

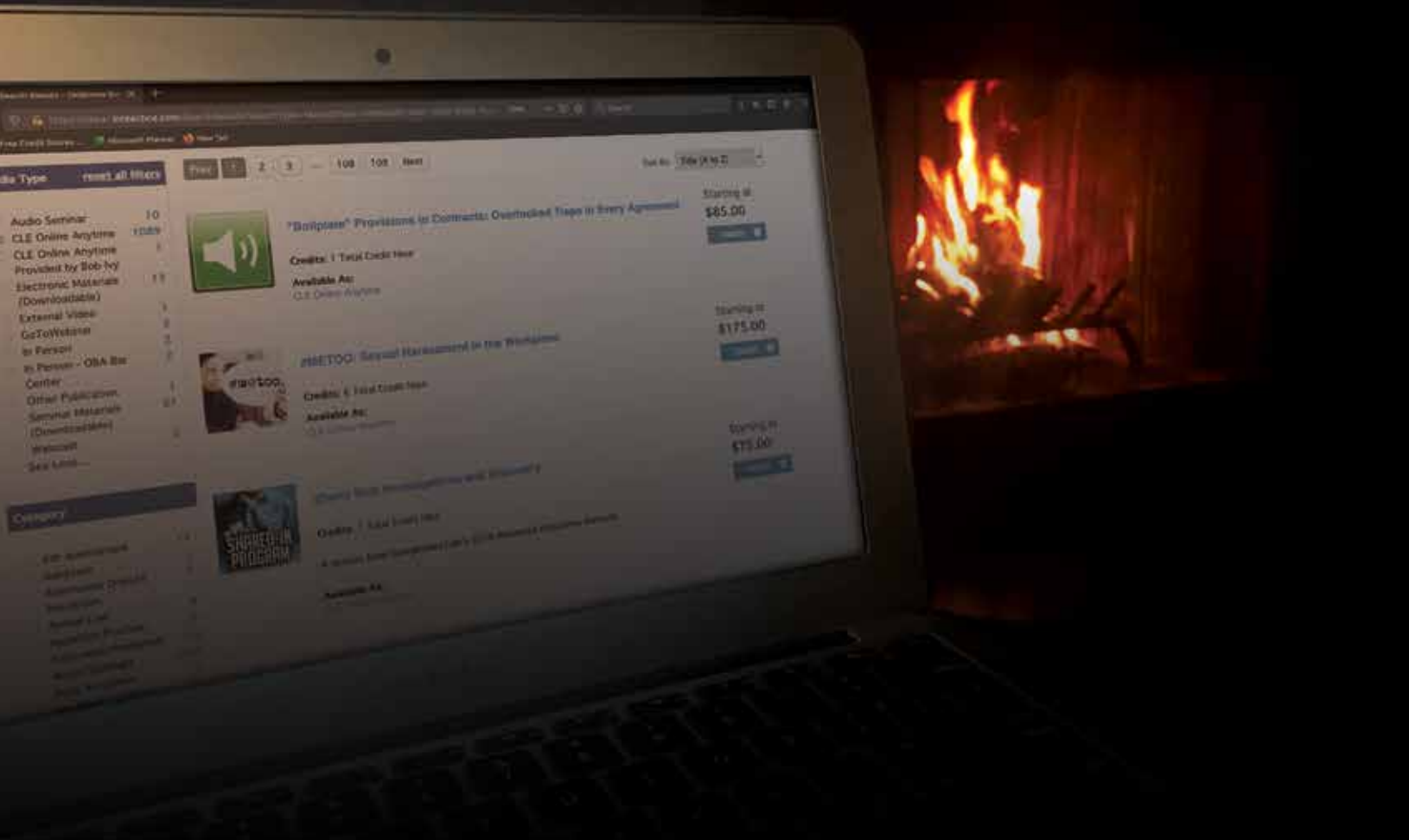
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THE OKLAHOMA BAR Journal

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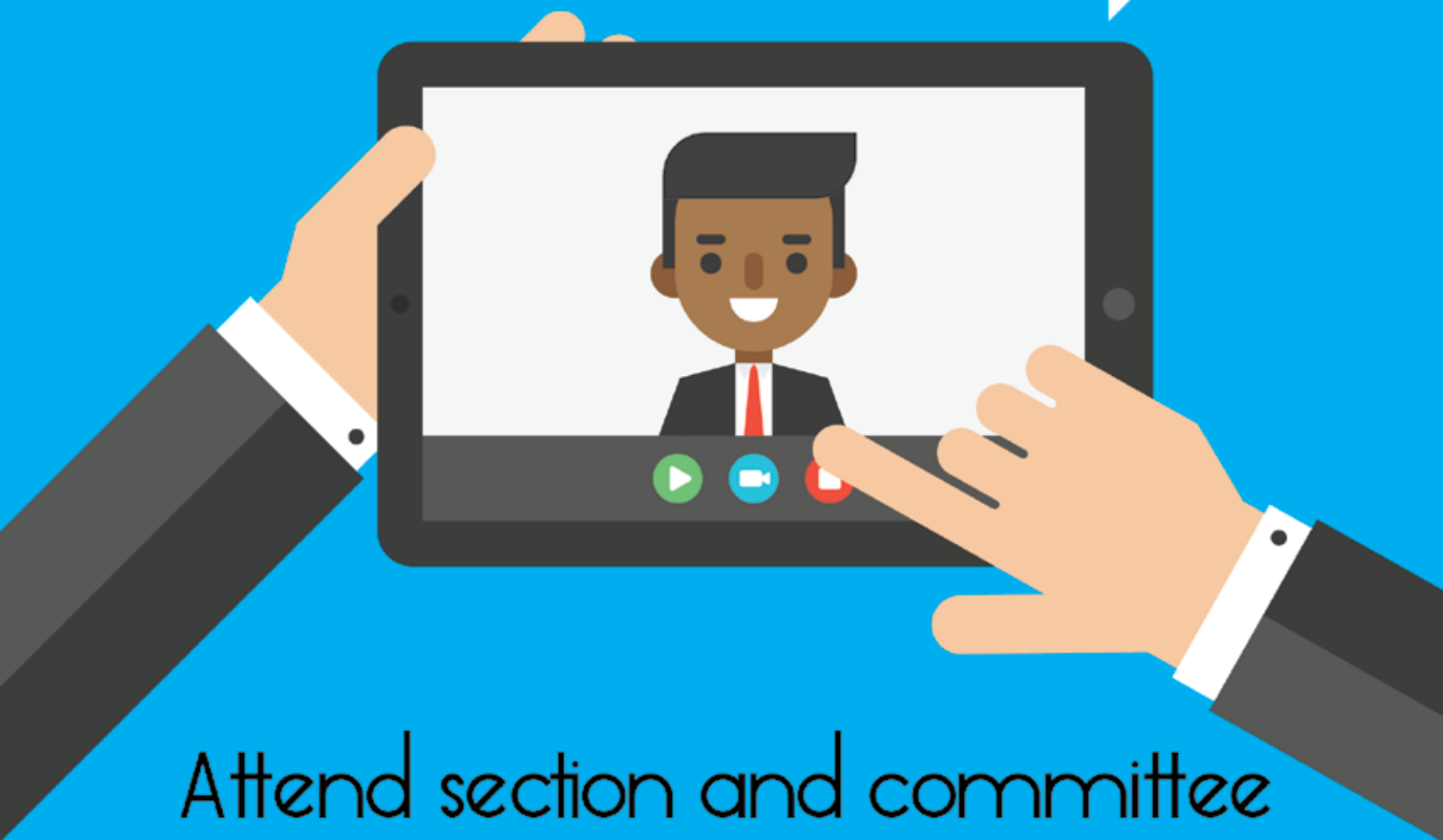
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Inspired by a Short Story, Classic Movie Shares Important Messages

By Mike Mordy

EVERY CHRISTMAS SEASON MY WIFE, Christy, is excited for me to watch with her the 1946 Christmas classic, *It's a Wonderful Life*. It is the movie starring Jimmy Stewart as George Bailey, Donna Reed as his wife and Lionel Barrymore as Mr. Potter. You will remember it is the story about George Bailey, who thought he was a failure and who was given the opportunity to come back and see the world as it would have been had he not been born, which is made possible through his guardian angel, Clarence. George Bailey is a good man with young ambitions, but he has been so busy helping others that he believes he is a failure and that life has passed him by.

I was given a book this Christmas called *The Greatest Gift*, which is the original short story by Philip Van

Doren Stern, self-published in 1943, from which the movie *It's a Wonderful Life* came. The story was originally issued as a privately printed booklet the author sent out as Christmas cards in 1943. The producer of the movie told Jimmy Stewart that the two main ideas for the story were that no one is born to be a failure and no one is poor who has friends. *The Greatest Gift* is a short, wonderful story and a reminder that we all have a purpose in life.

I ran upon a small, golden ring this Christmas, at about the same time I received *The Greatest Gift*. The ring was given to my newborn daughter 40 years ago by an attorney friend of mine. He was a great

guy, great lawyer and very compassionate person, but who unfortunately took his life in 1997. Another attorney friend of mine took his life a couple of months ago. He too was a very compassionate, fun and witty guy and a great attorney who zealously represented his clients. Both of these attorneys had a profound effect upon many people's lives before their deaths and would have continued to do so had their lives not abruptly ended.

I mention all of this because we need to remember that we as attorneys do more than just represent businesses and banks and oil companies, but we help people steer through situations that may seem small to us but are desperate situations to them. We often times offer our legal services to people not just on a pro bono basis but are unwittingly helping people through situations that appear insurmountable to them and consequently make a difference in their lives.

We need to be vigilant in checking on our attorney brothers and sisters, and ourselves, especially during this odd season of our life. We need to make sure we all know we have a purpose in life, especially as attorneys, and that the legal services we have provided have helped people in the past and will continue to help people in the future.



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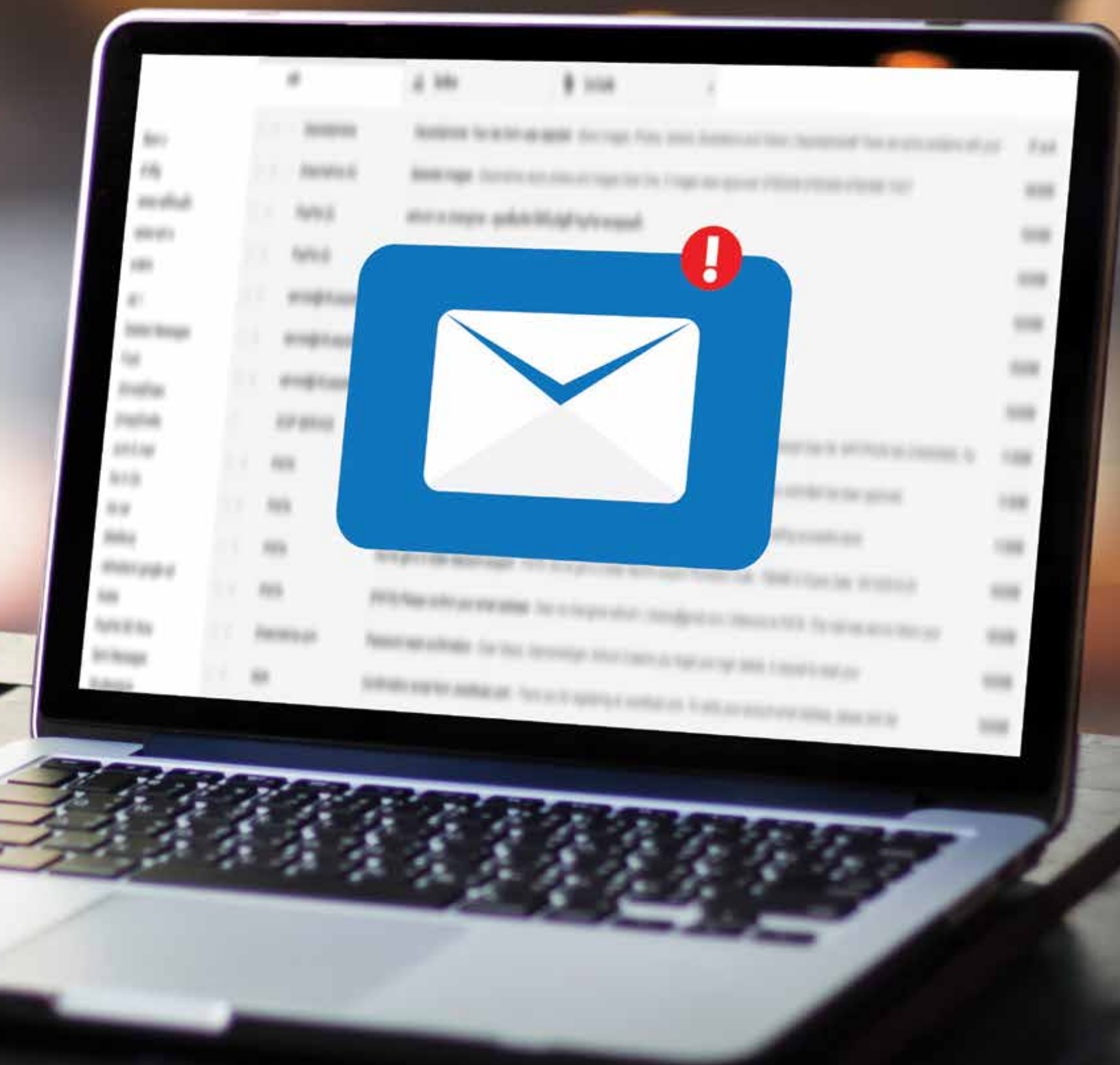
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Access to a Deceased's Digital Accounts

By Christin Mugg and Brody Gustafson

DO YOU REMEMBER A TIME when you first encountered the cultural relevancy of digital technology? For me, an avid movie watcher, that time was in 1998 when I watched *You've Got Mail*. There were other movies that exhibited the growth of digital technology,¹ but *You've Got Mail* demonstrated how *personal* digital technology could be. That movie proved two things: Nora Ephron was an amazing director, and our culture places great personal value on digital accounts. Our emails, social media accounts, subscriptions and every other digital account reflect who we are. They can be an extension of ourselves. What is surprising then is that 20 years after *You've Got Mail*, Oklahoma and other states are just now asking the important question of what happens to those emails when you die?

Stories that received national attention answered this question, but not how many people hoped. For instance, Ricky and Diane Rash turned to Facebook for closure after their son, Eric, died by suicide in 2013.² Eric was a bright 15-year-old who aspired to go to Harvard Law School.³ Facebook denied their request to access their son's Facebook account due to privacy laws.⁴ Or Dovi Henry who was a 23-year-old who passed away in 2014.⁵ His mother, Maureen Henry, has been in a constant legal battle with the custodians of Dovi's email and social media accounts in an effort to find some clues about his death.⁶ Canadian courts have ordered those custodians to produce Dovi's digital content and communications but that has been met with limited success.⁷

These tragic stories exemplify the risk of not having a structure in place for a personal representative

of a decedent to obtain access to that decedent's digital accounts.

Maureen Henry said it best, "There needs to be an actual process for families, in my situation, to access their relatives' digital accounts."⁸

In Oklahoma, there is only one statute that addresses this issue.⁹ "The executor or administrator of an estate shall have the power, where otherwise authorized, to take control of, conduct, continue, or terminate any accounts of a deceased person on any social networking website, any microblogging or short message service website or any e-mail service websites."¹⁰ It is yet to be determined if this statute carries the necessary weight to force a custodian of digital assets to set aside federal privacy laws and give a fiduciary access to all of a decedent's accounts. That question might be irrelevant though because Oklahoma may become the 46th state to enact the

Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA).¹¹ This article provides insight into the RUFADAA and explains the steps involved for a personal representative gaining access to a decedent's digital accounts. Lastly, the article concludes with a brief discussion of the positives and negatives of enacting RUFADAA.

BACKGROUND

Currently introduced as HB 3711 in Oklahoma, RUFADAA is another brainchild of the Uniform Law Commission.¹² Its purpose is to give fiduciaries legal authority to manage digital assets and give custodians a method to disclose information to a fiduciary while protecting the user's privacy.¹³ The RUFADAA is not just for people who talk about Bitcoin all day. The RUFADAA has universal applicability because of its broad definitions. For example, a digital

If the personal representative does not have the decedent's consent, then the personal representative must get a court order that finds the disclosure is reasonably necessary for the estate. This is a high bar.

asset is defined as “an electronic record in which an individual has a right or interest.”¹⁴ An account is defined as an “arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.”¹⁵ Combine these two definitions, and RUFADAA applies to your Facebook and Google accounts, your Netflix account, your airline rewards account, even your Chick-fil-A account. All personal, digital accounts are subject to this law.

RUFADAA is not just about digital accounts, it also protects a decedent's privacy. When the first iteration was introduced in 2014, the Uniform Fiduciary Access to Digital Assets Act (UFADAA), the proposed language gave a fiduciary broad access to the decedent's digital accounts, including the content of electronic communications. Tech companies and privacy rights groups immediately claimed that UFADAA gave unauthorized access to the content of a decedent's electronic communications in direct violation of the Stored Communications Act (SCA).¹⁶ The SCA generally prevents

custodians from disclosing the content of a user's electronic communications without that user's consent.¹⁷ Feeling the pressure, the Uniform Law Commission relented and revised the UFADAA to require user consent for a custodian to disclose the content of an electronic communication.¹⁸ This point cannot be overstated because many provisions of the RUFADAA depend on whether the user gave consent. A user can consent in three ways: 1) through an online tool, 2) contained in a will, trust or power of attorney or 3) under a terms-of-service agreement.¹⁹ Any contradiction between the user's consent is resolved by giving preference first to the online tool, followed by a will, trust or power of attorney and concluding with the terms-of-service agreement.²⁰

PROBATE PROCEDURE

In a probate, the personal representative who wants access to a decedent's digital accounts must determine if that access will reveal the content of an electronic communication. This would include the body of emails and text messages. If a decedent consented to the disclosure of the content of electronic communications, then their

personal representative will need to mail or email the custodian the following: a request for disclosure, a certified death certificate, certified letters testamentary (or equivalent) and a copy of the document purporting to give the personal representative authority to access the content of electronic communications.²¹ The custodian, however, may respond to the personal representative's request and require an account identifier (username) and evidence linking the decedent with that account before it discloses anything.²² Or the custodian can go a step further and require the personal representative get a court order that finds the following: 1) the account was the decedent's, 2) the disclosure does not violate the SCA and 3) the decedent consented to the disclosure of electronic communication or that the disclosure is reasonably necessary for the estate.²³

The key takeaway from this procedure is the importance of the decedent's consent for the disclosure of the content of electronic communication. With that consent in writing, a personal representative should have little trouble getting access to all a decedent's digital accounts. If the personal representative does not have

the decedent's consent, then the personal representative must get a court order that finds the disclosure is reasonably necessary for the estate. This is a high bar. Early cases have generally held that the content of electronic communications is not reasonably necessary for the estate.²⁴ Instead, the court will give the personal representative access to a catalogue of electronic communications.

