini, Turner and Givray before practicing independently. Memorial donations may be made to the Tulsa Opera, 1610 S. Boulder Ave., Tulsa, 74119 or at tulsaopera.com.

Elizabeth Johnston Hickerson of Anchorage, Alaska, died April 8. She was born Dec. 6, 1950, in Sacramento, California. She grew up in Texas, graduating from Paschal High School in Fort Worth in 1969. Ms. Hickerson received a bachelor's degree from OU in 1973 and worked briefly as a teacher before enrolling in law school. She received her J.D. from the OCU School of Law in 1980 and began her law career as a

prosecutor for the Oklahoma City District Attorney's Office. In 1981, Ms. Hickerson and her husband moved to Alaska, where they both continued their legal careers. Her professional career included time spent at the Alaska Consumer Advocacy Program, the Alaska Legislature and as an assistant attorney general. Ms. Hickerson also served on the Alaska Public Offices Commission from 2007 to 2015, including a term as chair. Memorial contributions may be made to the Girl Scouts of Alaska or the Robert Hickerson Partners in Justice Campaign for Alaska Legal Services Corporation.

Clifford R. Magee of Tulsa died June 11. He was born Nov. 6, 1959, in Tulsa. He attended Spartan College of Aeronautics and Technology in Tulsa and Embry-Riddle Aeronautical University in Daytona Beach, Florida. Mr. Magee received his J.D. from the TU College of Law in 1988 before studying at the Strauss Institute for Dispute Resolution at Pepperdine University School of Law in Malibu, California. He practiced litigation, aviation law before the Federal Aviation Administration and mediation. Mr. Magee was serving as chairperson of the OBA Alternative Dispute Resolution Section at the time of his death.

Mr. Magee had a lifelong love of aviation and was an accomplished pilot, working as a flight instructor while attending law school. Mr. Magee was the founder of the Jenks Riverside Airport Association and was active in the Tulsa Glue Dobbers and Turf Flyers. Mr. Magee served as past president of the Jet Racing Class for the Reno Air Races. Memorial contributions may be made to Boy Scout Troop 20 at the Boston Avenue United Methodist Church in Tulsa.

Judith L. Maute of Oklahoma City died July 13. She was born Oct. 28, 1949, in Evanston, Illinois. She attended Maine East High School in Park Ridge, Illinois, and was a religious studies major at the University of Indiana at Bloomington. Ms. Maute received her J.D. from the University of Pittsburg School of Law in 1978 before pursuing a LL.M. at Yale Law School. In 1982, she began her career as a law school professor at OU. Over the next three decades, Ms. Maute earned a reputation as a revered and well-loved professor, a tenacious advocate for justice and as a pioneer in the arena of legal archeology. Her extensive work on the Peeveyhouse Case and the land use contractual conundrum it contained led her to release a documentary in 2008 that would help

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:

Laura Wolf
Communications Dept.
Oklahoma Bar Association
405-416-7017
barbriefs@okbar.org

Articles for the November issue must be received by Oct. 1.

tell the story to law school students everywhere. Ms. Maute provided and led students in pro bono opportunities, and she even started the Students for Access to Justice program, which matched volunteer law students to those who needed legal help but could not afford it.

Larry J. Puckett of Oklahoma City died June 5. He was born Aug. 13, 1946. He received his J.D. from the OU College of Law in 1971.

W Robert Wilson of Pawhuska died July 19. He was born June 3, 1935, in Wheeling, West Virginia. Mr. Wilson moved frequently during his youth, but he spent his senior year of high school

in Altus. He received his J.D. from the OU College of Law in 1962. While in law school, Mr. Wilson was a member of the *Oklahoma Law Review*, serving as the editor-in-chief in 1961. He was chosen as Outstanding Law Student in the State of Oklahoma in 1961 by the Oklahoma Bar Association, was selected by the legal fraternity of Phi Delta Phi as Outstanding Graduate of Province X and was chosen as a member of the Order of the Coif. Upon graduation from law school, Mr. Wilson spent one year in Tulsa followed by two years in Durant in private practice. In 1965, he moved to Pawhuska where he spent the next 50 years in private practice. While in Pawhuska,

