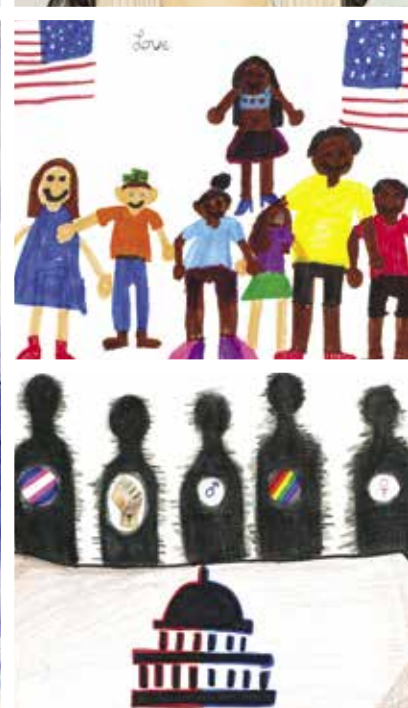
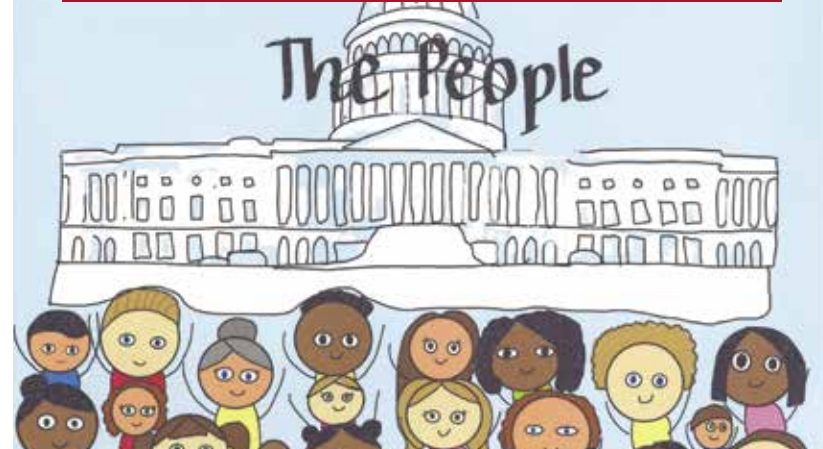


ALSO INSIDE: Probate Venue • Mock Trial Program • JNC Elections  
Use of a Revocable Living Trust as an Alternative to Probate



# LAW DAY 2021







# UPCOMING WEBCASTS

**Wednesday, April 21**  
**Sue Unto Others As You Would Have Them Sue Unto You**  
*Presented by MESA CLE*  
*with Sean Carter, Humorist at Law*

**Thursday, April 22**  
**The Tiger King Trial - Murder for Hire: The Prosecution of Joseph Maldonado-Passage**  
*Presented by CLEseminars.com*

**Saturday, April 24**  
**The 2021 Ethy Awards**  
*Presented by MESA CLE*  
*with Sean Carter, Humorist at Law*

**Wednesday, April 28**  
**It's Not the Fruit, It's the Root: Getting to the Bottom of Our Ethical Ills**  
*Presented by MESA CLE*  
*with Sean Carter, Humorist at Law*

**Wednesday, April 28**  
**Cross By Camera: How to Become a Master of REMOTE Cross-Examination**  
*Presented by CLEseminars.com*

**Thursday, April 29**  
**"When There are Nine" Gender Bias in the Legal Profession**  
*Presented by CLEseminars.com*

**Friday, April 30**  
**Cheers to a Mindful New Year: How to Overcome Substance Abuse Disorder and Avoid Legal Ethics Issues**  
*Presented by CLEseminars.com*

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Oklahoma Bar Association  
Lawyers Helping Lawyers  
Assistance Committee



# THE OKLAHOMA BAR Journal

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April 2021 • Vol. 92 • No. 4

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Editor: Carol Manning

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# Take Advantage of the Lawyers Helping Lawyers Assistance Program

By Mike Mordy

**I TRY TO ATTEND THE LAWYERS HELPING** Lawyers Assistance Program monthly committee meeting as often as possible because I believe it is one of the best programs the OBA has to offer. At a recent meeting, I was reminded how compassionate and eager the committee members are to offer help to their fellow attorneys.

I read a bar journal article written by Deanna Harris and Ben Rogers about Oklahoma City attorney Bob Looney, who started Lawyers Helping Lawyers in the early '70s. I was acquainted with Bob and knew him to be a legal giant in the legal community, but it was not until 2002 when he and I were at the same men's Christian retreat that I learned of Bob's compassion for his fellow man. This compassion has continued with the good works of the LHL Assistance Program that Bob helped start.