A catalogue of electronic communications is "information that identifies each person with which a user has had an electronic communication, the time and date of the communication and the electronic address of the person."²⁵ This does not reveal the content of the electronic communication. It basically

an electronic communication) is similar to the one described above. It involves a written request for the disclosure, certified death certificate and certified letters testamentary.²⁷ The custodian can once again request more information (like a username) or even a court order.²⁸ But since the disclosure of a catalogue of electronic communication does not violate SCA,²⁹ the court order only needs to find the decedent in fact had an account with the custodian or it is reasonably necessary for the administration of the estate.³⁰ Since collecting and preserving the decedent's assets are part of the probate process, this should be met.³¹

RUFADAA also graciously gives custodians a choice in how

date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account."³³ Additionally, the custodian does not have to disclose any material that was deleted by the decedent during their life and may require a reasonable administrative fee for providing the personal representative access.³⁴ Finally, if the personal representative requests just a subset of the decedent's digital accounts, the custodian may claim that separating out that data is an undue burden.³⁵ If that is the case, then the custodian can petition the court to limit the subset by a date, provide for full access, provide for no access or have the court separate it on camera.³⁶

ANALYSIS

There is much to like about the RUFADAA. Major endorsements from Facebook, Google and the AARP show the broad range of support, from custodians and users.³⁷ The RUFADAA provides a framework for grieving families like the Rash's and Henry's for closure in difficult times. This structure helps the personal representatives succeed in obtaining access to a decedent's digital accounts because it is based on a system that was approved by the custodians holding the decedent's data. For practitioners who practice in multiple states, the procedure will be consistent in probates crossing state lines, considering RUFADAA has been enacting in almost every state. Lastly, some may consider the privacy protections of a decedent's electronic communications necessary in any statutory scheme. To understand this point, just think of an email or text message you have sent about your family member – do you want your personal representative seeing that?



gives the "who" and "when," but leaves out the "what" and "why." Judges are willing to order the custodian to provide a catalogue of electronic communications but keep open the possibility of the personal representative needing more if the catalogue reveals anything.²⁶

The procedure for obtaining a catalogue of electronic communications or any other digital asset (not including the content of

they disclose the digital assets to the personal representative. Specifically, a custodian may either give the personal representative full access to the digital assets or partial access sufficient enough for the personal representative to fulfill their fiduciary duty.³² Of course the custodian could also just give the personal representative a "copy in a record of any digital asset that, on the

The RUFADAA, though, has its fair share of drawbacks. Enacting a uniform law will never be a perfect fit for any state. For example, the RUFADAA contains references to the Uniform Trust Code (UTC).³⁸ Oklahoma has not enacted the UTC, so Oklahoma must adapt.³⁹

The RUFADAA will also increase probate fees. A lawyer will need to send a request to the custodian, along with the proper documentation for access to the decedent's digital accounts. If the custodian requests a court order, then the probate lawyer would need to prepare additional pleadings to obtain that order. This might not be an issue in uncontested probates, but where the personal representative is closely monitored by suspicious heirs looking for a reason to claim a breach of fiduciary duty, this could give them that ammunition, especially if the personal representative wants access to a decedent's digital accounts for sentimental reasons and not necessarily to increase the value of the estate, e.g., obtaining family photos.

Finally, some have argued that the RUFADAA and similar laws put the cart before the horse. Before a conversation can occur about how to access a decedent's digital accounts, specifically social media accounts, states and legislators should consider the "role of platforms in shaping memory and continuity."⁴⁰ Basically, what is the RUFADAA trying to preserve? Is that sense of self worthy of preservation even if it becomes distorted through the corporate power that social media companies wield?⁴¹ Instead of shoehorning access to digital accounts into a traditional property framework where everything is inheritable, access to digital accounts should take into account the user's personal autonomy, their surrounding

relationships or even their vulnerability.⁴² The RUFADAA does not take this nuanced approach.

So, the question from the beginning of this article remains: what happens to your emails when you die? The RUFADAA gives an answer. A better question then is whether Oklahoma will use that answer.

ABOUT THE AUTHORS



Christin Mugg is a founding partner for Mugg Winston. She concentrates on complex estate planning and planned charitable giving. She received her J.D. from the OCU School of Law in 1998, an MBA from OU in 1994 and is a chartered advisor in philanthropy.



Brody Gustafson is a practicing attorney with Mugg Winston in Edmond, where he focuses on trust administration, probate and digital assets. He received his J.D. from the OU College of Law in 2019 and graduated with distinction.

ENDNOTES

1. For instance, the cult-classic *Tron* (1982) or the lesser known, *Lawnmower Man* (1992), or even the digital technology that rendered *Jurassic Park* (1993).
2. Fredrick Kunkle, "Virginia family, seeking clues to son's suicide, wants easier access to Facebook," *The Washington Post*, Feb. 17, 2013, at ¶12, www.washingtonpost.com/local/va-politics/virginia-family-seeking-clues-to-sons-suicide-wants-easier-access-to-facebook/2013/02/17/e1fc728a-7935-11e2-82e8-61a46c2cde3d_story.html.
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4. *Id.* at ¶13.
5. "Ottawa mother's quest for her late son's passwords an uncharted legal road, say experts," CBC, Nov. 24, 2019, at ¶13, www.cbc.ca/radio/outlineopen/diy-justice-1.5351892/ottawa-mother-s-quest-for-her-late-son-s-passwords-an-uncharted-legal-road-say-experts-1.5366292.
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7. *Id.* at ¶14, 15.
8. *Id.* at ¶9.
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10. *Id.*
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15. RUFADAA §2(1).
16. 18 U.S.C. §2701.
17. *Id.*
18. RUFADAA §7(4).
19. RUFADAA §4(a-c).
20. RUFADAA §4(a-c).
21. RUFADAA §7(1-4).
22. RUFADAA §7(5)(a-b).
23. RUFADAA §7(5)(c).
24. *Matter of Coleman*, 63 Misc. 3d 609, 96 N.Y.S.3d 515 (N.Y. Sur. 2019).
25. RUFADAA §2(4).
26. *Coleman* at 615.
27. RUFADAA §8(1-3).
28. RUFADAA §8(4).
29. 18 U.S.C. §2702(c).
30. RUFADAA §4(D).
31. 58 O.S. §251.
32. RUFADAA §6(a).
33. RUFADAA §6(a)(3).
34. RUFADAA §6(b-c).
35. RUFADAA §6(d).
36. RUFADAA §6(d).
37. See Endorsements listed for RUDAFAA, my.uniformlaws.org/committees/community-home?CommunityKey=f7237fc4-74c2-4728-81c6-b39a91ecdff22 (accessed on Sept. 29, 2020).
38. RUFADAA §12(2).
39. The version introduced in Oklahoma requires the production of the full trust agreement instead of certificate or memorandum of trust.
40. Shelly Kreiczler-Levy & Ronit Donyets-Kedar, "Better Left Forgotten: An Argument Against Treating Some Social Media and Digital Assets as Inheritance in an Era of Platform Power," 84 *Brook. L. Rev.* 703 (2019).
41. *Id.*
42. *Id.*



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Creditors, Claims and Costs of Administering or Probating an Estate

By Shanika Chapman and H. Terrell Monks

IF YOU'VE BEEN PRACTICING IN PROBATE for any amount of time, you likely have a probate intake form for the prospective client that asks for heirs, assets and debts of the estate and decedent, along with other basic information. Of those three topics, nothing confounds a client more than the topic of debt. Clients remark, "Oh, mom didn't have any credit cards," or, "Mom always paid her debts." For these clients, debt equates to credit cards. The practitioner's job is to broaden that definition. Did mom have a mortgage? A car note? Did she pass in a medical facility? Are there any property liens or judgment liens? If the answer to any of these questions is yes, the estate now has a potential creditor entitled to notice. Paying proper debts of the decedent is a crucial duty of the personal representative¹ that cannot be taken lightly, and it is better to be overinclusive.

The Oklahoma Probate Code has devoted an entire chapter to address what is a proper and valid claim or debt, what constitutes proper notice, when such claim or debt must be paid, how to properly reject or approve a claim and the consequences of such approval, rejection or failure to provide notice. Chapter 7, "Claims Against the Estate," Sections 331-354 of the probate code, provides a detailed roadmap for navigating the potential landmine that is the world of creditor claims. Failure to follow it can have dire consequences, including facing a hefty bill for a wronged creditor's attorney fees, and this could leave an attorney with an extremely dissatisfied client. The first half of this article will help guide a practitioner

or creditor through the basics of creditors and claims. The second half will cover more esoteric matters and include case law and other statutes that may conflict and/or provide additional considerations.

PART I: CREDITOR CLAIM BASICS

The Personal Representative's Responsibilities

Chapter 7 of Title 58 on creditor claims seeks to balance the rights of creditors to be repaid with the heirs and beneficiaries' rights to the timely administration of an estate. Within two months of appointment, every personal representative must give notice of the decedent's passing to any known creditors or reasonably ascertainable creditors and advise them that claims

not timely presented are forever barred.² Failure to do so can result in the revocation of the personal representative's letters of administration or letters testamentary.³

The notice to creditors must be filed with the court clerk and published twice in a county newspaper over two consecutive weeks, within 10 days of filing.⁴ The personal representative must also mail such notice to any known creditors – those the personal representative actually knows of or through reasonable efforts could have located.⁵ All prospective personal representatives should go through the decedent's effects (safe, filing cabinet, mail, etc.) in search of potential creditors. Note that the probate code does not require a personal representative



to mail the notice to creditors to later discovered creditors.⁶

Sometimes creditors will respond by mailing statements or other documentation, arguably not constituting a claim (a discussion of what constitutes a valid *claim* is discussed *infra*) to the attorney for the personal representative subsequent to the filing of the petition to probate or administer the estate but prior to filing of the notice to creditors. Be sure to mail these creditors the notice to creditors once the personal representative is appointed, as they are now on notice of a known claimant. Note, however, a *claim* presented prior to the filing of the notice to creditors is deemed to have been validly presented, and the personal representative need not give notice by mail unless the claim is rejected in whole or in part.⁷

Section 331 of Title 58 provides the format for the notice, which typically must include a presentment date at least two months out.⁸ Publication schedules vary drastically by county. Some county newspapers only publish once a

week, others daily – this is why the presentment date should be set about 65 days out since the first publication must occur within 10 days of filing the notice with the court clerk. Always follow up with the publisher to confirm the publication was timely published two times on consecutive weeks (certain publication requirements elsewhere in the probate code only require a one-time publication). Proof of publication and mailing or nonmailing must be made via affidavit⁹ by the personal representative and filed with the court clerk.

Once a claim is presented, the personal representative must approve or reject it, either in part or in whole.¹⁰ *Allowed* claims must be approved by the judge, who must likewise allow or reject the claim. If the judge approves the claim, the personal representative must file the claim with the court clerk within 30 days.¹¹ *Rejected* claims, however, do not require approval by the judge, but notice of rejection must be mailed to the creditor within five days of the rejection.¹² If the personal

representative fails to approve or reject the claim, it is presumed rejected on the 13th day after it was presented.¹³ Upon receipt of the notice of rejection, the creditor has 45 days to bring an ancillary proceeding or an independent action on a claim currently due or two months after the claim becomes due.¹⁴ If the personal representative neglects to mail the notice of rejection, the creditor has until the date the final petition is filed to bring suit.¹⁵ Note this is a change in the law, added in 2008, that greatly expands the window of opportunity for a creditor who was deprived of the notice of rejection. Note also that if the creditor prevails on its action, the estate is liable for the creditor's attorney fees.¹⁶

A personal representative can pay what they believe to be a justly due debt at any time, even without the presentment of the claim, where the estate is solvent.¹⁷ Keep in mind, however, a debt that is otherwise barred by the statute of limitations is not a debt "justly due."¹⁸ Further, an attorney should caution against authorizing the personal

representative to pay debts until after they have a complete picture of the entirety of the decedent's financial situation, as the code imposes a priority of payments of debts, discussed in greater detail *infra*.

The Creditor's Responsibilities

There may be a conflict within the creditor statutes and case law regarding the creditor's obligation *vis a vis* certain types of debt, which will be discussed in greater detail below. However, generally, for the majority of debts, upon receipt of the notice to creditors, a creditor must present a valid claim to the personal representative. To be valid, the claim must be signed by the creditor's authorized representative, include the amount owed, state the nature and source of the claim and, if secured, include a description of the security interest.¹⁹

Fortunately for the personal representative, with few exceptions, the claim of a creditor who received notice but did not present the claim by the presentment date is forever barred.²⁰ This is an important point of discussion to have with a personal representative, particularly where the estate at issue has multiple creditors. It is not unusual for some creditors to neglect to file a claim at all, a source of great relief for some clients handling an estate with a lot of debt. Note that an out-of-state creditor who did not receive notice has until the final decree is entered to present a claim.²¹

Further, creditors who fail to present a *valid* claim (one that meets the particulars of 58 O.S. §334 discussed above) by the presentment date are also out of luck. For example, some creditors will simply mail a bill. Generally, this unsigned document will not suffice to meet the statutory requirements of a claim. However, if the estate is solvent and the personal representative knows it to be a valid debt, pursuant to 58 O.S. §335, the

personal representative may elect to pay it. Even if the creditor presented a timely, valid claim, it may not be entitled to payment, for example, if the estate is insolvent or the only assets in the estate are exempt.

Generally, creditors cannot bring suit against an estate without first presenting a claim.²² Certain creditors, however, are not required to file a claim in order to secure their debt. Judgment creditors *who have placed a lien on the decedent's real property* and mortgage holders are two such examples.²³ However, if such creditor does not file a claim, the creditor cannot pursue any deficiency from the estate. Note that creditors holding a judgment *for money* must first present the claim to the personal representative.²⁴

If the only assets in the estate are exempt personal property, exempt cash and the homestead, and the decedent left a surviving spouse or minor child, such assets cannot be forced to satisfy the decedent's debts. However, the exempt *personal property* and *cash* may be liable for expenses of the last illness, funeral costs and costs of administration.²⁵

If the personal representative has a claim against the estate, they must present their claim like any other creditor, but they cannot approve their own claim – it must be presented to the judge.²⁶ Sometimes, the personal representative might pay certain estate debts out of pocket if the estate does not yet have funds, such as utilities, lawn care or a mortgage payment. These expenses do not constitute a claim but are instead expenses of administration for which the personal representative should be repaid, possibly at the time of the final distribution. Nonetheless, where there is more than one heir, it is a good idea to get approval from other heirs, or an order of the court, for the repayment of those expenses prior to the conclusion of the probate.

PART II: ISSUES RELATED TO COSTS OF ADMINISTRATION AND CREDITOR CLAIMS

Debts Versus Claims and Priority of Payments

Not all creditors are treated equally under the Oklahoma probate code. Certain debts are entitled to priority payment and should be paid as soon as funds are available in a solvent estate. There is, however, a conflict between the probate code and case law on this topic.

The code and Oklahoma case law make numerous references to a trio of debts that hold the important status of receiving priority of payment: funeral costs, expenses of the last illness and costs of administration. The Oklahoma Supreme Court has long held that expenses of administration, including attorneys' fees, have priority over every other obligation.²⁷ Thereafter, *funeral costs* and *expenses of the last illness* rank first and second for payment under the order of payment statute,²⁸ and *funeral costs* and *expenses of administration* are to be paid prior to any family allowance.²⁹ This trio of debts is also an exception to the exempt property statute, "No such property shall be liable for any prior debts or claims against the decedent, except, when there are no assets thereunto available, for the payment of the necessary expenses of his *last illness, funeral charges* and *expenses of administration*."³⁰

Further, Section 594 provides that a personal representative "as soon as he has sufficient funds in his hands, must pay *the funeral expenses, and the expenses of the last sickness, and the allowance* made to the family of the decedent. He may retain in his hands *the necessary expenses of administration*, but he is not obliged to pay any other debt or any legacy until, as prescribed in this chapter, the payment has been ordered by the court."

Finally, the statutes on small estate and summary probates likewise distinguish this trio from other debts and claims, requiring "proof of

payment of funeral expenses, expenses of last sickness and of administration and allowed claims.”³¹ Collectively, these statutes demonstrate that expenses of the last illness, funeral costs and expenses of administration are a unique set of debts that receive priority of payment under Oklahoma law.

Given the clear edict by the Legislature that the personal representative *must pay* these debts, it is not unreasonable for a practitioner to presume such payments must be made regardless of if the creditor also filed a claim. However, the Oklahoma Supreme Court has called such thinking into question in *the Estate of Pope*.³²

In *Pope*, the creditor for the expenses of the decedent’s last illness failed to present its claim to the personal representative within the statutory period outlined in 58 O.S. §331.³³ Four years later, the creditor’s assignee filed an application for an order compelling payment of expenses of last illness. The trial court held the creditor’s failure to file a timely claim barred its assertion of the claim.³⁴ After a lengthy analysis of the claim presentation statutes and 58 O.S. §594, the Oklahoma Supreme Court agreed, holding that a creditor for the expenses of the last illness must also present a valid claim.³⁵ However, not all the justices agreed with the holding, and one dissenting judge offered reasons as to why he believed the court got it wrong, including its failure to recognize the Legislature intended to treat certain debts, such as those of the last illness, differently than other claims.³⁶ It will be interesting to see how this apparent conflict in the law may develop in the future.

Once the personal representative has received all the debts of the estate, Sections 591 and 593 collectively delineate the order of payment, organizing each group of debts by “classes” and instructing that where the estate lacks the funds to pay the entirety of the claims

within that class, each creditor from such class receives a pro-rata share.³⁷

One final point of discussion is that attorneys’ fees sit comfortably within the costs of administration of an estate.³⁸ When such fees will come from *estate assets*, they must be approved by the court.³⁹ Sometimes, the source of payment isn’t always clear. In such case, disclosure to the court of the attorney fee is the better route. For example, if the sole heir pays the attorney fee upfront at the initial consultation, at that moment, the heir has presumably paid from their own assets. However, if they will inherit cash from the estate, an argument could be made that since cash is fungible, they essentially paid your fee from estate assets. Requesting approval of such fee from the court is the much better option here, especially in light of our duty of candor to the tribunal and *Mansfield*.⁴⁰

CONCLUSION

The personal representative has an obligation to appropriately address creditor claims. The probate practitioner’s familiarity with the probate code’s roadmap regarding the treatment, priority and payment of creditor claims, coupled with detailed instructions to their client, will assure the personal representative can efficiently meet this obligation, and they have been competently represented and counseled.