he spent three years as the first assistant district attorney, trying criminal cases while building his practice in civil matters, primarily in areas relating to Osage County representing ranchers, cattlemen, oil and gas operators and Osage Indian Law. During his career, Mr. Wilson served as the Pawhuska City Attorney for 36 years and the attorney for Pawhuska Public Schools for more than 30 years. Memorial contributions may be made to the Pawhuska Educational Trust c/o Blue Sky Bank, 101 E. 8th St., Pawhuska, 74056 or the National Multiple Sclerosis Society, 4606 E. 67th St., Ste. 103, Tulsa, 74136.



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Appellate Law

Editor: Luke Adams
ladams@tisdalohara.com
Deadline: May 1, 2019

NOVEMBER

Indian Law

Editor: Leslie Taylor
leslietaylorlaw@gmail.com
Deadline: Aug. 1, 2019

DECEMBER

Starting a Law Practice

Editor: Patricia Flanagan
patriciaaflanaganlawoffice@cox.net
Deadline: Aug. 1, 2019

2020 ISSUES

JANUARY

Meet Your Bar Association

Editor: Carol Manning

FEBRUARY

Family Law

Editor: Virginia Henson
virginia@phmlaw.net
Deadline: Oct. 1, 2019

MARCH

Constitutional Law

Editors: C. Scott Jones & Melissa DeLacerda
sjones@piercecouch.com
Deadline: Oct. 1, 2019

APRIL

Law Day

Editor: Carol Manning

MAY

Diversity and the Law

Editor: Melissa DeLacerda
melissde@aol.com
Deadline: Jan. 1, 2020

AUGUST

Children and the Law

Editor: Luke Adams
ladams@tisdalohara.com
Deadline: May 1, 2020

SEPTEMBER

Bar Convention

Editor: Carol Manning

OCTOBER

Mental Health

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sjones@piercecouch.com
Deadline: May 1, 2020

NOVEMBER

Alternative Dispute Resolution

Editor: Aaron Bundy
aaron@bundylawoffice.com
Deadline: Aug. 1, 2020

DECEMBER

Ethics & Professional Responsibility

Editor: Amanda Grant
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10 Public Speaking Tips

Have a big presentation coming up? Want to engage your audience and make your comments memorable while also conveying your point? Check out this infographic that shares 10 public speaking tips to help increase your confidence, communicate more effectively and connect with your audience.

tinyurl.com/tipspublicspeaking



Ultimate Tailgating Tips

Football season is here, which means so is tailgating! Whether this is your first time hosting a tailgate or you are a seasoned pro, here are 60 tips to help your tailgate be successful.

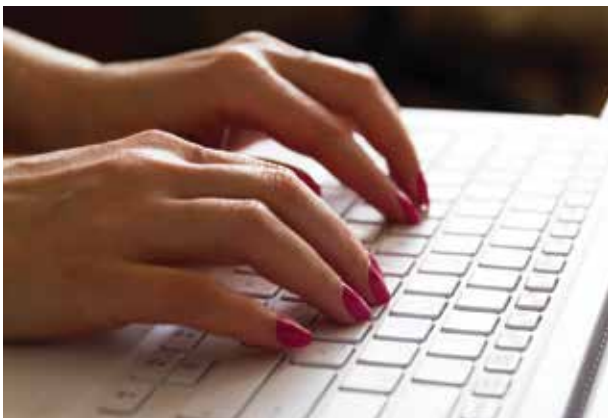
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10 Tips for Better Legal Writing

Lawyers do a lot of writing and the requirements for writing assignments vary greatly depending on your organization or firm, your supervisor and your client. Here are 10 tips to help you improve your legal writing and impress others with your skills.