LHL offers, as part of the benefits to its members, six free counseling sessions with an independent counselor, which is totally confidential. LHL, through the Oklahoma Bar Association, entered into a new contract beginning Jan. 1, 2021, with A Chance to Change to provide six free counseling sessions for behavioral health or addiction disorders.

A Chance to Change is a counseling entity that began in Oklahoma City in 1979 by offering drug and alcohol addiction treatment but has responded to societal changes by adding counseling for gambling, early drug and alcohol education and intervention, stress management, depression and grief counseling, to name a few.

Two counselors from A Chance to Change attended the LHL committee meeting to introduce themselves and to talk about the services being offered. I recognized one of the counselors and set up a conference with her the next day to discuss the organization and what services were being offered. When I talked to the counselor the next day, we realized we were previously acquainted.

My friend with whom I reconnected is very sharp and well-educated with various master's degrees and a doctorate degree but very humble and unassuming as to her education and credentials.

She is very excited to be helping our association and to offer counseling. She is very compassionate and told me that it is not just about alcohol and chemical dependency, but her organization wants to offer counseling to those who are stressed or working too many hours or need help with setting boundaries with clients. My friend told me, at the end of our conversation, that she wants to "really work at growing this program to serve attorneys in Oklahoma."

I think we all need various degrees of counseling, and I hope all our members will avail themselves of the Lawyers Helping Lawyers Assistance Program or direct someone you see or hear of who might benefit from it, even if it is to help someone with an issue that may appear to be mundane. All services offered through the Lawyers Helping Lawyers Assistance Program are strictly confidential, including counseling through A Chance to Change. You can reach A Chance to Change anytime, 24 hours a day, through the LHL helpline at 800-364-7886. Tell them you are a member of the Oklahoma Bar Association and would like to speak with a counselor. Traveling to meet with a counselor is not a factor because sessions can take place virtually.

You can also participate in monthly LHL discussion groups, which are small group discussions intended to give leaders and participants the opportunity to ask questions, provide support and share information. You can find the date and the time of these meetings, which are currently remote, on the OBA website at [www.okbar.org/lhl](http://www.okbar.org/lhl). Please take advantage of this program and the free counseling, because as my friend told me, "Counseling is a gift you give yourself to be the best version of yourself."



A handwritten signature in dark ink, appearing to read "Mike Mordy".

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# THE OKLAHOMA BAR Journal

Volume 92 — No. 4 — April 2021

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# Law Day 2021: Advancing the Rule of Law – Pandemic Edition

*By Ed Wunch*

**WHAT A YEAR IT HAS BEEN!** On March 9, 2020, I submitted my Law Day article for the April bar journal. On March 12, I was honored to host our student contest winners at the Supreme Court Courtroom at the Capitol with Chief Justice Gurich and 2020 OBA President Susan Shields. And then, on March 16, 2020, the Supreme Court issued its first emergency directive. In just a month, my article in the April bar journal became quite anachronistic.

While many Law Day events in 2020 were canceled or changed, what did not change was the Oklahoma Bar's commitment to serving the public. For Law Day in 2020, we moved Ask a Lawyer to a virtual format, answering many questions by email. I am incredibly grateful to the over 100 attorneys who volunteered their time to answer the public's questions in very uncertain times. I am especially grateful to Kathryn Bell and Dan Crawford for their time and leadership as we moved to the email-only format only a month before the event. However, 2020's Ask A Lawyer was only one of countless examples we've seen of colleagues meeting the increased demand and unique needs of their clients and the public and advancing justice in their work.

That brings us to 2021's Law Day theme: "Advancing the Rule of Law Now." As articulated by Will Gunn, 2021 National Law Day Chair for the ABA, the rule of law is the foundation of America.<sup>1</sup> When so much of our daily lives is changed by a pandemic, we turn to our fundamental institutions for reassurance that we will get through this. The rule of law is what gives us faith in these institutions. However, the rule of law is not self-sustaining. It requires each of us to fight for justice and against injustice wherever we see it.

As we all continue that fight, the OBA Law Day Committee voted to move the OBA's celebrations of Law Day to this fall. This should give us the opportunity to hold more traditional Law Day events, hopefully returning

to seeing many of you in person as we go back to holding phone banks at OETA studios and answering the public's questions as we recover from the pandemic. We are currently targeting a late September or early October date, and we hope to announce that date soon.