ABOUT THE AUTHORS

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ENDNOTES

1. The term “personal representative” shall also encompass “executor,” “executrix” and “administrator.”
2. 58 O.S. §§331, 331.1., 352.
3. 58 O.S. §352.
4. 58 O.S. §331.
5. 58 O.S. §331.1.
6. 58 O.S. §331.2.
7. 58 O.S. §337(E); See also *In re: the Estate of Villines*, 2005 OK 63, 122 P.3d 466.
8. If the decedent died at least five years prior to the filing of the probate, or if the personal representative elects to file a summary administration, the presentment date is shortened to one month. 58 O.S. §331.
9. 58 O.S. §332.
10. 58 O.S. §337.
11. 58 O.S. §338.
12. *Id.* §337.
13. *Id.*
14. *Id.* §339.
15. *Id.* §337(F)(2).
16. *Id.* §350.
17. *Id.* §335.
18. See *In re: Estate of Carlin*, 1977 OK CIV APP 55, ¶7, 572 P.2d 606.
19. 58 O.S. §334.
20. *Id.* §333.
21. *Id.*
22. *Id.* §341.
23. *Id.* §333; *Stewart Drugs, INC. v. Estate of Funnell*, 2001 OK CIV APP 7, 16 P.3d 1134.
24. 58 O.S. §346.
25. *Id.* §312.
26. *Id.* §351.
27. See *Tims Funeral Home v. Phillips*, 1972 OK 121, ¶¶18-14, 501 P.2d 493.
28. 58 O.S. §591.
29. *Id.* §315.
30. *Id.* §312.
31. *Id.* §§241, 247.
32. *In re: the Estate of Pope*, 1986 OK 72, 733 P.2d 396.
33. *Id.* at ¶18, 399.
34. *Id.* at ¶12, 397.
35. *Id.* at ¶18, 399.
36. *Id.* at
37. 58 O.S. §§591, 593.
38. See *Tims Funeral Home v. Phillips*, 1972 OK 121, ¶¶18-14, 501 P.2d 493.
39. *State ex rel. Oklahoma Bar Association v. Mansfield*, 2015 OK 22, 350 P.3d 108, states in pertinent part as follows:
Oklahoma law clearly requires prior court approval for the payment of any and all fees for such services regardless of whether an attorney acts as special administrator, personal representative, executor, or attorney for an estate. Probate judges and the practicing bar must exercise diligence to ensure fees are not removed from an estate without court approval.
40. *Id.*

How to Know When You Need to File a Probate

By Sarah Stewart and Hiba Jameel

OKLAHOMA LAW GENERALLY ALLOWS for three different probate procedures. First, is the traditional probate procedure under Oklahoma Statutes Title 58, generally. Second, is summary administration under 58 O.S. §246. Third, is an ancillary proceeding under 58 O.S. §677. Probate procedures include intestate probates, where the decedent does not have a last will and testament and testate probates, where the decedent does have a last will and testament. Intestate probates follow the intestacy rules in the Oklahoma Statutes.¹

Though Oklahoma law provides direction for probate procedures in certain situations, Oklahoma also allows for circumstances where a probate does not need to be filed. If any of the following situations apply to your case, you do not need to file a probate.

WHEN ALL ASSETS ARE OWNED JOINTLY WITH RIGHTS OF SURVIVORSHIP, AND THERE IS A SURVIVING OWNER

Many assets can be owned by more than one person as joint tenants with rights of survivorship. That includes bank accounts, automobiles and even real property. Under Oklahoma law, an account held jointly in the names of more than one person is presumed to pass to the surviving owner, outside of the decedent's estate.²

Additionally, real estate can be owned by more than one person as joint owners with rights of survivorship and pass outside the decedent's estate. However, if the surviving joint owner seeks to claim the real estate outside the

estate, the joint owner will need to file an affidavit of surviving joint tenant and certified death certificate in the county where the property is located.³

If the property owned by the decedent is held jointly with rights of survivorship, the property will pass to the surviving owner entirely at the death of the joint owner. However, if the joint owner died without transferring the property in one of the ways described herein, the property will have to go through probate.

WHEN ALL ASSETS ARE OWNED BY A TRUST

One estate planning tool used often to avoid probate is a trust. A trust avoids the probate process because all the assets titled into the trust are owned by the trust at the owner's death. So, there is no need for the court process of probate to transfer the assets.

Trustees can usually manage personal and real property with the powers granted to them under the trust. When the trustee

conveys or acquires real property in the trust's name, the trustee must file a memorandum of trust with the county clerk in the county where the real estate is located.⁴

A trust is only as good as what you put in it. If a piece of property is not properly titled into the trust and does not meet one of the other circumstances discussed herein, the property will need to go through one of Oklahoma's probate processes.

WHEN BENEFICIARIES ARE NAMED

When you set up securities and security accounts,⁵ the issuing company often asks the owner to name beneficiaries for the accounts. Oklahoma law recognizes those beneficiaries as the rightful owners of the asset after the owner dies, and property named with beneficiaries will pass outside the probate estate.⁶ Similarly, some kinds of insurance policies allow owners to name beneficiaries for the funds. In order to retrieve

the assets, the beneficiaries must provide proof of death of the last surviving owner.

In Oklahoma, account holders can also name payable on death beneficiaries to their bank accounts through each individual bank's process. A payable on death beneficiary will inherit the asset directly upon proof of death, without the need for probate, just as other beneficiaries would.⁷ If there is no surviving beneficiary or payable on death beneficiary named, the assets will become part of the estate. That means a probate must be opened to transfer the property to the decedent's heirs.

A similar option exists for real estate; however, the process for claiming the property is more stringent. Transfer on death deeds are deeds that allow a real property owner to name a beneficiary for the owner's property at the owner's death. The deed must be filed in the county clerk's office in the county where the property is located in order to claim the property upon the owner's death. For owners who die after Nov. 1, 2011, the beneficiaries must file an affidavit to claim their interest in the property and proof of death at the county clerk's office in the county where the property is located within nine months of the owner's death. Otherwise, the property will revert back to the estate and require probate.⁸



Also, similar to other beneficiary designations, if the beneficiary of a transfer on death deed predeceases the decedent, the property becomes part of the decedent's estate.⁹ As such, it will have to go through the probate process to transfer title from the decedent to the decedent's heirs.

WHEN THE PROPERTY IS PERSONAL PROPERTY WITH A VALUE LESS THAN \$50,000

Severed mineral interests can be transferred with an affidavit of death and heirship in the county clerk's office where the property is located.¹⁰ However, in order for the affidavit to transfer marketable title, it must state the decedent had no last will and testament, or if there was a will, the will was never probated, or if the will was probated, the mineral interests were left out of the probate. If there is a will, it must be attached to the affidavit, and if there was a final decree in a probate, it must be attached to the affidavit. The affidavit must be on file in the county clerk's office in the county where the property is located for 10 years with no documents inconsistent with the affidavit filed with the clerk before the title becomes marketable.¹¹

Personal property is different than real estate. Personal property generally includes bank accounts, certificates of deposit, stocks, bonds and most other property that is not real estate. As long as the decedent's personal property within the state of Oklahoma, minus liens and encumbrances, is \$50,000 or less, the heirs can transfer the property with an affidavit.

Under Oklahoma law, heirs can use an affidavit of tangible personal property¹² or an affidavit of known heirs¹³ and provide the affidavit and proof of death of the owner to the company or person holding the property to transfer the property to them. An affidavit of tangible personal property can be used whether the decedent had a last will and

testament or not, as long as no one has filed a petition for the appointment of a personal representative.

An affidavit of known heirs can only be used when the decedent did not have a last will and testament.¹⁴ There is no requirement in the statute as to the disposition of a petition for the appointment of personal representative.

An exception to the \$50,000 value applies to property held by the state treasurer as unclaimed property. Under the treasurer's rules, the state treasurer can only accept an affidavit on property with a value of less than \$10,000.¹⁵ In 2006, the state treasurer submitted a question to the attorney general to clarify if 58 O.S. §393 applied to unclaimed property held by the treasurer's office. The attorney general found the new statute did not override 60 O.S. §674.2.¹⁶ Therefore, any claims for unclaimed property through the Oklahoma State Treasurer's Office over \$10,000 require a probate or proof of a trust or quiet title action.¹⁷

CONCLUSION

Probate can be a costly and stressful process for families who are already grieving the death of a loved one. Luckily, Oklahoma law provides families with other options. When the previous four circumstances are present, a decedent's loved one will not have to go to court and start a probate.

ABOUT THE AUTHORS



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She focuses her estate planning practice on helping families understand and plan for their specific goals throughout their lifetimes. She has helped Oklahoma families with guardianship, estate planning and probates since 2009.



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ENDNOTES

1. 84 O.S. §213.
2. *Romine v. Pense (In re Estate of Metz)*, 2011 OK 26, ¶16, 256 P.3d 45, 48-49.
3. 58 O.S. §912.
4. 60 O.S. §175.6a.
5. 71 O.S. §902.
6. 71 O.S. §908.
7. 6 O.S. §901, 18 O.S. §381.39a.
8. 58 O.S. §§1251 – 1258.
9. 58 O.S. §1255.
10. 58 O.S. §393 (d).
11. 16 O.S. §67.
12. 58 O.S. §393.
13. 6 O.S. §906.
14. 6 O.S. §906.
15. 60 O.S. §674.2.
16. Question submitted by Scott Meacham, Oklahoma state treasurer, 2006 OK AG 21.
17. 60 O.S. §674.2 (1) – (3).



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Good Grief! Why Choose a Summary Probate?

By Frank Hinton



ATTORNEYS LOVE A CLIENT who has everything together – the estate plan was put together, the will is clear and unambiguous and there are organized records for all real and personal property, and maybe there is even a detailed trust agreement. Your client has done everything right. No wonder the client feels angry and betrayed when you let them know probate proceedings are necessary. Maybe some piece of real property was never conveyed to the trust. Maybe the client believes an out-of-state probate in the decedent's domiciliary jurisdiction should be sufficient. Or maybe the client just misunderstands that a will does not avoid probate. Cue the five stages of grief.

Oklahoma statutes provide four different procedures for probate or administration of a decedent's estate. A full probate provides the most flexibility for contingencies, such as the sale of estate property or complicated heirship disputes. Section 58 O.S. §241 is specifically designed for estates under \$150,000. Section 58 O.S. §677 provides for ancillary proceedings if the decedent was domiciled in a different state. However, attorneys frequently run into the problem that 58 O.S. §677 requires an order distributing estate from the domiciliary estate. Good luck getting one of those out of Texas where independent administration does not require an order distributing the estate.¹ The subject of this article is 58 O.S. §245, which can shorten the timeframe by more than half compared to a full probate and has broader uses than either a 58 O.S. §241 summary probate or a 58 O.S. §677 ancillary probate.

The summary administration proceedings described in 58 O.S. §245-47 were initiated by an industry group formed by the National Association of Royalty Owners, National Association

of Division Order Analysts, Oklahoma Division of the Mid-Continent Oil & Gas Association and the Oklahoma Independent Petroleum Association to address fractionalization of oil and gas mineral interests. The result of this collaboration was House Bill 2141, passed in the 1998 session of the Oklahoma Legislature.² Thus, summary administration is particularly suited to oil and gas mineral interests but may be used in a variety of situations. A §245 probate can significantly lessen the grief typical probate proceedings can engender.

DENIAL

Your client yearns to explain to you why probate should not be necessary. Perhaps the client has properly probated the decedent's estate in the domiciliary state and believes no probate is required. Unfortunately, only Oklahoma district courts have jurisdiction over administration of decedents' estates with regard to real property in Oklahoma.³ Marketable title to real property will likely require an Oklahoma probate. A small estate affidavit may be used in situations where the estate consists of personal property

valued at less than \$50,000 but is ineffective to transfer any real property.⁴

ANGER

We get it. Your out-of-state client suspects that requiring a second probate is a scam to keep Oklahoma lawyers gainfully employed, but there is good reason for a separate Oklahoma probate. Oklahoma is not a community property state and has different statutes with regard to what happens to property when a person dies without a will. Those are the obvious cases, but everything from creditors' rights to statutes of limitations is going to be at least slightly different in Oklahoma. For example, there is no statute of limitations on probating a will in Oklahoma. Maybe your client lost out on an inheritance because a will was located only after it could no longer be legally probated in the domiciliary state. Guess what? The will can still be probated in Oklahoma, and your client may be able to inherit real property in Oklahoma while real property in another state was forfeited by failure to timely probate the will in that other jurisdiction.⁵ So, for every

case where a summary probate is just another headache, there is also the possibility for a second chance to assert your client's rights and achieve a more positive outcome.

BARGAINING

Can your client get away with an affidavit of death and heirship or a small estate affidavit? Maybe, for a time. Affidavits of death and heirship have a narrow statutory use for severed oil and gas interests after the affidavit has been recorded for 10 years.⁶ One problem with affidavits of death and heirship is if the decedent died with a will, the statute does not say whether to credit those who would have inherited under the will or those who would have inherited had the decedent died without a will. It appears there was legislation introduced to clarify this, but such legislation has not yet passed the Oklahoma Senate.⁷

It may be worth the trouble to bargain in this phase. As to severed mineral interests, it might be that your client can get by with an affidavit of heirship, but it may be an opportunity to remind your client that ultimately a probate will probably be necessary and as with most legal problems, could become more complicated and more costly as time goes on.

DEPRESSION

So far, this article has discussed alternatives to a summary probate. At the end of the day, if the decedent died owning an interest in real property in Oklahoma or personal property valued at more than \$50,000, a probate is going to be necessary. Perhaps your client is still grieving the loss of a loved one. Probate is complicated, expensive and stressful, right? Explaining the basics of Oklahoma summary probate can alleviate that frustration at the necessity of a probate. While a full probate will typically take at least six months and at least two hearings, a summary probate can take as little as two months and only a single hearing.

A summary probate in Oklahoma is available if 1) the decedent's estate

is valued at \$200,000 or less, 2) the decedent has been dead for more than five years or 3) the decedent resided in another state at the time of death.⁸ Compare this to an ancillary proceeding (which requires an out-of-state decedent and an order distributing the estate in the domiciliary proceeding) or a 58 O.S. §241 summary proceeding (which requires assets less than \$150,000). This makes a §245 summary probate a great one-stop-shop for a variety of cases. Summary probate can be a great option for mineral owners because they usually fall into one of these three categories and frequently fall into all three. Summary probate can also be useful where the major asset passing through probate is the decedent's home, given the median price for homes in Oklahoma is around \$128,934.⁹ The option to use summary probate in cases where the decedent has been dead for more than five years creates a use case for families that may be living in a parent or grandparent's home but never needed clear title until five years passed.

ACCEPTANCE

Now that you have walked your client through the five stages of grieving, assuaged some fears about probate and established the available uses for summary administration, it is important to understand the procedure.

Initially, it will be important to collect the relevant information from the client, including the decedent's date and residence at death, whether the decedent died testate, whether any administration or probate proceedings have been conducted elsewhere, names and addresses of any heirs, devisees or named executors of the decedent and

legal descriptions of all real property. With this information, you can begin to prepare pleadings. Forms are available in a 1999 bar journal article on the same topic.¹⁰ Prior to using these forms, please be aware 58 O.S. §246 was amended such that objections may now be filed any time before the final hearing. Previously, objections were required to be filed at least 10 days before the final hearing.¹¹



Venue is jurisdictional¹² and fixed by statute in 58 O.S. §5, which requires that probate or administration proceedings are to be held (in order of priority):¹³

- 1) In the county of which the decedent was a resident at the time of their death, regardless of where they died.
- 2) In the county in which the decedent died, leaving an estate therein, the deceased not being a resident of this state.
- 3) In the county in which any part of the estate of the deceased may be, where the decedent died out of this state, and the decedent was not a resident of this state at the time of his death.
- 4) In the county in which any part of the estate may be, and the decedent was not a resident of this state but died within it and did not leave an estate in the county in which he died.
- 5) In all other cases, in the county where an application for letters is first made.

The summary administration statute does an excellent job of setting forth exactly what should be included in the petition and the combined notice. One could prepare both these initial pleadings by looking at §§245 and 246, respectively, so repeating the requirements in full is unnecessary. If the decedent died testate, either the original will or a certified copy should be attached to the petition, and the petition should be verified by the client. It helps to understand the petition seeks 1) immediate relief in the form of appointing a special administrator and ordering combined notice to interested parties and creditors and 2) seeks relief at the time of the final hearing in the form of admitting the will to probate, determining the heirs, devisees and legatees of the decedent, approving the final account, distributing the property of the decedent and discharging the personal representative. Because the will, if any, will not be admitted to probate until the final hearing, a special administrator is used rather than an executor.¹⁴ The “combined notice” simply combines notice to creditors with notice of relief sought in the petition to all heirs, devisees, legatees, executors and other interested parties.

Once venue is chosen, relevant facts are determined and the will, if any, has been obtained, the petition for summary administration, letters of special administration and affidavit of nonmailing to creditors can be prepared and mailed to the client as a packet to execute and return. If it is not anticipated any funds will be handled in the summary administration and there will be no creditors’ claims, the final account may be prepared in advance and sent to the client as well. In the alternative, waivers of final accounting may be obtained.¹⁵

Once received back from the client, the petition, letters of special administration, combined notice, proposed order for combined notice and granting of letters of special administration and waivers of final accounting, if any, can be mailed to

the court. As many certified copies of the petition and combined notice as required to mail to all interested parties as well as certified copies of the combined notice required for publication should be included with instructions to return. It is common practice to contact the judge’s office prior to mailing these pleadings to schedule a final hearing date to be entered in the combined notice and the order for combined notice.

By statute, the final hearing should be set for 45 days or more from the order for combined notice.¹⁶ However, as the presentment date for creditors’ claims must be within 30 days of the order for combined notice, and the final account must be filed at least 20 days before the final hearing,¹⁷ you should not schedule the hearing less than 50 days from the order for combined notice. It is best to set the final hearing at least two months out from the anticipated time the petition will be filed and an order for combined notice issued.