tinyurl.com/tipslegalwriting



Make Your Signature Stand Out

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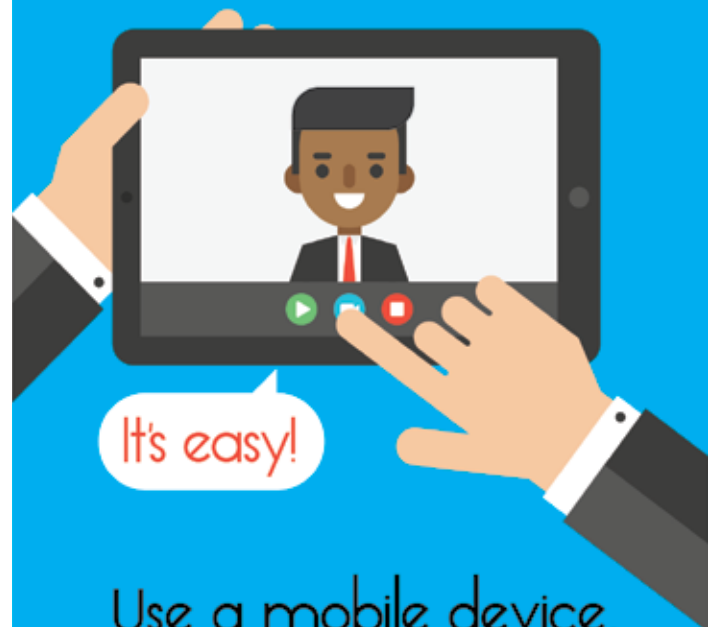
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OKLAHOMA BAR ASSOCIATION HEROES program is looking for several volunteer attorneys. The need for FAMILY LAW ATTORNEYS is critical, but attorneys from all practice areas are needed. All ages, all counties. Gain invaluable experience, or mentor a young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

JUDGE ADVOCATE GENERAL'S (JAG) CORPS for Oklahoma Army National Guard is seeking qualified licensed attorneys to commission as judge advocates. Selected candidates will complete a six-week course at Fort Benning, Georgia, followed by a 10 ½-week military law course at the Judge Advocate General's Legal Center on the University of Virginia campus in Charlottesville, Virginia. Judge advocates in the Oklahoma National Guard will ordinarily drill one weekend a month and complete a two-week annual training each year. Benefits include low cost health, dental and life insurance, PX and commissary privileges, 401(k) type savings plan, free CLE and more! For additional information contact 1LT Rebecca Rudisill, email Rebecca.l.rudisill2.mil@mail.mil.

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

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CHILD SUPPORT SERVICES ATTORNEY IV - Announcement #19-N053U.1 & Recruitment ID#< >. Visit www.jobs.ok.gov to apply. Applications must be submitted online by Sept. 30, 2019. The DHS Child Support Services has an opening for a full-time attorney (CSS Attorney IV, \$5,044.91 monthly). This position will be located at 1707 W. Frisco Chickasha, OK 73018. The position involves preparation and filing of pleadings and trial of cases in child support related hearings in district and administrative courts. This position may be filled at an alternate hiring level as a Child Support Services attorney III (beginning salary \$4,405 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.

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CHILD SUPPORT SERVICES ATTORNEY IV - Announcement #19-N146U & Recruitment ID#< >. Visit www.jobs.ok.gov to apply. Applications must be submitted online by Sept. 24, 2019. The DHS Child Support Services has an opening for a full-time attorney (CSS Attorney IV, \$5,044.91 monthly). This position will be located at 1000 E. Alameda Ave., Norman, OK 73071. The position involves preparation and filing of pleadings and trial of cases in child support related hearings in district and administrative courts. This position may be filled at an alternate hiring level as a Child Support Services attorney III (beginning salary \$4,405 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.