Within 10 days of issuance of the order for combined notice, the combined notice must be mailed to all interested parties and creditors and first published once each week for two consecutive weeks in the county’s paper for published legal notices.¹⁸ All creditors’ claims are barred if not presented to the personal representative within 30 days following the entry of the order for combined notice.¹⁹ However, objections to the petition can be made at any time before the final hearing.²⁰ The §245 summary administration statute says little about a final accounting other than it can be waived, according to 58 O.S. §541 (by parties entitled distribution or if the personal representative is the sole recipient). Section 58 O.S. §§541-57 sets forth all requirements for final accounting and notice of final accounting for full administration or probate proceedings. As such, some lawyers follow, and in the author’s experience, some judges require the final account to be filed 20 days or more before the final hearing.²¹ At the same time, you should prepare and file the affidavit of mailing of final account and the affidavit of mailing

of combined notice. Additionally, the affidavit of nonmailing to creditors (prepared by the client in the initial packet) and the affidavit of publication (prepared and hopefully timely received from the publisher) should be filed.

Assuming all notices have been sent and proof of all required notices have been filed in the form of an affidavit, the last item on the list is the final hearing. If no party objects or appears at the hearing to object, the judge will sign your proposed final order. Copies of the final order should be mailed to all interested parties, and an affidavit of mailing of final order should be filed. And with that, you have hopefully saved your client some of the grief a full probate can entail.

ABOUT THE AUTHOR



Frank Hinton is an Oklahoma City attorney specializing in probate, quiet title and oil and gas title examination. He is a frequent speaker on oil and gas legal topics and has been with the law firm of Elias, Books, Brown and Nelson PC since 2008.

ENDNOTES

1. Tex. Prob. Code Ann. §145.
2. Donald F. Heath Jr., *Oklahoma’s New Summary Probate Act: Reducing the Time and Expense of Probate*, 70 OKLA. B.J.2283 (1999).
3. *Pennoyer v. Neff*, 95 US 714, 720 (1877).
4. 6 O.S. §906.
5. *Mitchell v. Cloyes*, 620 P.2d 398, 402 (Okla. 1980).
6. 16 O.S. §67.
7. 2019 OK H.B. 1223.
8. 58 O.S. §245.
9. www.businessinsider.com/average-home-prices-in-every-state-washington-dc-2019-6?op=1#48-oklahoma-128934-4 (accessed on Sept. 15, 2020).
10. Heath, *supra* note 2, at 2291.
11. 2013 Okla. Sess. Law Serv. Ch. 144 (H.B. 1547) (West).
12. *Presbury v. County Court of Kay County*, 213 P. 311 (Okla. 1923).
13. *In re Estate of Fulks*, 2020 OK 94, ¶24, ___ P.3d ___, (holding, “Pursuant to §5, venue is prioritized and lies first and foremost in the county where the decedent resided at the time of death.”).
14. Heath, *supra* note 2, at 2284.
15. 58 O.S. §541.
16. *Id.* §246(D).
17. *Id.* §553.
18. *Id.* §246(C).
19. *Id.* §246(B)(10).
20. *Id.* §246(B)(8).
21. *Id.* §553.

NOTICE OF INVITATION TO SUBMIT OFFERS TO CONTRACT

THE OKLAHOMA INDIGENT DEFENSE SYSTEM BOARD OF DIRECTORS gives notice that it will entertain sealed Offers to Contract ("Offers") to provide non-capital trial level defense representation during Fiscal Year 2022 pursuant to 22 O.S. 2001, '1355.8. The Board invites Offers from attorneys interested in providing such legal services to indigent persons during Fiscal Year 2022 (July 1, 2021 through June 30, 2022) in the following counties: **100% of the Oklahoma Indigent Defense System caseloads in THE FOLLOWING COUNTIES:**

CANADIAN, COMANCHE, COTTON, GARFIELD, GRADY, GRANT, JEFFERSON, STEPHENS

Offer-to-Contract packets will contain the forms and instructions for submitting Offers for the Board's consideration. Contracts awarded will cover the defense representation in the OIDS non-capital felony, juvenile, misdemeanor, traffic, youthful offender and wildlife cases in the above counties during FY-2022 (July 1, 2021 through June 30, 2022). Offers may be submitted for complete coverage (100%) of the open caseload in any one or more of the above counties. Sealed Offers will be accepted at the OIDS offices Monday through Friday, between 8:00 a.m. and 5:00 p.m.

The deadline for submitting sealed Offers is 5:00 PM, Thursday, March 11, 2021.

Each Offer must be submitted separately in a sealed envelope or box containing one (1) complete original Offer and two (2) complete copies. The sealed envelope or box must be clearly marked as follows:

FY-2021 OFFER TO CONTRACT
_____ **COUNTY / COUNTIES**

TIME RECEIVED:
DATE RECEIVED:

The Offeror shall clearly indicate the county or counties covered by the sealed Offer; however, the Offeror shall leave the areas for noting the time and date received blank. Sealed Offers may be delivered by hand, by mail or by courier. Offers sent via facsimile or in unmarked or unsealed envelopes will be rejected. Sealed Offers may be placed in a protective cover envelope (or box) and, if mailed, addressed to OIDS, FY-2022 OFFER TO CONTRACT, P.O. Box 926, Norman, OK 73070-0926. Sealed Offers delivered by hand or courier may likewise be placed in a protective cover envelope (or box) and delivered during the above-stated hours to OIDS, at 111 North Peters, Suite 500, Norman, OK 73069. **Please note that the Peters Avenue address is NOT a mailing address; it is a parcel delivery address only.** Protective cover envelopes (or boxes) are recommended for sealed Offers that are mailed to avoid damage to the sealed Offer envelope. **ALL OFFERS, INCLUDING THOSE SENT BY MAIL, MUST BE PHYSICALLY RECEIVED BY OIDS NO LATER THAN 5:00 PM, THURSDAY, March 11, 2021 TO BE CONSIDERED TIMELY SUBMITTED.**

Sealed Offers will be opened at the OIDS Norman Offices on Friday, March 12, 2021, beginning at 9:30 AM, and reviewed by the Executive Director or his designee for conformity with the instructions and statutory qualifications set forth in this notice. Non-conforming Offers will be rejected on Friday, March 12, 2021, with notification forwarded to the Offeror. Each rejected Offer shall be maintained by OIDS with a copy of the rejection statement.

NOTICE OF INVITATION TO SUBMIT OFFERS TO CONTRACT

Copies of qualified Offers will be presented for the Board's consideration at its meeting on **Friday, March 26th, 2021**, at *a place to be announced*.

With each Offer, the attorney must include a résumé and affirm under oath his or her compliance with the following statutory qualifications: presently a member in good standing of the Oklahoma Bar Association; the existence of, or eligibility for, professional liability insurance during the term of the contract; and affirmation of the accuracy of the information provided regarding other factors to be considered by the Board. These factors, as addressed in the provided forms, will include an agreement to maintain or obtain professional liability insurance coverage; level of prior representation experience, including experience in criminal and juvenile delinquency proceedings; location of offices; staff size; number of independent and affiliated attorneys involved in the Offer; professional affiliations; familiarity with substantive and procedural law; willingness to pursue continuing legal education focused on criminal defense representation, including any training required by OIDS or state statute; willingness to place such restrictions on one's law practice outside the contract as are reasonable and necessary to perform the required contract services, and other relevant information provided by attorney in the Offer.

The Board may accept or reject any or all Offers submitted, make counter-offers, and/or provide for representation in any manner permitted by the Indigent Defense Act to meet the State's obligation to indigent criminal defendants entitled to the appointment of competent counsel.

FY-2022 Offer-to-Contract packets may be requested by facsimile, by mail, or in person, using the form below. Offer-to-Contract packets will include a copy of this Notice, required forms, a checklist, sample contract, and OIDS appointment statistics for FY-2017, FY-2018, FY-2019, FY-2020 and FY-2021 together with a 5-year contract history for each county listed above. The request form below may be mailed to **OIDS OFFER-TO-CONTRACT PACKET REQUEST, P.O. Box 926, Norman, OK 73070-0926**, or hand delivered to **OIDS at 111 North Peters, Suite 500, Norman, OK 73069** or submitted by facsimile to **OIDS at (405) 801-2661**.

REQUEST FOR OIDS FY-2022 OFFER-TO-CONTRACT PACKET

Name _____ OBA # _____

Street Address _____ Phone _____

City, State, Zip _____ Fax _____

County / Counties of Interest _____

When and How to Use Oklahoma's Affidavits Instead of Probate

By Sarah Stewart and Hiba Jameel

ONE OF THE HARDEST THINGS we face in our lives is the death of a loved one. The grief and stress associated with that loss can be overwhelming. Adding the costs, complexities and pressure of going to court for probate can be crippling. Luckily, Oklahoma's Legislature recognized the pain this process can bring to families. So, they passed laws allowing Oklahoma families to avoid probate for certain estates.

This article will cover when to use Oklahoma's affidavit of tangible personal property, affidavit of death and heirship for severed mineral interests¹ and affidavit of known heirs² instead of probate.

AFFIDAVIT OF TANGIBLE PERSONAL PROPERTY

The Oklahoma Legislature originally enacted the statute allowing an affidavit of tangible personal property to transfer personal assets to heirs without a probate in 1998. Since that time, the value of an estate that an heir can use the affidavit for has steadily increased. When the value of the estate surpassed the value allowed by the Oklahoma state treasurer to accept an affidavit for unclaimed property, the treasurer sought clarification of the conflict. A 2006 attorney general's opinion stated the Oklahoma state treasurer retains the maximum permitted in 60 O.S. §674.2 in regard to unclaimed property held by the treasurer's office.³

Thus, for personal property held outside the state treasurer's office, an affidavit of tangible personal property allows heirs 10 or more days after a loved one has passed to submit an affidavit to anyone who owes the deceased money or has the deceased's personal property in their possession. The affidavit can be used whether the decedent had a last will and testament or not. But the total value of the Oklahoma estate of the decedent must be under \$50,000. An "estate," as used in the statute, does not include any property that would not be subject to probate. Additionally, the affidavit cannot be used if there is a petition for the appointment of a personal representative filed or granted.⁴

The affidavit must set forth the heirs entitled to distribution and the amount each heir is entitled to receive. The affidavit must state all debts and taxes of the estate have been paid, negotiated or are otherwise barred, and the affidavit

must be signed by or on behalf of the successors in interest and delivered to each individual or company holding the assets of the decedent.

AFFIDAVIT OF DEATH AND HEIRSHIP FOR SEVERED MINERAL INTERESTS

The statute allowing for an affidavit of tangible personal property to transfer an estate's personal assets also allows for an affidavit of death and heirship to transfer severed mineral interests to an heir.⁵ The affidavit must be filed with the county clerk in the county where the property is located. The affidavit must state the decedent died without a last will and testament; if the decedent had a last will and testament, it was never probated, and the last will and testament is attached; or the last will and testament was probated, but the property was left out of the final decree, and the final decree is attached.⁶

However, filing the affidavit does not give the heir immediate



marketable title. In order for the title of the property to be marketable, the affidavit must have been on record in the county clerk's office in the county where the property is located for 10 years, and there must be no filings of documents inconsistent with the affidavit. The strict requirements for marketability of title under the statute limit a client's ability to sell and sometimes lease their mineral interests. Due to that fact, clients may choose a probate over using the affidavit.

AFFIDAVIT OF KNOWN HEIRS

An affidavit of known heirs can be used when the amount of "aggregate deposits held in single ownership in the name of the deceased" at the institution is less than \$50,000.⁷ While the affidavit of tangible personal property may be used with any individual or company that holds a personal asset of the decedent, the affidavit of known heirs is restricted to banks and credit unions.⁸ To use the affidavit, the decedent must not have left a last will and testament. Additionally, the statute does not

require statements from the affiant that a petition for appointment of personal representative has not been filed or granted.

PENALTIES AND FINES

Both statutes assess penalties and fines against those who submit knowingly false affidavits. The penalties are the same in 58 O.S. §393 and 6 O.S. §906. Those who knowingly submit a false affidavit are subject to a fine of up to \$3,000 and possible imprisonment of up to six months or both. The false affiant will be expected to pay restitution to the rightful heirs of the decedent.

CONCLUSION

Oklahoma law allows families to transfer the assets of a deceased loved one without a probate in limited situations. If you find your client's situation meets the right criteria, you can save them money and stress by drafting an affidavit of tangible personal property, affidavit of death and heirship or an affidavit of known heirs.

ABOUT THE AUTHORS



Sarah C. Stewart graduated from the OCU School of Law and practices in Edmond. She focuses her estate

planning practice on helping families understand and plan for their specific goals throughout their lifetimes. She has helped Oklahoma families with guardianship, estate planning and probates since 2009.



Hiba Jameel is a third-year law student at the OCU School of Law. She holds a bachelor's degree in translation from her

native country, Iraq, and a master's in international relations from the University of Central Oklahoma as a Fulbright scholar. Her diverse career ranges from nonprofit to legal support.

ENDNOTES

1. 58 O.S. §393.
2. 6 O.S. §906.
3. Question submitted by Scott Meacham, Oklahoma state treasurer, 2006 OK AG 21.
4. 58 O.S. §393 (A).
5. 58 O.S. §393 (D).
6. 16 O.S. §67.
7. 6 O.S. §906.
8. 6 O.S. §906 (A)(1).

The New Public Handbooks for Oklahoma Minor and Adult Guardianships

By A. Daniel Woska

GUARDIANSHIPS ARE OFTEN A PART OF ESTATE PLANNING, either intentionally or as a result of an unexpected circumstance. The express purpose of the Oklahoma Guardianship Act¹ is to promote the general welfare by establishing a system of general and limited guardianships for minors and incapacitated persons.² The system established by the act is intended to allow the “participation of such persons, as fully as possible, in the decisions which affect them.”³ In this regard, the courts handling guardianships are to encourage maximum self-reliance and independence by the incapacitated person and make orders only to the extent necessary, given the ward’s limitations.⁴

CREATION OF NEW GUARDIANSHIP HANDBOOKS

In May 2019, the Oklahoma Legislature amended 30 O.S. §1-124 of the Oklahoma Guardianship Act, which requires a handbook for guardians and conservators.⁵ The Administrative Office of the Courts (AOC) had previously prepared and updated the handbook as required under the act, but the amendments to §1-124 shifted responsibility for the handbook to the Oklahoma Bar Association.⁶ The OBA asked the Estate Planning Probate and Trust Section (EPPT) to work on the updates. This article will discuss the changes to the guardianship handbooks implemented pursuant to §1-124.

HANDBOOK REQUIREMENTS UNDER 30 O.S. §1-124

As stated above, §1-124 now requires the OBA (rather than the AOC) to prepare guardianship handbooks. Prior to 2019, the AOC was also required to provide the handbooks to district court clerks.⁷ Under the amended statutes, the AOC no longer has to distribute paper copies and is now only required to provide a link to the handbook on the OSCN website at www.oscn.net.⁸

Further requirements under §1-124 for the handbook are:

- Written in clear, simple language;
- Information about the laws and procedures that apply to guardianships and conservatorships;
- A summary of the duties of guardians and

conservators, including statutory notices, timetables and required court approvals.

- An emphasis on the significance of timely accountability to the court and the ward and
- Sanctions and penalties for failure to comply with the law or orders of the court.⁹

SEPARATE HANDBOOKS FOR ADULTS AND MINOR GUARDIANSHIPS

There are generally two types of guardianships – adult guardianships and minor guardianships. Adult and minor guardianships were included together in the prior handbook.¹⁰ However, due in part to the continued increase in the number of “pro se” filings by nonlawyers and the need for more information and



forms to be available for these potential nonlawyer guardians, the OBA determined there should be separate handbooks for minor and adult guardianships. As a result, the EPPT formed two subcommittees: one to prepare the *Adult Guardianship Handbook* (AGH) and the other to prepare the *Minor Guardianship Handbook* (MGH). The two new handbooks were completed and posted on OSCN in June 2020.¹¹

CONSIDERATIONS BY THE SUBCOMMITTEES IN CREATING THE NEW HANDBOOKS

When a guardianship is initiated, there is usually a party, either an adult or a minor, who is in need of a guardian for a variety of reasons. The reasons may become more important in the adult guardianship realm because they often involve mental or physical conditions that serve to limit the ability of an individual to properly conduct their own business.

In connection with a minor guardianship, it is often filed because parents are unable to care for their children for a variety of reasons, e.g., due to drug and alcohol addiction or incarceration. In those cases, it is often a

grandparent, aunt, uncle or close friend who takes on the duties and responsibilities of the guardian for the minor child. The minor child requires a guardian to be available for such things as the administration of medical assistance, financial assistance, to engage with the public school system and to legally sign off on documents that are necessary and appropriate for the child who is going to school. Once the minor reaches the age of 18, the guardianship terminates unless the minor is suffering from a disability that may require the court to address the need for adult guardianship.

The process of gaining guardianship requires the filing of pleadings. Prior to the filing of those pleadings, an effort must be made to provide sufficient statutorily required background information to the court to serve as a basis for the granting of the guardianship. The guardianship statutes make it clear the court must weigh and balance the desire to ensure the ward of the court is allowed to handle matters as capably and competently as possible with the assistance of the guardian. Guardianships are never forever – they are granted for

a period of time when an individual's needs may compel the assistance of a guardian through the court procedure.

HANDBOOK OVERVIEW FOR GUARDIANS OF MINOR CHILDREN

Section I of the MGH provides general information on the guardianship of minors under Oklahoma law and advice on when an attorney should be consulted.¹² Section II contains key definitions from the act relevant to guardianships of minors under 30 O.S. §1-111.¹³ Section III provides an overview of the types of guardianships over a minor, including general and limited guardianships,¹⁴ emergency guardianships¹⁵ and guardianships by power of attorney.¹⁶

Further sections of the MGH provide more specific information as to:

- Who may be appointed as a guardian (Section V)¹⁷
- Statutory notices required under 30 O.S. §2-201 (Section VI)¹⁸
- Required court approvals (Section VII)¹⁹

- A guardian's accountability to the court (Section VIII), including the guardian's duties under the act²⁰
- Accountability to the ward (Section IX), which details duties owed by the guardian to the ward²¹
- Confidentiality (Section X) of certain confidential information submitted during proceedings²²
- Sanctions and penalties for noncompliance (Section XI)²³
- An overview of the Indian Child Welfare Act (Section XII) and its applicability to the guardianship of minors²⁴
- A list of helpful state and federal resources for guardians of minors²⁵

Probably the most important resource included with the MGH is a separate link with a detailed step-by-step checklist for obtaining guardianship of a minor, which contains all the necessary forms (which should also be helpful to attorneys practicing in this area).²⁶

The forms provided with the handbook are:

- Background check forms
- Decree and order appointing a guardian
- Guardian *ad litem* datasheet
- Information sheet
- Letters of guardianship
- Nomination of a guardian by a minor 14 years of age or above
- Notice for hearing petition for appointment of a guardian
- Order for hearing petition for appointment of a guardian
- Pauper's affidavit
- Petition for letters of guardianship (minor)
- Petition exhibit "a"
- Petition exhibit "b"



- Petition for custody by abandonment
- Plan for the care and treatment of the ward(s)
- Plan for the management of the property of the ward(s)
- Waiver of notice and/or consent to the appointment of a guardian

HANDBOOK OVERVIEW FOR GUARDIANS OF ADULTS

As with the MGH, the AGH provides general information on the guardianship of adults under Oklahoma law and advice on when an attorney should be consulted.²⁷ Section II contains key definitions from the act relevant to guardianships of adults under the act.²⁸ Section III provides an overview of the types of guardianships over an adult, including general and limited guardianships²⁹ and special guardianships.³⁰

Further sections of the AGH provide more specific information as to:

- Who may be appointed as a guardian (Section IV)³¹
- Statutory notices required for general guardianships (30 O.S. §3-110) and special guardianship (30 O.S. §3-115) (Section IV [sic])³²
- Required court approvals (Section V)³³
- Accountability to the court (Section VII [sic])³⁴
- Accountability to the ward (Section VIII), which details duties owed by the guardian to the ward³⁵
- Rights of the ward (Section IX)³⁶
- Confidentiality (Section X) of certain confidential information submitted during proceedings³⁷
- Sanctions and penalties for non-compliance (Section XI)³⁸

- An introduction to conservatorships (Section XII)³⁹
- An overview of the Veterans Volunteer Guardianship Act (Section XIII)⁴⁰
- A list of state and federal resources for guardians of adults⁴¹

As with the MGH, the AGH also provides a separate link that contains the necessary forms for obtaining guardianship of an adult, but there is not a separate checklist.⁴²

The forms provided with the handbook are:

- Petition for guardianship
- Notice of petition for guardianship
- Notice of hearing petition for letters of guardianship
- Order for hearing petition for guardianship
- Order appointing a general guardian
- Letters of special guardianship, guardian's oath
- Letters of general guardianship, guardian's oath
- Affidavit of mailing and personal service
- Order appointing a special guardian
- Application for special guardianship
- Pauper's affidavit
- Inventory of the ward's estate
- Plan for the care and treatment of the ward
- Plan for the management of the property of the ward
- Order approving the plans for care and management
- Annual report and proposed plan for the care and treatment of a ward and management of the ward's property
- Guardian's bond
- Order approving conveyance of real property
- Petition for conservatorship

- Consent by the ward to the appointment of conservator
- Order of court identifying who receives notice of the petition for conservatorship
- Order appointing a conservator
- Affidavit of mailing initial report and plan of management
- Letters of conservatorship
- Oath of conservator
- Initial report of conservator
- Plan for the management of the ward's estate
- Verified application and petition for conveyance of real property
- Notice and order of hearing verified application and petition for conveyance of real property
- Affidavit of mailing verified application and petition for conveyance of real property
- Motion to discharge conservator
- Notice and order of hearing application for discharge of conservator
- Order dissolving conservatorship and discharging conservator

CONCLUSION

As stated in the introduction to both the Minor and Adult Guardianship Handbooks, guardianship and conservatorship laws are tricky, and Title 30 contains more than 100 statutory provisions. The updated handbooks, the checklist for obtaining guardianship of a minor and forms for guardianships and conservatorships should prove to be an important resource to help both lawyers and nonlawyers.

Author's Note: This article is dedicated to and would not have been possible without all the attorney volunteers and law students who worked on the Handbooks for Minor and Adult Guardianships. The subcommittee members are: A. Daniel Woska, Shannon D. Taylor, Keith Jones, Kathleen Wallace, Sara Murphy Bondurant, Leslie Sparks, James Milton, Todd Alexander, Farrah Burgess, Tsinena Thompson, Victoria Holland, Garrett Eller, Howard Henrick, Joanne Horn, Terrell Monks, Stephanie Alleman, Denis Rischard and Judge Richard Kirby; legal interns Ann M. Butler and Hannah W. Lunsford; OBA Executive Director John Morris Williams; OBA Management Assistance Program Director Jim Calloway; and with gratitude to Katheryn Koss, for sharing her work, *Grandparenting in Oklahoma, Law & Resources for Grandparents and Other Relatives*, Senior Law Resource Center (2010).

ABOUT THE AUTHOR



A. Daniel Woska is the owner of The Woska Law Firm PLLC, located in the offices of Devol & Associates in Edmond.

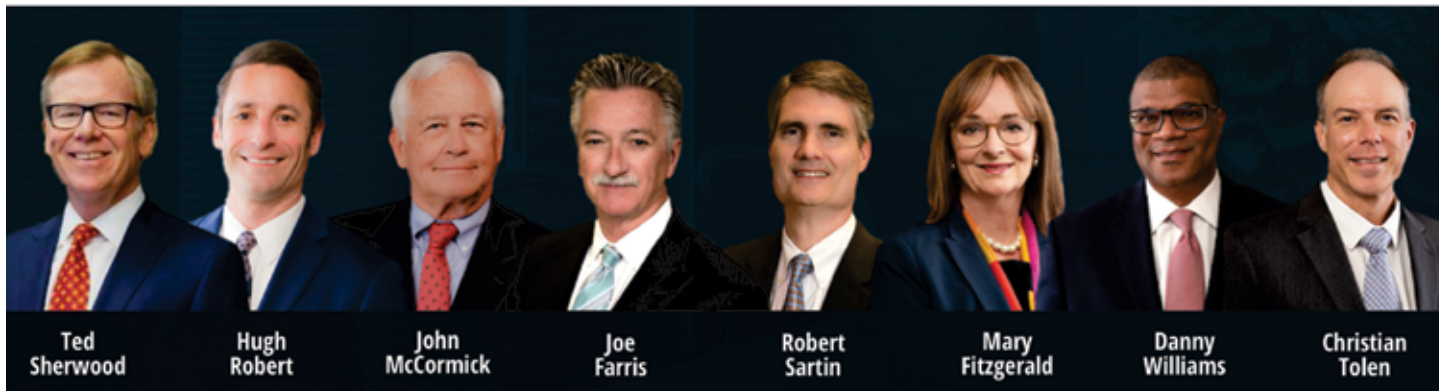
He concentrates his practice in estate planning, estate and trust administration, special needs trusts, tax planning, guardianship, trust and probate litigation as well as preparing antenuptial agreements.

ENDNOTES

1. 30 O.S. 2019 §1-101, *et. Seq.*
2. 30 O.S. §1-103(A).
3. 30 O.S. §1-103(B).
4. *Id.*
5. SB 989 amended 30 O.S. 2011 §1-124, which previously required the AOC to prepare and update the handbook. SB 989 was signed by Gov. Kevin Stitt on May 9, 2019, and became effective Nov. 1, 2019.
6. HB 1078 was adopted in 1988.
7. Compare 30 O.S. 2011 §1-124 with 30 O.S. 2019 §1-124.
8. *Id.*
9. 30 O.S. 2019 §1-124.

10. The old version, *A Handbook for Guardians*, can still be found at oklahomafamilynetwork.org/wp-content/uploads/2018/04/Amber-McConnell-Guardianship-Handbook.pdf.
11. The Adult and Minor Guardianship Handbooks are available for review and download at www.okbar.org/a2j/guardian.
12. *A Handbook for Guardians of Minor Children* at 1. This handbook is available to review and download at www.okbar.org/a2j/wp-content/uploads/sites/5/2020/06/Minor-Guardianship-Handbook-General-Information.pdf
13. *Id.* at 2-6.
14. *Id.* at 6 (citing 30 O.S. §1-109).
15. *Id.* (citing 43 O.S. §110(B)(2); 43 O.S. §107.4 and 30 O.S. §2-101(B)(4)).
16. *Id.* (citing 10 O.S. §700).
17. *Id.* at 6-7 (citing 30 O.S. §§2-102-105, 3-102, 4-105).
18. *Id.* at 7-8.
19. *Id.* at 9-10.
20. *Id.* at 10-13.
21. *Id.* at 13-14.
22. *Id.* at 15.
23. *Id.*
24. *Id.* at 16-19.
25. *Id.* at 20.
26. The MGH Checklist and Forms for Obtaining Guardianship of a Minor are available for viewing and download at www.okbar.org/a2j/wp-content/uploads/sites/5/2020/06/Minor-Guardianship-Handbook-Checklist-and-Forms.pdf
27. *A Handbook for Guardians of Adults* at 2. This handbook is available to review and download at www.okbar.org/a2j/wp-content/uploads/sites/5/2020/06/Adult-Guardianship-Handbook-General-Info.pdf
28. *Id.* at 3-5.
29. *Id.* at 6 (citing 30 O.S. §1-109).
30. *Id.* (citing 20 O.S. §3-115).
31. *Id.* at 6-7.
32. *Id.* at 7-9. This section is also numbered as Section IV.
33. *Id.* at 9-10.
34. *Id.* at 11-13.
35. *Id.* at 13-16.
36. *Id.* at 16-17.
37. *Id.* at 16-17.
38. *Id.* at 17.
39. *Id.* at 17-23.
40. *Id.* at 23-26.
41. *Id.* at 27.
42. The Forms for Obtaining Guardianship of an Adult are available for viewing and download at www.okbar.org/a2j/wp-content/uploads/sites/5/2020/06/Adult-Guardianship-Handbook-Checklist-and-Forms.pdf. A detailed checklist is not included with the forms.

Thank You!



From Ted Sherwood, President/Owner of Accord Mediation & Arbitration:

On behalf of myself and our mediators, we want to say **THANK YOU** for honoring us with your business. Accord Mediation & Arbitration had a record year in 2020.

Last year, Accord Mediation:

- Mediated or arbitrated 164 different cases
- Added five new mediators to our mediation panel
- Conducted 100+ mediations remotely using the Zoom platform

Although I miss the personal interaction with lawyers and their clients, I am impressed with how effective online mediations can be. I hope you and yours stay safe and healthy and that we can return to in-person mediations in 2021.

View calendars & book online at [AccordADR.com](https://www.AccordADR.com)

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Legislative Monitoring Committee Kicks Off the New Session

By Miles Pringle

THE LEGISLATIVE

Monitoring Committee is back in full swing! We hope you were able to join us for the OBA's Legislative Kickoff on Friday, Jan. 29. Due to the ongoing COVID-19 pandemic, the event was held virtually this year. But don't have a nervous breakdown if you missed it, you can still register to watch it online. If you are a committee member, you can register and watch the program for free (through the end of February) if you call CLE Registrar Renee Montgomery at 405-416-7029. Nonmembers can access the program at tinyurl.com/obakickoff2021 for only \$99. It's 5 MCLE hours of general credit.

We want to extend a BIG thank you to all of our presenters who gave their time to the Legislative Kickoff. They devoted their time and resources to putting on a great program. We covered "50 Bills in 50 Minutes" and had 50-minute presentations on Native American law, COVID-19 and how a bill becomes law in Oklahoma. We also want to thank our wonderful lawyer legislators who participated in our legislative panel.

ISSUES FOR THE 2021 SESSION

Unfortunately, COVID-19 will continue to be omnipresent during the upcoming session. As Oklahoma has recorded record levels of new cases and deaths,



there will likely be modifications to how the Legislature conducts business and legislation to address the pandemic's impact. For example, Senate Pro Tempore Greg Treat has mentioned permanently allowing government meetings to be held entirely online. It appears we will have to hope that business at the Capitol returns to normal in 2022.

There are two mandatory subjects the Legislature must address in the 2021 session. First, as always, is the budget. There is some good news here as lawmakers will have

\$8.4 billion to build a budget for the 2022 fiscal year (compared to \$8.3 billion projected at this time a year ago). You would think a slightly increased budget would be a welcome reprieve given all the pain inflicted by the pandemic and unstable oil prices; however, due to the passage of Medicaid expansion via State Question 802, most of (if not all) the additional funds will likely go towards the estimated \$164 million required for the state to contribute.

The second issue is redistricting. The Legislature is required by the Oklahoma Constitution to draw new legislative districts following the decennial census. The House and Senate are reportedly working on this from estimated numbers and will finalize once the official numbers are provided by the U.S. Census Bureau.

It's hard to predict what other issues will get traction this year, but if you're interested in potential new laws, then you should download the OBA's Legislative Kickoff!

OBA DAY AT THE CAPITOL

The good news is there will be an OBA Day at the Capitol, so mark your calendars for OBA's Day at the Capitol on Tuesday, March 23. The bad news is ... of course ... this will be a virtual event, so we will not actually be going to the Capitol. With that said, we are hoping to take a different tact on the presentation, so stay tuned for further details.

LEGISLATIVE CALENDAR

Here are some of the important legislative dates for you to be aware of:

- Jan. 21: Bill introduction deadline
- Feb. 1: Session began
- Feb. 15: Deadline for HBs/HJRs out of subcommittee

- Feb. 18: Deadline language for shell bills in House to be submitted to Majority Floor Leader's Office
- Feb. 25: House/Senate Committee deadlines
- March 11: Third reading in House of Origin deadline
- April 22: Third reading in Opposite House deadline
- May 28: *Sine Die* Adjournment

JOIN THE COMMITTEE

I encourage you to become a member of the Legislative Monitoring Committee. The committee is the OBA's largest and one of its most active with attorneys participating from around the state. If you are already a member, continue to sign on and use the MyOKBar Communities page on the OBA site at www.okbar.org to communicate with the committee. If you have a bill that needs to be posted for others to see, please do so. If you have any suggestions or questions, please feel free to contact me through the committee's Communities page.



Mr. Pringle is general counsel for The Bankers Bank in Oklahoma City and serves as the Legislative Monitoring Committee chairperson.

Where Do We Go from Here?

By John Morris Williams

WE ARE NOW INTO month 11 of the COVID-19 pandemic. Not that anyone needed to be reminded of that fact. With the release of vaccines in December, coupled with record infections and deaths, my thoughts are somewhat mixed. In the coming months, there are important decisions to be made regarding moving forward.

First and foremost is the immediacy of keeping people safe and healthy. Second is the formulation of a plan to reopen and start bringing people back together. Although there are many contingencies, they cannot be realized

year. This involves a bit of reading tea leaves and paying close attention to public health data. If recent history has taught us anything, moving forward in this pandemic is not without peril.

The issues involving vaccinated versus nonvaccinated staff and members have their own complexities. For example, does the OBA restrict only vaccinated staff to have member contact? Does the OBA require the presentation of a vaccination passport for in-person attendance at OBA functions? Will the Centers for Disease Control develop guidelines? Senate Bill

world. Thus, coming regulations and orders may be determinative of how the OBA moves forward in light of SB 1946.

Until there is more clarity and instruction on moving forward in a post-vaccine world, the OBA is most likely going to continue operating at the status quo. For the foreseeable future, the bar center will have limited accessibility, and staff will work remotely when necessary. In-person events will not resume until such time that it is assured they may be safely and legally resumed.

In the meantime, the OBA will continue to strive to provide high-level member service on a mostly remote basis. Given that all continuing legal education credit can be achieved online, OBA CLE will not be hosting any in-person events, and section and committee meetings will continue to be remote. The OBA CLE Department will be offering its full line of high-quality spring programming, as well as assisting committees and sections in producing CLE programs for credit.

Unfortunately, it appears the first six months of 2021 may well be a continuance of operational norms established in March 2020. This leaves in doubt significant events, such as Law Day and the Solo & Small Firm Conference. Hopefully, we may have the ability to postpone, rather than cancel, as vaccines

Until there is more clarity and instruction on moving forward in a post-vaccine world, the OBA is most likely going to continue operating at the status quo.

until such time that infection rates go down significantly and bringing together people does not create a public health hazard.

Currently, OBA staff is working on developing a plan to present to leadership regarding our operational activities for the rest of the

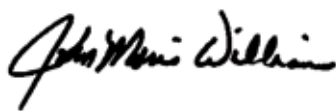
1946, passed in the last legislative session, provides liability protections for those who are acting in accordance with state and federal regulations or state or federal executive orders. The current regulations and orders provide little guidance for a post-vaccine



become more available and regulations and orders are developed that provide greater guidance.

I am disappointed at the current situation and guardedly optimistic that as the year progresses, we can get back to something that resembled pre COVID-19 operations. Many experts say things may never go back completely as they were. We have significantly moved forward with the use of technology and have embraced the concept of virtual attendance and its convenience. Hopefully, we can find balance and build upon the technological strengths we have obtained and, at some point, regain the ability to come together physically to enjoy collegial gatherings.

Until such time as it is safe to gather again, the OBA is still here for you and is at the ready to move forward at the greatest speed that can be legally and safely realized. As always, please let me know how we can better assist you.



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

10 Top Technology Tools for the Small Firm Lawyer

By Jim Calloway

2020 CERTAINLY GAVE US all a lot to digest.

My personal observation working with small to medium-sized law firms was those with digital client files securely available online had a better working experience than those with critical information trapped only in paper files.

The most significant observation I have distilled from the past year is the practice of law has bifurcated into two “branches,” if you will: people law and business/corporate law. With each passing year, each branch looks a bit less like the other in terms of the operations and business processes. We will be exploring those distinctions more throughout 2021. This month’s article focuses on tools for those in smaller firms primarily doing people law.

Note: While readers love top 10 lists, this is a “10 top” list, which means the entries are not ranked in any particular order. The goal is to provide lawyers an opportunity to review some significant technology tools and then set their own priorities as to what needs to be implemented next (although I will note, number one *is number one*). The subjects will be covered briefly. Oklahoma lawyers should know they can contact the OBA Management Assistance Program lawyers for more specific advice about any of these topics and tools.

1) PRACTICE MANAGEMENT SOFTWARE SOLUTIONS

I’ve been advocating for solo and small firm lawyers to use practice management solutions for many years. While it’s possible for a larger law firm with dedicated IT staff to craft their own “homegrown” practice management solutions, for most lawyers without those resources, it is far better to take advantage of the years of development done on the various available practice management software solutions. Practice management solutions also typically provide unlimited storage, and they all include online client portals so you can securely share documents with your client. Using a cloud-based practice management solution means you will have the same interface when working on your client matters, whether you are working in the office, from home or on the road.