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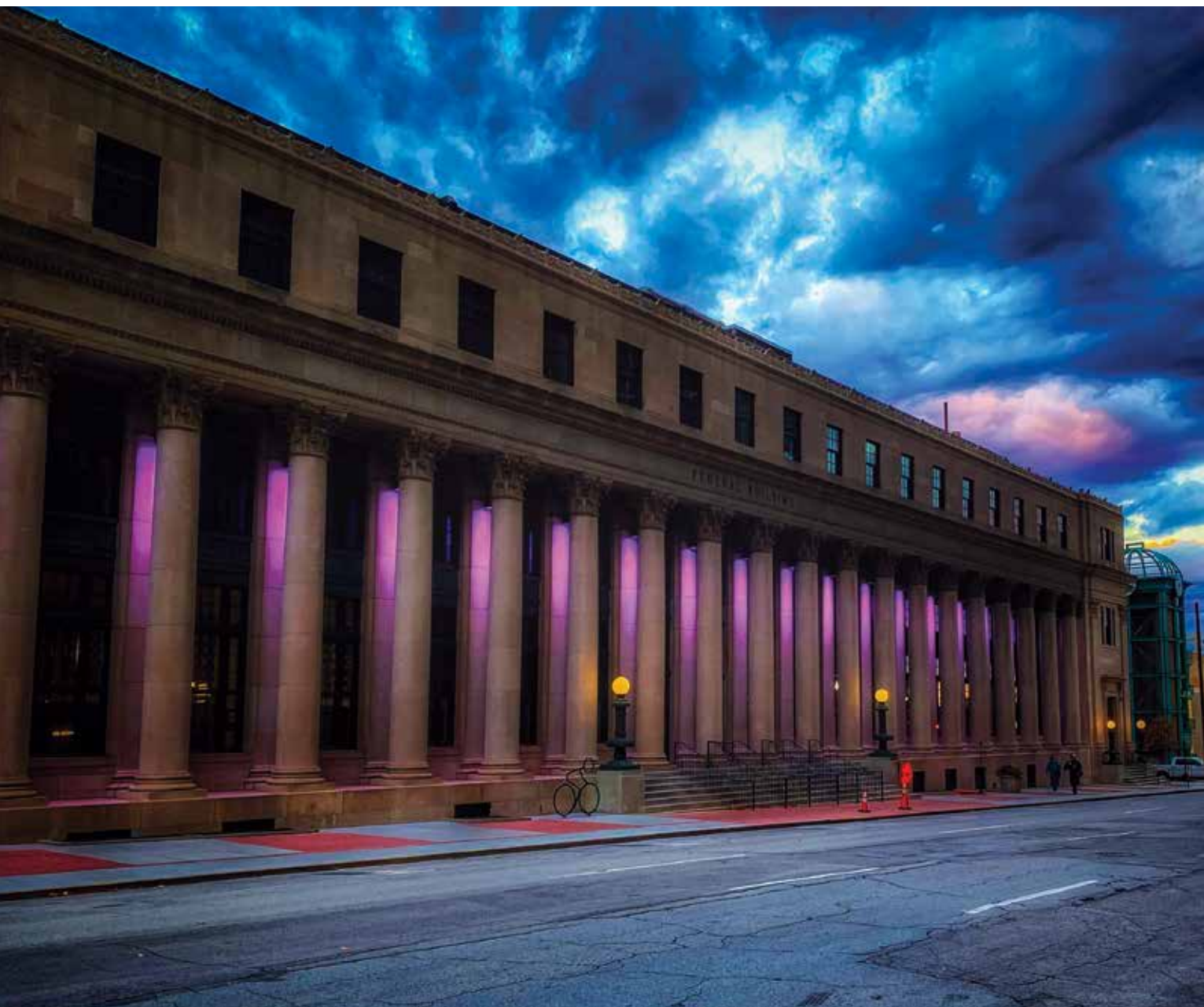
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*The Federal Courthouse in Tulsa.
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Oklahoma Bar Center
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MCLE 3/3

PROGRAM PLANNERS:

Members of the OBA Professionalism Committee, including Judge Trevor Pemberton, Linda Scoggins, Woody Glass, Chad Kelliher, Joe Balkenbush, and Patricia Podolec

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- Learning to better advocate while remaining professional
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TOPICS INCLUDE:

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- **The Litigator's Take:**
Jeremy Tubb, *Fuller Tubb & Bickford, PLLC*
- **Panel Discussion:**
Woody Glass, *Ward & Glass, LLP*
Judge Trevor Pemberton
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TUITION: Early registration by September 26, 2019 is \$150. Registration received after September 26, 2019 date is \$175 and walk-ins are \$200. Registration includes lunch. For a \$10 discount, enter coupon code FALL2019 at checkout when registering online. Members licensed 2 years or less may register for \$75 (late fees apply).



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