2) MICROSOFT 365 (FORMERLY OFFICE 365)

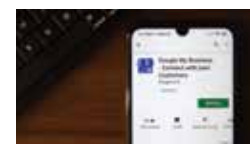


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The tools in Microsoft 365 continue to improve, and there

is an amazing number of tools available when one logs in to the online Microsoft 365 account. OneDrive provides one terabyte of secure cloud storage with the ability to share files like many have grown accustomed to using services like Dropbox. Teams provides coordination and videoconferencing. Subscribers receive the desktop versions of Office apps: Outlook, Word, Excel, PowerPoint, OneNote (plus Access and Publisher for PC only), in addition to the online tools. Lawyers will want to choose between Microsoft 365 Business Standard \$12.50 user/month or Microsoft 365 Business Premium \$20 user/month.

3) GOOGLE MY BUSINESS



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You have seen the results of Google My Business

when searching for a business in Google on a phone. Instead of the usual Google search results, you get a result with a picture of the business, the phone number,

hours of operation and more. This is a Google My Business result. You can claim that profile, and if your firm has a unique street address (as opposed to being in Suite 800 of an office building), you should claim your address so you can edit and add to your Google My Business. *There is no charge.* This will also mean your business appears in Google Maps. Google will be happy to provide you the details on how to set that up.

4) DIGITAL LEGAL RESEARCH TOOLS

Oklahoma lawyers have a Fastcase account supplied by the OBA. Fastcase just announced a merger with its chief rival, Casemaker. Nothing will change for OBA members in 2021, but we should see improvements because of this merger. One logs into the OBA Fastcase subscription via MyOKBar. But many readers also need to go to Fastcase.com and sign up for one of many free training opportunities to learn more about Fastcase research techniques. A discounted subscription to CaseText with its artificial intelligence tools is also available to OBA members via MyOKBar.



5) SECURE CLOUD STORAGE



OneDrive will be the tool of choice for many for secure cloud storage. Microsoft is already protecting many millions of dollars worth of companies' data in OneDrive. Subscribers to Microsoft 365 have OneDrive. There are several other secure data storage providers. We have seen an evolution from the time when lawyers were very concerned about storing items in the cloud to the generally accepted appreciation that secure cloud storage is safer than the digital security measures you can do on your own. Having duplicate copies of every important digital document stored in two places is a 21st-century business continuity practice. With cloud storage, as opposed to a compressed full backup of everything, you can have a usable copy of the documents you need if there is a problem with accessing the originals (like a power outage at your physical office).

6) SCANNING TOOLS

As we move from paper-based client files to digital client files, the scanner is the tool we use to convert paper into digital documents. The Fujitsu ScanSnap iX500

desktop scanner is a long-term favorite of ours (up to 25 color pages per minute), and the Fujitsu fi-5530C2 scanner is for law firms needing a higher volume scanner (50 color pages per minute). Every lawyer should know how to create a PDF file from a piece of paper using their mobile phone. There are many apps to assist with this for both mobile platforms.



7) SPEECH TOOLS

I have been a user of Dragon NaturallySpeaking for many years, and it has saved countless hours, including in drafting this article. Word in Microsoft 365 now has a built-in speech recognition dictation tool. If you type 50 or 60 words per minute, you may not need speech recognition. But many lawyers will find it is a great productivity tool and also a great personal well-being tool to take a break from pounding a keyboard. Hopefully, you're not still typing out all your text messages when it is often easier to dictate the reply into the phone. Although sometimes, confidentiality concerns dictate that you



type instead of talk. Cortana and other tools are favored by some.

8) ONLINE SCHEDULING FOR CLIENT APPOINTMENTS



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This is something most law firms are likely not yet doing,

but dentists, salons and many other businesses provide this service. Individual consumers are used to instant gratification as they search online. If a firm allows a new client to schedule an appointment online from the website while other firms in the area just list their phone number and address, it is likely there will be a business advantage to the firm that provides online appointment scheduling 24/7. Calendly is one tool that handles this, and another, Microsoft Bookings, is included in Microsoft 365.

9) VIDEOCONFERENCING TOOLS

One permanent change because of the pandemic is that videoconferencing will be a continuing part



of service delivery for most businesses and most law firms.

You need a good webcam, good lighting and a good microphone, and you need to practice with the videoconferencing tools if you haven't had enough of that already. If you missed my August 2020 *Oklahoma Bar Journal* article, "A Videoconferencing Guide for Oklahoma Lawyers,"¹ it might be a good time to read it. In particular, your business clients have been and will be doing much videoconferencing. Many individuals have had many FaceTime or

other videoconferences on their phones. If both of you are set up for videoconferencing, why should someone drive across town for a face-to-face meeting about some routine decisions?

10) ONLINE MARKETING TOOLS



While some lawyers with an established clientele and a healthy

group of regular client referrers may not need to be extremely concerned about their law firm website and other online presences, the vast majority of law firms, particularly solo practitioners, need to be very visible on the web and to also appreciate that many of their new clients will come as a result of the prospective client searching on the internet for the answer to their legal problem and locating you and your law firm.

If you are an Oklahoma lawyer who already has all these 10 areas covered, congratulations! But if you are ready for some upgrades, this month's article gives you a list from which to pick your next technology improvement project. Oklahoma lawyers can contact the OBA Management Assistance Program to discuss any of these subjects or any other law office technology questions.

Mr. Calloway is OBA Management Assistance Program director. Need a quick answer to a tech problem or help solving a management dilemma? Contact him at 405-416-7008, 800-522-8060, jimc@okbar.org. It's a free member benefit.

ENDNOTE

1. www.okbar.org/lpt_articles/a-videoconferencing-guide-for-oklahoma-lawyers.

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HEY!

**When's the last time
you checked out OBA
member perks?**

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Pandemic Rules

Working Remotely in Another Jurisdiction

By Richard Stevens

ONE THING MOST of us have been doing with a great deal of frequency is working remotely. For most of us, this means we are working from home. For most of us, this means we are working in our homes within Oklahoma. However, some Oklahoma lawyers may live or choose to work remotely from another state. Technology makes it possible to work, in some cases, from almost anywhere there is phone service and an internet connection. In some cases, due to the circumstances of the current pandemic, a lawyer may choose or be forced to practice while physically located in a jurisdiction in which they are not licensed.

In instances such as this, the question of ethics arises under ORPC 5.5. May a lawyer practice law in Oklahoma while physically present in another jurisdiction? Recently released ABA Formal Opinion 495 seeks to help lawyers in this situation determine whether they may ethically practice under these conditions.

ABA Formal Opinion 495 reaches the conclusion that lawyers may practice law in a jurisdiction in which they are admitted while being physically located in a jurisdiction in which they are not admitted under specific circumstances.

ORPC (and ABA Model Rule) 5.5 (a) prohibits lawyers from the

unauthorized practice of law. 5.5 (a) states, "A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction" If the jurisdiction in which the lawyer is licensed has determined by rule, opinion or otherwise that practicing the law of that jurisdiction while located in another jurisdiction constitutes the unauthorized practice of law, then doing so will violate 5.5 (a). If a jurisdiction has determined that working remotely

while physically located in that jurisdiction is the unauthorized practice of law, then the same result will follow. To this writer's knowledge, Oklahoma has not made either of those determinations.

Absent those determinations, a lawyer practicing pursuant to the law of the jurisdiction in which the lawyer is licensed does not violate 5.5(a), even when located in a jurisdiction in which the lawyer is not licensed. ABA 495 correctly states the Rules of Professional



Responsibility are rules of reason, and the purpose of the rule should be examined in interpreting them. ORPC 5.5 Comment [2] states, "Limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons." ABA 495 concludes, "A local jurisdiction has no real interest in prohibiting a lawyer from practicing the law of a jurisdiction in which that lawyer is licensed and therefore qualified to represent clients in that jurisdiction."

ORPC 5.5 (b) (1) prohibits a lawyer from "establish[ing] an office or other systematic and continuous presence in this jurisdiction for the practice of law" in a jurisdiction in which the lawyer is not licensed. ABA 495 concludes that "establish" means "to found, institute, build, or bring into being on a firm or stable basis." 495 concludes that:

A local office is not "established" within the meaning of the rule by the lawyer working in the local jurisdiction if the lawyer does not hold out to the public an address in the local jurisdiction as an office and a local jurisdiction address does not appear on letterhead, business cards, websites, or other indicia of a

lawyer's presence. Likewise it does not "establish" a systematic and continuous presence in the jurisdiction for the practice of law since the lawyer is neither practicing the law of the local jurisdiction nor holding out the availability to do so. The lawyer's physical presence in the local jurisdiction is incidental; it is not for the practice of law. Conversely, a lawyer who includes a local jurisdiction address on websites, letterhead, business cards, or advertising may be said to have established an office or a systematic and continuous presence in the local jurisdiction for the practice of law.

A lawyer who includes information on letterhead, business cards, advertising or websites that does not clearly indicate jurisdictional limitations or provides an address in a jurisdiction in which the lawyer is not licensed, may violate Rule 5.5 (b) (2). Rule 5.5 (b) (2) prohibits a lawyer from "hold[ing] out to the public or otherwise represent[ing] that the lawyer is admitted to practice law in [the] jurisdiction" in which the lawyer is not licensed. ABA 495 cites Maine and Utah ethics opinions, which reach the same conclusions.

For those attorneys who may have taken refuge from the pandemic in surrounding states or have homes in another state, ABA Formal Opinion 495 is worth reading.

Mr. Stevens is OBA ethics counsel. Have an ethics question? It's a member benefit, and all inquiries are confidential. Contact him at richards@okbar.org or 405-416-7055. Ethics information is also online at www.okbar.org/ec.

Meeting Summary

The Oklahoma Bar Association Board of Governors met remotely on Friday, Dec. 11, 2020.

REPORT OF THE PRESIDENT

President Shields reported she attended numerous pre-Annual Meeting conferences, participated in Annual Meeting and General Assembly during the week of Nov. 9-13, did follow up communication with speakers, sponsors and volunteers post-Annual Meeting, wrote her final *Oklahoma Bar Journal* president's message, listened to 10th Circuit oral arguments in the *Schell* case and participated in an Annual Meeting debrief videoconference with OBA staff and Executive Director Williams.

REPORT OF THE VICE PRESIDENT

Vice President Nowakowski reported she attended the YLD November meeting during the Annual Meeting at which she announced the YLD board election results.

REPORT OF THE PRESIDENT-ELECT

President-Elect Mordy reported he attended the Oklahoma Bar Foundation meeting, OBA Annual Meeting, budget hearing before the Oklahoma Supreme Court and worked on appointments to various OBA committees. He also contacted principals of schools in Ardmore and surrounding counties, encouraging them to participate in the OBA Law Day contest.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he worked on finalizing Annual Meeting, viewed portions of Annual Meeting, worked on the launch of the new "Courts & More" electronic publication, worked on planning the Legislative Kickoff, had conversations with President-Elect Mordy, participated in the Annual Meeting debrief, attended the budget meeting with the Supreme Court via teleconference, listened to oral arguments in the *Schell v. Gurich et al* case and had a discussion with Chief Justice Gurich, President Shields and President-Elect Mordy regarding a revolving account for certain surplus budget items. He reported he has been told Justice Rowe will continue to be the OBA's Supreme Court liaison next year.

REPORT OF THE PAST PRESIDENT

Past President Chesnut reported he attended Annual Meeting, including General Assembly and the House of Delegates.

BOARD MEMBER REPORTS

Governor Beese reported he attended the Legal Internship Committee meeting. **Governor Edwards** reported he attended the Annual Meeting and Professionalism Committee CLE seminar. **Governor Hermanson** reported he virtually attended the Annual Meeting, General Assembly and House of Delegates

meetings, Criminal Law Section meeting, Law Day Committee meeting, Legislative Monitoring Committee meeting and presided and attended in person the Justice Assistance Grant board meeting. **Governor Hutter** reported he attended the Annual Meeting. **Governor Morton** reported he attended the Military Assistance Committee meeting. **Governor Pringle** reported he chaired a meeting of the Legislative Monitoring Committee, began working on the committee's Legislative Kickoff event, worked on the Annual Meeting for the Financial Institution and Commercial Law Section and watched several Annual Meeting videos and CLE presentations. **Governor Williams** reported he virtually attended the Annual Meeting, several Annual Meeting CLE presentations, Diversity Committee awards event, November meeting of the Council Oaks/Johnson-Sontag Inn of Court and the OBA Environmental Law Section CLE presentation.

REPORT OF THE YOUNG LAWYERS DIVISION

Governor Haygood reported he attended the Annual Meeting and chaired the YLD board meeting. He said the division will be in good hands next year with incoming YLD Chair April Moaning. He said she has been involved on the board for many years, and they rose in the leadership ranks together.

REPORT OF THE SUPREME COURT LIAISON

Justice Rowe said he was always available to help if needed.

REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported the OBA is finishing the year with all litigation completed except for the *Schell* case. She said the Professional Responsibility Commission will meet next week. A written report of PRC actions and OBA disciplinary matters for September was submitted to the board for its review.

BOARD LIAISON REPORTS

Governor Davis said the **Law Schools Committee** has issued an annual report with information on how the law schools have handled COVID-19. The report was included in the board's material for the December meeting. Governor Edwards said the **Professionalism Committee** met during Annual Meeting. Governor Williams said he has enjoyed serving as liaison to the **Diversity Committee**. President Shields said the committee might continue holding its award event during the Annual Meeting in the future. Governor Hermanson said the **Law Day Committee** is promoting the contest and working on TV show segments. Although leaving the board, he will continue as a committee member. Past President Chesnut said the **Lawyers Helping Lawyers Assistance Program Committee**

reported there had been a few glitches in the handling of hotline calls shortly after the change to a new provider early in the year, however, the issues were resolved. It was noted call volume is down, and mental health consultant Deanna Harris, who has worked with the committee for many years is changing jobs and will no longer be an advisor. Governor Pringle said the **Legislative Monitoring Committee** is gearing up for its Legislative Kickoff event that will be virtual. It has been moved from a Saturday to Friday, Jan. 29, 2021, with expanded programming. It will be a free CLE seminar for committee members, and speakers

down, and several active committee members have been deployed.

CLIENTS' SECURITY FUND REPORT

Chairperson Micheal Salem reported claims were up this year with 30 claims considered and 18 approved, totaling \$328,555.52. With \$177,712.50 available for allocation that requires the approved claims to be prorated at 69.8%. He noted long-standing committee vice chair Dan Sprouse passed away this year and will be missed. He said it was Dan who attended clients' security fund national meetings. Chairperson Salem briefed the board on the source

Governor Morton said the number of Heroes Program volunteers is down, and several active committee members have been deployed.

are currently being recruited. Governor Morton said the Law Day Committee chairperson attended the **Military Assistance Committee** meeting asking members for ideas and suggestions on stories that could be developed into Ask A Lawyer TV show segments. Governor Morton said the number of Heroes Program volunteers is

of the funding, which is a permanent fund with interest earned remaining in the fund. The board approved the recommendations of the committee on claims to reimburse and to authorize the distribution of a news release approved by the OBA president and the committee chairperson.

President Shields and Executive Director Williams reported more than 2,000 bar members registered for the meeting. More than 9,500 hours of free CLE were reported.

CARRYOVER OF BUILDING MAINTENANCE FUND BALANCE CONTAINED IN 2020 BUDGET

Executive Director Williams explained adding safety measures to increase security at the bar center began in 2019 under President Chesnut. Work has continued this year but for several reasons, including COVID and the recent ice storm, progress on the work has been slow. He said the work may not be completed until next year, and he asked the board to approve the carryover of funds from the 2020 budget for the purpose of paying for building security enhancements in the event final billing for the project is not received before Dec. 31, 2020. The board approved the carryover of funds.

CARRYOVER OF EXCESS BOARD MEETING AND TRAVEL EXPENSES

The board approved the carryover of excess board meeting and travel expenses from 2020 to 2021.

APPOINTMENTS

The board approved the following appointments made by President-Elect Mordy:

Clients' Security Fund (CSF) – reappoint Micheal Salem, Norman, as chairperson and appoint Peggy

Stockwell, Norman, as vice chairperson, terms expire 12/31/2021; reappoint members Michael Salem; John Kinslow, Lawton; Jennifer Christian, Oklahoma City, terms expire 12/31/2023; CSF Lay Person appoint Chris Morriss, Oklahoma City, term expires 12/31/2023.

MCLE Commission – appoint Kim Hays, Tulsa, as chairperson, term expires 12-31-2021; appoint members Jimmy Oliver, Stillwater; Matthew Beese, Muskogee; and Alexa Stumpff White, Ardmore, terms expire 12/31/2023.

Oklahoma Indian Legal Services Board of Directors – appoint Brooke Unruh, Edmond; Mark H. Colbert, Ardmore; and Alvin R. Wright, Edmond, terms expire 12/31/2023.

LAWYERS HELPING LAWYERS UTILIZATION REPORT

President Shields directed board members to review the annual report showing the breakdown of calls to the Lawyers Helping Lawyers hotline, general details on counseling and reasons for initiating calls.

YLD LIAISON APPOINTMENTS TO OBA STANDING COMMITTEES

2021 YLD Chair April Moaning said she has assigned a liaison to each standing committee, and everyone is excited to serve. She said they have a few vacant board seats that will soon be filled.

APPOINTMENT OF OBA STANDING COMMITTEE CHAIRS, VICE CHAIRS AND BOG LIAISONS

President-Elect Mordy presented the list of 2021 committee leaders and liaisons.

LAW SCHOOLS COMMITTEE ANNUAL REPORT

President Shields called attention to the report presented to the board pursuant to the committee's Governance Charter.

ANNUAL MEETING DEBRIEF

President Shields and Executive Director Williams reported more than 2,000 bar members registered for the meeting. More than 9,500 hours of free CLE were reported. She said the virtual meeting programming turned out fabulous, and staff did an excellent job. Jim Calloway was complimented on his efforts recruiting sponsors, which was better than recent

in-person meetings. Survey results were overwhelmingly positive. Executive Director Williams said President Shields' firm contributed some skilled production work. He noted because of increased utilization of virtual platforms during COVID-19, members have become better with technology.

APPOINTMENTS

President-Elect Mordy announced he has made the following appointments:

Audit Committee – appoint Michael Vanderburg, Ponca City, term expires 12/31/2023.

Investment Committee – reappoint Joe Crosthwait, Midwest City, chairperson; reappoints Kendra Robben, Oklahoma City, vice chairperson, terms expire 12/31/2021; reappoint members Charles Chesnut, Miami; Stephen Beam, Weatherford; Audrey Talley, Oklahoma City; L. Jerome Tubb Jr., Oklahoma City; Chris Meyers, Lawton; Judge Mike DeBerry, Idabel; Alan Souter, Tulsa; and Mark E. Fields, McAlester, terms expire 12/31/2023.

Legal Ethics Advisory Panel – reappoint Steven Balman, Tulsa, as panel coordinator, term expires 12/31/2021; Oklahoma City Panel – reappoint Timila Rother, Oklahoma City; Micheal Salem, Norman; and appoint Myrna Latham, Oklahoma City, terms expire 12/31/2023; Tulsa Panel – reappoint Brita Haugland-Cantrell, Tulsa; Tamera A. Childers, Tulsa; and Lynnwood Moore, Tulsa, terms expire 12/31/2023.

Commission on Children and Youth – The initial names were submitted at the August board meeting. At the request of Gov. Stitt's office, President-Elect Mordy submitted the additional name of Tom Riesen, Oklahoma City, for consideration and/or appointment.

UPCOMING EVENTS

Executive Director Williams said he will be working with Chief Justice Darby to determine how the swearing-in ceremony will be conducted. Information will be shared when details are confirmed. The date for Day at the Capitol will be March 23, and the board meeting will be held the same day.

NEXT MEETING

The Board of Governors met in January. A summary of those actions will be published in the *Oklahoma Bar Journal* once the minutes are approved. The next board meeting will be at 10 a.m. Friday, Feb. 26.

The advertisement for Stange Law Firm, PC features a dark blue background with a subtle image of a laptop displaying a resume. The firm's logo, a stylized 'S' inside a square, is positioned on the left. The text is centered and uses a mix of white and gold colors. The headline is in a large, bold, gold font. Below it, two paragraphs of white text describe the firm's dedication to clients and its recognition by Law Firm 500. A call to action in white text provides an email address for applications. At the bottom, the phone number and website are displayed in a large, bold, white font. A small disclaimer at the very bottom states that the firm is responsible for the content and provides its headquarters address and the states where it is licensed.

 STANGE LAW FIRM^{PC}

Stange Law Firm, PC is looking to hire lawyers in their Oklahoma City & Tulsa Offices

Attorneys at Stange Law Firm, PC are dedicated to achieving the best possible results and helping individuals put their lives back together when they are facing a divorce, legal separation, a paternity action, or numerous other issues that affect families.

Law Firm 500 has recognized Stange Law Firm as one of the fastest growing law firms in the country. Opportunities include a competitive starting salary, signing bonus, an outstanding benefits package, employer-matched 401K after one year, paid time-off and other incentives.

To apply, send your resume, cover letter, references and writing sample to stangelawfirm@stangelawfirm.com.

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Stange Law Firm, PC is responsible for the content. Headquarters office: 120 South Central Avenue, Suite 450, Clayton, MO 63105. Kirk Stange is licensed in Missouri, Illinois and Kansas.



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75 Years of Impact

By Renée DeMoss and Candice Pace

THIS YEAR, THE OBF turns 75! We cannot think of a better way to celebrate our diamond anniversary than by focusing and looking back with you on our 75 years of impact. It is our goal during this milestone year to celebrate our birthday by describing how OBF grants, donors and grantees have made a difference through the \$17.5 million in grant and scholarship funding we have awarded.

We have big plans for our 75th year. First, we plan to make some changes in our Fellows giving programs to better emphasize the important partnership role our donors play. Second, we will be sharing stories and photos of people whose lives have been positively changed by OBF awards. Third, we will be highlighting the generous attorneys who helped shape the OBF and paved the way for the impactful work we are able to do today.

The OBF was created to improve the administration of justice and to bring the legal community together in philanthropy. When we all work



together, we have a much greater impact. We invite you to partner with us to advance the cause of justice in our 75th year and beyond:

- Attend our 75th Impact Event on Oct. 1, 2021 (if we can gather then)
- Request information about our new planned giving program – Legacy Partners for Justice
- Like and follow the OBF on Facebook, Instagram, LinkedIn and Twitter
- Share our impact stories through email and social media

For more information about donating, event sponsorships, event tickets and planned giving, contact Candice Pace at candicej@okbar.org.

Donate online at www.okbar-foundation.org/donate.

- Join one of our Partners Advancing Justice programs
- Increase your donation to our Partners for Justice program (previously Fellows)
- Donate to our 75 for 75 Campaign set for March – July 2021

Ms. DeMoss is the OBF executive director. Ms. Pace is the OBF director of development and communications.

History of OBF Timeline

Funding is key to impact. Recognizing the OBF's 75 Years of Impact is possible because forward-thinking lawyers throughout our history created sustainable funding for legal services and education.



Year Starts Off With Many Activities Planned

By April Moaning

MEMBERS OF THE YOUNG Lawyers Division have hit the ground running as we were eager to serve the community after months of lockdowns and travel limitations. Although we are still remaining cautious and compliant with all CDC, state and local guidelines, we are focused on ramping up our community involvement. As such, we have many exciting events scheduled for the upcoming months. Please mark your calendars, as you are both welcome and encouraged to take part.

HIGH SCHOOL MOCK TRIAL PROGRAM

I cannot think of a better way to encourage students to further explore their interest in the legal profession. It was during a high school Youth and Government competition that I discovered my love for the courtroom. It is exciting that life has come full circle, and I, along with fellow YLD members, now have an opportunity to positively impact the life of a young student as mine was impacted so many years ago. The qualifying rounds for this year's competition commenced on Feb. 2, and the semifinal rounds will occur Feb. 23-24.

LAW DAY

I am a firm believer in pouring into our youth. They are often full of new and innovative ideas; and we need them to take the reins after many of us retire from the practice of law. What better way to foster their creativity and one-on-one interaction with lawyers than to team up with the Law Day Committee?! YLD is working in conjunction with the Law Day Committee and providing volunteer services for Law Day events scheduled from late April through early May. We are most excited about viewing all of the creative artwork and essays submitted for the OBA Law Day Coloring, Art



Students present their case in the High School Mock Trial Program finals.



Judges select 2020 Law Day contest winners.



Assembled bar exam survival kits.

and Writing Contest. YLD board members span the entire state of Oklahoma, which is extremely helpful when it comes to connecting with a wide array of students. Please join us as we continue to travel to schools in the metro and rural communities to speak with students about a day in the life of a lawyer.

BAR EXAM SURVIVAL KITS

The first 2021 bar examination is scheduled for Feb. 23-24 in Oklahoma City. YLD members will meet on Saturday, Feb. 20, to assemble bar exam survival kits (BESKs) that include basic necessities bar exam takers may forget due to bar exam jitters. This year, we want to provide a bit of extra comfort and protection for the bar exam takers and have included hand sanitizer and masks (you can never have too many) in the BESKs.

DAY AT THE CAPITOL

Every March, YLD board members attend OBA Day at the Capitol in lieu of our March board meeting. The event will be held online this year on March 23 from 9:30 a.m. – noon. We cannot be effective advocates for our clients if we do not keep abreast of legislation. It is for this reason we make attendance at the Day at the Capitol a priority for our board. I encourage young lawyers across the state to log in to their computers, learn about pending legislation and hear from our legislators.

We would love for you to join in YLD activities and serve as a volunteer for any of the above events. Lawyers who have been in practice



From left Caroline Marie Shaffer, Dylan Erwin, Nathan Richter and Brandi Nowakowski represent the YLD at OBA Day at the Capitol in 2018.

10 years or less are automatically members of the division. Please feel free to reach out to any YLD board member if you are interested in participating. You'll find info about the YLD at www.okbar.org/yld. Cheers!

Ms. Moaning practices in Oklahoma City and serves as the YLD chairperson. She may be contacted at aprilmoaninglaw@gmail.com. Keep up with the YLD at www.facebook.com/obayld.

FOR YOUR INFORMATION



NEW JUDGE APPOINTED TO COURT OF CIVIL APPEALS

Judge Thomas E. Prince was appointed to the Court of Civil Appeals by Gov. Kevin Stitt on Dec. 18. His appointment fills the vacancy for District 5, Office 1, created by the retirement of Judge Ken Buettner, effective Dec. 31, 2020. Judge Prince has served as a district judge for Oklahoma County since 2012, where he has presided over more than 95 civil and criminal

jury trials. As a district judge, he was appointed by the Oklahoma Supreme Court to serve as presiding judge for the State Multi-County Grand Jury from 2016 to 2018. He was elected to serve as vice presiding judge for the 7th Judicial Administrative District from 2016 to 2018 and was elected to serve as the presiding administrative judge for Oklahoma and Canadian counties in 2019.

Before serving on the bench, Judge Prince practiced law for 29 years. From 1999 to 2012, he was a member of the Oklahoma State Election Board. He was also a member of the Standards Board of the U.S. Election Assistance Commission from 2009 to 2012. He earned his bachelor's degree from Southern Arkansas University in 1979 and his J.D. from the OCU School of Law in 1982.

LAWYERS ARE ESSENTIAL

When considering your eligibility for the COVID-19 vaccine, recall that Gov. Stitt's executive order from March 2020 included attorneys and accompanying administrative and support services as essential. Oklahoma lawyers have provided the necessary legal work their clients critically need during these challenging times and are continuing to do so. To sign up for a vaccine, visit vaccinate.oklahoma.gov.

MARK YOUR CALENDARS FOR DAY AT THE CAPITOL MARCH 23

Oklahoma lawyers, let your voices be heard! The OBA will host its annual Day at the Capitol Tuesday, March 23, virtually from 9:30 a.m. to noon. The agenda will feature speakers commenting on legislation affecting various practice areas, and there will also be remarks from the judiciary and bar leaders. Watch for more details soon at www.okbar.org/dayatthecapitol.



IMPORTANT UPCOMING DATES

Don't forget, the Oklahoma Bar Center will be closed Monday, Feb. 15, in observance of Presidents' Day. Also, be sure to docket the 2021 Solo & Small Firm Conference at the Choctaw Casino Resort in Durant June 10-12.

ASPIRING WRITERS TAKE NOTE

We want to feature your work on "The Back Page." Submit articles of 500 words or less related to the practice of law, or send us something humorous, transforming or intriguing. Poetry and photography are options too. Send submissions to OBA Communications Director Carol Manning, carolm@okbar.org.



LHL DISCUSSION GROUP HOSTS MARCH MEETING

"Ethical Obligations of Self and Other Colleagues" will be the topic of the March 4 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. remotely using BlueJeans. There is no cost to attend. Email debraj@okbar.org for login information.

NEW OBA BOARD OF GOVERNORS OFFICERS AND MEMBERS TAKE OATHS IN FIRST VIRTUAL BOARD SWEARING-IN CEREMONY

Nine new members of the OBA Board of Governors were sworn in to their positions by Chief Justice Richard Darby during a virtual event on Jan. 15.

Officers taking the oath were Michael C. Mordy, Ardmore, president; James R. Hicks, Tulsa, president-elect; and Charles E. Geister III, Oklahoma City, vice president. Sworn in to the Board of Governors to represent their judicial districts for three-year terms were Michael R. Vanderburg, Ponca City; Richard D. White Jr., Tulsa; Benjamin R. Hilfiger, Muskogee; and Kara I. Smith, at large, Oklahoma City. Sworn in to one-year terms on the board were Susan B. Shields, Oklahoma City, immediate past president and April J. Moaning, Oklahoma City, Young Lawyers Division chairperson.



JUDGE LEWIS CELEBRATES 30 YEARS ON THE BENCH

Oklahoma Court of Criminal Appeals Judge David B. Lewis celebrated 30 years of judicial service on Jan. 14, making him the longest-serving Black jurist in Oklahoma history. He began his judicial career in 1991, serving as special judge of Comanche County. He held that position until 1999, when he was appointed district judge of Comanche, Stephens, Cotton and Jefferson counties. He

served as chief judge of Comanche County in 2002. In August 2005, he was appointed to serve on the Oklahoma Court of Criminal Appeals by Gov. Brad Henry and was sworn in as the first Black presiding judge. He served as presiding judge from 2013 to 2014 and his second term 2019 to 2020.

Judge Lewis formerly served as president of the Comanche County Bar Association, president of the Oklahoma Judicial Conference and is an OBF Fellow. He is also a Fellow of the American Bar Foundation and a member of the American Bar Association. He was selected as a member of the Class of 2008 Henry Toll Fellowship Program of the Council of State Governments and was inducted into the Order of the Owl at the OU College of Law in 2017. He serves on the Board of Visitors of the OU College of Law and is co-chair of the OBA Bench and Bar Committee. Judge Lewis received his J.D. from the OU College of Law in 1983. A video tribute to him is online at www.okbar.org/celebrating-30-years-judge-david-b-lewis.

ON THE MOVE

Judge Deborah A. Reheard was sworn in as special judge for Okmulgee County. Judge Reheard has practiced law for 33 years, is a former municipal judge in Eufaula and Checotah and the first female attorney elected to the Judicial Nominating Commission and second longest-serving member in its 50- plus year history. She also served as OBA president in 2011.

Judge Beth Stanley was sworn in as associate district judge for Cleveland County. She was appointed to the position by Gov. Kevin Stitt on Nov. 23, following the retirement of Judge Stephen Bonner. Previously, Judge Stanley was a private practitioner and an assistant district attorney for Cleveland County.

Isaac B. Helmerich has been named shareholder at the Tulsa office of Hall Estill. **Jared R. Ford** has been named shareholder of the firm's Oklahoma City office. Mr. Helmerich joined the firm in 2018 and practices in the areas of business and corporate law, estate planning, commercial transactions, complex commercial litigation and insurance company liquidations. Mr. Ford joined the firm in 2017 and practices in the areas of commercial real estate, working capital, asset-based and acquisition financing, complex business transactions and general real property law, with an emphasis on the energy sector.

John A. McCaleb was elected to serve as president of the Oklahoma City law firm of Fenton, Fenton, Smith, Reneau & Moon.

Christopher Crouch was named partner of the firm. Mr. McCaleb represents businesses and insurance carriers before the Oklahoma Workers' Compensation Court and Commission and represents businesses in retaliatory discharge claims pending before the Oklahoma Workers' Compensation Commission. Mr. Crouch practices in the areas of workers' compensation, medical fee schedule disputes and labor and employment.

Brett Burch has joined the Oklahoma City law firm of Miller Dollarhide. He will focus his practice on litigation. Previously, he practiced in mineral acquisition and title examination, creditor-debtor litigation and general litigation. Mr. Burch received his J.D. from the OCU School of Law in 2015.

Jason Blose has joined the Edmond law firm of McAlister, McAlister, Baker & Nicklas PLLC. Previously, Mr. Blose was in-house counsel at Chesapeake Energy Corp. He received his J.D. from the Penn State Dickinson School of Law in 2009.

Hope D. Weber was named partner of the Oklahoma City law firm of DeBee Clark PLLC. Ms. Weber practices primarily in the areas of tax-exempt organizations, tax controversies and in-house matters for nonprofit corporate clients.

Kim Bailey was named general counsel for the Oklahoma Insurance Department by Oklahoma Insurance Commissioner Glen Mulready. She began her new role Jan. 19. Previously, Ms. Bailey served as general counsel and chief operating officer at the Oklahoma State Department of Health.

Michael L. Barkett and **Rusty Smith** have established Smith Barkett Law Group, a trial law firm with offices in Tulsa and Muskogee. The firm focuses on catastrophic injuries, insurance bad faith, medical malpractice, wrongful death, semi-truck litigation, business litigation, criminal defense and civil defense. Mr. Barkett received his J.D. from the OU College of Law in 1994. Mr. Smith received his J.D. from the OU College of Law in 2002. Firm members include **Daniel Medlock**, **James E. Walters** and **Larry D. Moore**.

KUDOS

Louis W. Bullock was presented the Rogers State University Constitution Award by Judge Stephanie K. Seymour during a Dec. 15 ceremony. The award was established in commemoration of the 200th anniversary of the adoption of the U.S. Constitution and has been presented annually since 1987 to an Oklahoman who has demonstrated a strong commitment to the principles of the Constitution through their work. Mr. Bullock, who received his J.D. from the OU College of Law in 1975, has defended Oklahomans' civil rights for the past 45 years.

Kevin R. Kemper was awarded the 2020 Marian Opala First Amendment Award by Freedom of Information Oklahoma during the organization's annual awards ceremony on Dec. 9. Named for former Oklahoma Supreme Court Justice Marian Opala, this award recognizes individuals who have promoted education about or protection of the individual rights guaranteed by the First Amendment.

Gary S. Chilton earned his certificate of completion from the Mediating Disputes Course at the Program on Negotiation at Harvard Law School. Mr. Chilton was one of 34 participants from around the world studying Harvard's understanding-based model of mediation. He practices at the Oklahoma City law firm of Holladay & Chilton PLLC.

Dakota C. Low was awarded the 2020 Outstanding Young Lawyer Award by the Oklahoma Association for Justice. The OAJ is the oldest trial lawyer's organization in the U.S. Mr. Low practices litigation at the Oklahoma City law firm of Miller Dollarhide.

Judge Jack McCurdy was awarded the Honorable Donald L. Deason Judicial Award by the OBA Criminal Law Section. The annual award is presented to an Oklahoma or 10th Circuit judge who is known for character, dedication and professional excellence.

Sen. Kay Floyd received the State Regents for Higher Education Distinguished Service Award during a virtual presentation Jan. 6. She was recognized for her leadership and support of higher education in Oklahoma during the 2020 legislative session.

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:

Lauren Rimmer
Communications Dept.
Oklahoma Bar Association
405-416-7018
barbriefs@okbar.org

Articles for the April issue must be received by March 1.

IN MEMORIAM

Alvin R. Bates of Edmond died Dec. 8. He was born Sept. 15, 1955, in McKenzie, Tennessee. **Mr. Bates enlisted in the U.S. Air Force in 1974 and concluded his service in the fall of 1978 after graduating second in his class from Arkansas State University.** While working as a CPA, he attended night law school and received his J.D. from the OCU School of Law in 1987. After many years of legal practice, he developed real estate, formed the North American Tie and Timber and became a contributing partner to Funds for Learning LLC.

Cecil T. Beeson of Tulsa died Nov. 3. He was born Aug. 2, 1930. **Mr. Beeson served in the U.S. Navy.**

Herbert F. Boles of Midland, Texas, died Dec. 11. He was born Dec. 29, 1926, in Canadian, Texas. In 1944, Mr. Boles graduated from Lubbock Senior High School, where he held the state record for the fastest time running the low hurdles. **He joined the U.S. Naval Reserves after his first semester of college and was honorably discharged in 1945.** While serving as vice president of exploration and production for APCO Oil Co. in Oklahoma City, he received his J.D. from the OU College of Law in 1968. Mr. Boles was past president of the Oklahoma City Association of Petroleum Landman and was awarded the Top Pioneer Award from the Permian Basin Petroleum Pioneers in 2017.

William H. Bruckner of Houston died July 21. He was born Sept. 10, 1938, in Parkersburg, West Virginia. Mr. Bruckner received his J.D. from the TU College of Law in 1964. He worked for the National Labor Relations Board until 1978, when he founded one of the nation's first labor and employment boutiques, Tate, Bruckner & Sykes LLP in Houston. He continued to practice and work as managing partner of the law firm, now Bruckner Burch PLLC, until his retirement in 2010. Memorial contributions may be made to the Bruckner Scholarship Fund at St. Francis Episcopal Day School.

James Bryant Conant of Tulsa died Dec. 18. He was born Sept. 2, 1966, in Inglewood, California. In 1988, he received his bachelor's degree from Colorado State University and his J.D. from the TU College of Law in 1994. Mr. Conant began his legal career at Oden Insurance Services of Tulsa and later moved into private law practice as a litigation attorney. Most recently, he was a senior insurance analyst at Brown & Brown Insurance of Oklahoma. Memorial contributions may be made to the American Diabetes Association or the Juvenile Diabetes Research Foundation.

David Anthony Davis of Midwest City died Dec. 13. He was born Feb. 10, 1981, in Oklahoma City. **Mr. Davis served in the U.S. Army in 1999.** Upon returning home, he worked for EMSA, was a reserve for the Oklahoma County Sheriff's Office and opened his own business, Resolutions Nutrition. After earning his master's degree from OU, Mr. Davis received his J.D. from the OCU School of Law in 2019.

Mathew M. Dowling of Oklahoma City died Dec. 11. He was born Nov. 25, 1931, in Oklahoma City. **During his senior year of high school, Mr. Dowling enlisted in the U.S. Marine Corps.** After receiving an honorable medical discharge, he received his bachelor's degree from OU and his J.D. from the OU College of Law in 1957. He founded Educational Electronics Inc. and Math-U-Matic Inc. before opening his own law practice in 1975. Toward the end of his career, he became well known for his pardon and parole work and spent many hours visiting inmates in prisons across Oklahoma. Memorial contributions may be made to the Crossings Community Church Prison Ministry.

Eliot Ross Feiler of Oklahoma City died Dec. 29. He was born Oct. 9, 1956, in Brooklyn, New York. Mr. Feiler moved to Norman to attend OU and after graduating, received his J.D. from the OCU School of Law in 1980. He was a founding member of the Oklahoma City Commercial Law Attorneys Association and a long-standing member of the Kiwanis Club.

Fred Peek Gilbert of Tulsa died Dec. 13. He was born Nov. 5, 1937, in Tulsa. After earning his bachelor's degree from Harvard University, he received his LLB from Harvard Law School in 1965. **Mr. Gilbert served three years in the U.S. Army and later retired after 30 years in the reserves as a lieutenant colonel, an airborne ranger and a member of the Special Forces.** He also practiced law for over 50 years and had several criminal appeal cases that reached the 10th Circuit. Memorial contributions may be made to the Innocence Project.

Malcom Pearce Hammond of Tulsa died Feb. 11, 2020. He was born May 8, 1941, in Tulsa. While receiving his bachelor's degree at OU, Mr. Hammond was a member of Phi Delta Theta and participated in the ROTC program. **After graduating in 1963, he went to officer and airborne training at Fort Benning, was an infantry platoon leader at Fort Hood and completed his service as a first lieutenant at Fort Sill in 1966.** He received his J.D. from the TU College of Law in 1972 and opened a private family law practice, where he actively practiced until May 2019. Memorial contributions may be made to the First Tee of Tulsa or the Tulsa Zoo.

Max D. Hochanadel of Sammamish, Washington, died April 3. He was born July 1, 1934, in McPherson, Kansas. Mr. Hochanadel received his bachelor's degree from St. Mary's Seminary and University, master's degree from Loyola University Chicago and J.D. from the TU College of Law in 1966. Upon graduation, he worked as a prosecutor at the Tulsa District's Attorney's Office for two years. He was then hired by the National Labor Relations Board, where he worked until retiring in 1994. Memorial contributions may be made to Heifer International.

Karen L. Howick of Saint Clair, Michigan, died March 9. She was born March 29, 1945, in Detroit. While visiting a friend in Oklahoma, she decided to begin a career as a landman before choosing to study the law. Ms. Howick received her J.D. from the OCU School of Law in 1978. She broke through the restrictive norms and fought for women's equality throughout her legal career.

John C. Mackey of Lawton died Dec. 20. He was born Oct. 23, 1944, in Austin, Texas. Mr. Mackey received his J.D. from the OU College of Law in 1969. **After law school, he was commissioned into the U.S. Army. In 1970, he was awarded the Army Commendation Medal for Meritorious Service and promoted to the rank of captain. Upon his discharge from the Army in 1971, he was awarded the Bronze Star.** He was a member of the Comanche County Industrial Development Authority and the Lawton Kiwanis Club and was legal counsel for the Comanche County Memorial Hospital Authority Board of Trustees. Memorial contributions may be made to the Ella Mackey Starduster Foundation Inc.

James W. Merz of Norman died Oct. 5. He was born March 27, 1936. Mr. Merz received his J.D. from the TU College of Law.

Patrick John Morgan of Arcadia died Dec. 1. He was born Aug. 20, 1938, in Antigo, Wisconsin. **After receiving his bachelor's degree, Mr. Morgan entered the U.S. Marine Corps and was commissioned April 1961. In 1966 and 1967, he was deployed to Vietnam, where he commanded Battery I of the 11th Marine Brigade. He was awarded the Bronze Star with Combat V for Valor and the Navy Commendation Medal. He retired as a lieutenant colonel in April 1981.** Mr. Morgan received his J.D. from the Columbus School of Law at the Catholic University of America in Washington, D.C., in 1982 and joined the Oklahoma County District Attorney's Office. In 1999, he was appointed to the

Oklahoma Pardon and Parole Board and eventually became chairman. Memorial contributions may be made to Freedom Service Dogs of America in Englewood, Colorado.

Coy Dean Morrow of Miami died Nov. 29. He was born Oct. 16, 1942, in Hollis. Mr. Morrow received his J.D. from the OU College of Law in 1968. He joined the Miami law firm of Wallace and Owens, now Morrow, Watson and James, where he practiced law for 50 years. He practiced primarily in litigation and argued several cases before the Oklahoma Supreme Court. Mr. Morrow initiated the formation of the Miami Education Enrichment Organization and was a member of the First United Methodist Church.

Roger Dennis Patterson of Mustang died Dec. 7. He was born Sept. 13, 1944, in Sayre. **Mr. Patterson served in the U.S. Army, doing two tours in Vietnam, where he flew helicopters.** He received his J.D. from the OU College of Law and did land title research. Memorial contributions may be made to the Mustang United Methodist Church or the veteran's charity of your choice.

Dennis Macarthur Quish of Roswell, New Mexico, died July 24, 2018. He was born Feb. 7, 1942, in Boston. **Mr. Quish served in the U.S. Air Force at Walker Air Force Base in Roswell.** Upon retiring from American Airlines after 30 years, he received his J.D. from the TU College of Law in 1993.

Susan Leslie Shelton of Tulsa died Sept. 13. She was born Oct. 17, 1953, in Roswell, New Mexico. She received her J.D. from the TU College of Law in 1985.

Winston Lee Watson of Austin, Texas, died May 30. He was born Dec. 17, 1946, in Waco, Texas. **Mr. Watson was a corporal in the U.S. Marine Corps and was honored as the outstanding man of his training platoon upon completing boot camp at Parris Island, South Carolina.** He received his J.D. from the TU College of Law in 1983 and worked as a corporate attorney. Memorial contributions may be made to the American Cancer Society.

Helen Kennedy Westerman of Oklahoma City died July 31. She was born March 15, 1929, in Houston. Ms. Westerman received her J.D. from the OCU School of Law in 1962.

Joseph D. Westlake of Tulsa died Nov. 30, 2019. He was born June 11, 1932. Mr. Westlake trained at the University of Kansas in the ROTC program as a civil engineer officer and was selected as the battalion commander for his final graduation ceremony. **He served in the U.S. Army.** Upon his return, he received his J.D. from the TU College of Law in 1963. Memorial contributions may be made to the Tau Beta Phi Engineering Honor Society.

Thomas E. Williams of Choctaw died Dec. 21. He was born May 31, 1958, in Boise City. Mr. Williams attended the Air Force Academy and later earned a bachelor's degree from OSU in

1981. He received his J.D. from the OCU School of Law in 1993 and worked as a land and title attorney before retiring in 2016. Memorial contributions may be made to the Muscular Dystrophy Association.

Victor C. Wood Jr. of Hutchinson, Kansas, died Nov. 15. He was born Sept. 13, 1942, in Oklahoma City. Mr. Wood served in the U.S. Army in Vietnam. After graduating from OSU, he received his J.D. from the OU College of Law in 1969. For over 30 years, he worked as a workmen's compensation and injury attorney. He was a member of Mensa International and the National Rifle Association.



Harry Arthur Woods Jr.

Feb. 15, 1941 – Jan. 11, 2021

OBA President 2004



Harry A. Woods Jr. came into the world on Feb. 15, 1941, born to Harry and Viada (Young) Woods in his grandmother's kitchen in Hartford, Arkansas. He spent his childhood on the family farm in Monroe, Oklahoma, helping to raise cattle and small crops, surrounded by his five younger siblings. Harry's life-long curiosity, intelligence and boundless energy took him to OSU, where he was named "Outstanding Graduating Senior" and to New York University School of Law on a Root-Tilden Scholarship. He worked for White & Case Law Firm in New York City after graduating from NYU. He then served four years in the Army Judge Advocate General's Corps at Ft. McClellan, Alabama.

His heart always belonged to Oklahoma, so he was thrilled to join Crowe & Dunlevy in Oklahoma City in 1971. He enjoyed an immensely satisfying career and was proud to serve as president of the Oklahoma Bar Association in 2004, its centennial year. Harry's greatest joy was his family. He and his wife, Carol (Meschter), were married for nearly 54 years and had two children, Arthur and Beth Ann (Graham). He also had six grandchildren – Lauren Lee and Eliot

and Nicholas Woods, joined by Robert (Laura), Rosemary (Miguel) and Andrew Lee; and two great-grandchildren – Calvin and Max Lee.

Harry developed many important friendships during his law practice and through his wide range of hobbies and interests, which included windsurfing, jogging, rock climbing, biking, hiking, photography, travel, eating with The Good Times Gang Dinner Group and flying his beloved Bonanza. For the past few years, his book club was especially important to him. He was a member of the First United Methodist Church in Edmond, where he participated in the Faith Experience Sunday School class and held various positions. In lieu of flowers, donations may be made to the First United Methodist Church in Edmond, Oklahoma Indian Legal Services Inc. or a charity of your choice.

2021 ISSUES

MARCH

Marijuana and the Law

Editor: Virginia Henson
virginia@vhensonlaw.com
Deadline: Oct. 1, 2020

APRIL

Law Day

Editor: Carol Manning

MAY

African American

Legal History

Editor: Melissa DeLacerda
melissde@aol.com
Deadline: Jan. 1, 2021

AUGUST

Personal Injury

Editor: Cassandra Coats
cassandracoats@leecoats.com
Deadline: May 1, 2021

SEPTEMBER

Bar Convention

Editor: Carol Manning

OCTOBER

Tax Law

Editor: Tony Morales
tony@stuartclover.com
Deadline: May 1, 2021

NOVEMBER

DUI

Editor: Aaron Bundy
aaron@bundylawoffice.com
Deadline: Aug. 1, 2021

DECEMBER

Elder Law

Editor: Luke Adams
ladams@tisdalohara.com
Deadline: Aug. 1, 2021

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1ST PACIFIC REPORTER (1883-1931), beginning with Volume 17, approximately 284 books, \$975. Call 918-261-2955 or email CrainLawOffice@yahoo.com.

POSITIONS AVAILABLE

GENERAL COUNSEL. The Oklahoma Health Care Authority (OHCA) is the State Medicaid Agency for the State of Oklahoma. OHCA is searching for a General Counsel. The ideal candidate will direct the legal function for OHCA in Federal and state court involving litigation of cases against the OHCA regarding the Medicaid program. The candidate will provide legal advice to agency representatives and the Board of Directors regarding compliance with standards set by the Centers for Medicare and Medicaid Services (CMS), Open Records Act, open meetings laws and others. Must be an active member of the State Bar of Oklahoma. Other relevant legal and/or administration experience, as well as significant background in health care administration, health care insurance, and/or state or federal health care programs preferred. Salary based on education and experience. For more information and to apply visit www.jobapscloud.com/OK/sup/bulpreview.asp?R1=201222&R2=UNCE&R3=434

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

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ASSISTANT DISTRICT ATTORNEY POSITION. Tim R. Webster District Attorney for District 19 is seeking an Assistant District Attorney for the Durant office. This is a four-attorney office, and the primary functions of this position will be juvenile cases and general criminal assignment. Salaried position with full state benefits. Please send resume, references, and cover letter to: Tim R. Webster, 117 North Third, Durant, Oklahoma 74701 or email to Timothy.Webster@dac.state.ok.us.

POSITIONS AVAILABLE

EDINGER LEONARD & BLAKLEY, PLLC, an Oklahoma City AV and US News Best Law Firm focused on complex commercial litigation, is currently expanding and diversifying its practice areas. ELB is seeking established attorneys and practice groups in the areas of health care, bankruptcy, estate planning, real estate, banking and business litigation. ELB is located in the Classen Curve area in the newly remodeled NBC Bank Building, with underground parking. ELB offers a low overhead alternative with no personal lease obligations in a highly professional setting. **Inquiries should be directed to KBlakley@ELBAttorneys.com or 405.848.8300. All inquiries will be confidential.**

NORMAN BASED LAW FIRM IS SEEKING SHARP, MOTIVATED ATTORNEYS for fast-paced transactional work. Members of our growing firm enjoy a team atmosphere and an energetic environment. Attorneys will be part of a creative process in solving tax cases, handle an assigned caseload and will be assisted by an experienced support staff. Our firm offers health insurance benefits, paid vacation, paid personal days and a 401K matching program. No tax experience necessary. Position location can be for any of our Norman, OKC, or Tulsa offices. Submit resumes to Ryan@PolstonTax.com.

PART-TIME ADMINISTRATIVE POSITION IN SMALL NW OKC LAW OFFICE that focuses on business, probate and estate planning. Position will handle administrative functions of the law office, document drafting and related activities including secretarial functions. Must have command of MS Outlook and Word and ability to multitask. Position requires driving personal vehicle for office errands. Previous office experience required. Opportunities to advance for right fit. Send resume and brief cover letter to sjr@shawnjroberts.com, reference this post.

ESTATE PLANNING LAW FIRM of Hallman & Associates, P.C. seeking senior attorney with 5-30 years' experience in Estate and Trust Administration and Probate. Tired of the big firm hours? We take a team approach to serving clients. Salary commensurate with experience, health insurance, paid vacation, personal days and a 401K matching program. Confidential resume submissions: dhallman@hallmanlawoffice.com.

POSITIONS AVAILABLE

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 tenand one-half week Military Law course at the Judge Advocate General's Legal Center on the beautiful campus of University of Virginia in Charlottesville, Virginia. This is not a full-time employment position.

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 CPT Rebecca Pettit, email Rebecca.l.pettit.mil@mail.mil or call 405-228-5052.**

POSITIONS AVAILABLE

SMITH BARKETT LAW GROUP, a plaintiff-centric complex litigation law firm with offices in Tulsa and Muskogee, is seeking multiple attorneys with 3-10 years of experience in civil litigation to serve in senior associate or of-counsel capacities. The firm focuses on catastrophic injuries, insurance bad faith, medical malpractice, wrongful death, semi-truck litigation, business litigation, criminal defense, civil defense, and virtually all other areas of practice. Our compensation structure is unique and competitive and offers wonderful opportunities for growth in a fun and relaxed atmosphere. Successful candidates will bring experience in research, writing, discovery management, depositions, and/or jury trials. Please provide a cover letter and resume to Michael Barkett and Rusty Smith via email to legalhire1202@gmail.com.

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.

TULSA AV RATED LAW FIRM SEEKING ASSOCIATE with excellent litigation, research, and writing skills, 3-5 years' experience for general insurance defense, long term care defense, professional negligence defense practices. Must have litigation experience for all phases of Pretrial discovery and trial experience with research and writing skills also preferred. Send replies to Box M, Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

SHARE THE LOVE *Volunteer*

The need for legal assistance is great, especially during this pandemic. Please consider becoming involved in these OBA programs that benefit Oklahomans throughout our state.

OKLAHOMA FREE LEGAL ANSWERS

- Give free legal advice to Oklahomans who meet financial guidelines from your computer or mobile device
- Civil questions only are posted to the website Oklahoma.freelegalanswers.org
- You choose which questions you want to answer
- Lawyers advise anonymously
- Offers maximum flexibility on the amount of time you contribute and time of day – from the convenience of your home or office
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Sign up at Oklahoma.freelegalanswers.org

OKLAHOMA LAWYERS FOR AMERICA'S HEROES

- Program launched to provide free legal advice and assistance to those who have served this country and are unable to hire an attorney
- Services range from answering a few questions to going into courtrooms across the state to fight for those who have fought for our freedoms
- Program Coordinator Ed Maguire matches the volunteer attorney with the veteran or servicemember needing help, who have met program guidelines
- Goal is to ensure that just as no one should be left behind on the battlefield, no one who has honorably served this country and has insufficient financial means should be left behind in the legal system or denied access to justice
- Greatest need is for family law practitioners

Sign up at okbarheroes.org

Questions? Email heroes@okbar.org





UPCOMING WEBCASTS

February 17

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Copyright Series: The Exclusive Rights
(and Revenue) You Get With Music**
Presented by CLEseminars.com

February 17

**Lawyers Gone Wild: The Ethical Dangers
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*Presented by MESA CLE
with Sean Carter, Humorist at Law*

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Networking Professionally and Ethically
Presented by CLEseminars.com

February 20

CLE Gameshow Three-Pack
*Presented by MESA CLE
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February 23

**Don't Be an Outlaw:
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*Presented by MESA CLE
with Sean Carter, Humorist at Law*

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Ben Franklin on Ethics
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Lincoln on Professionalism
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February 27

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A silhouette of a person standing on a mountain peak with their arms raised in triumph. The background is a bright sunset or sunrise over a range of mountains. The sky transitions from a deep blue at the top to a warm orange and yellow near the horizon where the sun is setting or rising.

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