While we continue to plan 2021's Law Day activities, I am incredibly grateful for the support of Chief Justice Richard Darby and President Mike Mordy as we continue Oklahoma's long tradition of honoring Law Day through educating the public and giving back to our communities.

### CONTESTS AND ACTIVITIES

The OBA received entries from 1,288 students from across the state focused on this year's theme, "Advancing the Rule of Law Now." We built on last year's success receiving many entries from the Oklahoma City and Tulsa areas, as well as many other communities around the state. This is also a testament to the amazing teachers we have around the state who have



**LAW ★ DAY 2021**  
**ADVANCING THE**  
**RULE OF LAW NOW**





By moving the *Ask A Lawyer* TV show and statewide free legal advice to the fall, the Law Day Committee hopes to return to in-person phone banks in OETA studios in Oklahoma City and Tulsa.

done a wonderful job supporting Oklahoma's children during these unusual times.

While an in-person recognition of the student winners is not possible this year, we will be holding a virtual winner's ceremony with President Mike Mordy and Chief Justice Richard Darby, and first-place winners will receive their plaques. Additionally, I am grateful to the Appellate Practice Section for their sponsorship of the Law Day Contest, as we award approximately \$4,000 in total to 54 winners from around Oklahoma. See the names of all the winners and their winning entries online at [www.okbar.org/lawday](http://www.okbar.org/lawday) or in this issue.

### GET INVOLVED

One of the many benefits of moving Law Day to this fall is that we have *TWO* opportunities to celebrate Law Day this year. The

ABA will still celebrate Law Day around May 1, and several county bar associations will still hold events in May and June. This is in addition to the statewide Law Day celebrations we are planning this fall, which will include the return of *Ask A Lawyer* on OETA.

To stay up to date on Law Day activities we are planning for this fall, I encourage you to visit our website at [www.okbar.org/lawday](http://www.okbar.org/lawday), where we will post updates later this year.

Until then, if you are looking for ways to volunteer your legal services, I encourage you to volunteer through two programs supported by the OBA:

- Free Legal Answers is a national program supported by the ABA. Oklahoma attorneys volunteer their time to answer



civil legal questions from low-income Oklahomans via the Free Legal Answers website. There is no minimum time commitment, and you are not committed to providing anything beyond one answer. The ABA Standing Committee on Pro Bono and Public Service annually recognizes those attorneys who answer more than 50 questions through the program. Find out more at <https://oklahoma.freelegalanswers.org>.



supporting this program, or find out more, visit <https://okbarheroes.org/volunteer>.

As always, I am honored to be able to support the great volunteer work of OBA members across the state. If you have ideas on how to improve Law Day or want more information, please contact me directly at [ed.wunch@laok.org](mailto:ed.wunch@laok.org).

- Lawyers for America's Heroes is an OBA program to provide pro bono legal advice and assistance to qualifying veterans, retirees, active service members, guard members and reserve members. Since 2010, hundreds of Oklahoma lawyers have helped thousands and thousands of members of our military through the Heroes program. To join your colleagues in

#### ABOUT THE AUTHOR



Ed Wunch is a staff attorney with Legal Aid Services of Oklahoma, Inc. He serves as the OBA's 2021 Law Day Committee chair. He is a 2013 graduate of the University of California, Irvine School of Law.

#### ENDNOTE

1. American Bar Association, *Law Day 2021: Advancing the Rule of Law Now*. [www.youtube.com/watch?v=8corPWv79Xo](https://www.youtube.com/watch?v=8corPWv79Xo).

## COUNTY BAR LAW DAY EVENTS

### ***Pushmataha County***

The Pushmataha County Bar Association will host Call A Lawyer on May 6 from 5:30 - 7:30 p.m. Oklahomans can call 580-298-5082 for free legal advice. Lawyers volunteering will have a wide range of knowledge.

### ***Tulsa County***

The Tulsa County Bar Association is embracing the theme "Advancing the Rule of Law Now," in which every person is treated equally under the law and that no one is above the law. The TCBA's celebration is two-fold this year. First, the Tulsa community is commemorating 100 years since the Tulsa Race Massacre. Bar members are encouraged to attend those events remembering the injustice, lives, economic loss and devastation of a community. Their Law Day celebration is also a call to action

because attorneys share the responsibility to promote the rule of law – answering the call to defend liberty and pursue justice.

Presented by the Tulsa County Bar Foundation, a virtual symposium and Law Day presentation will be held April 30, beginning at 9 a.m. Topics of the two sessions will be "Avoiding Unintentional Exclusivity: How the Language We Use Matters (Even When We Don't Mean It That Way)" and "Let's Talk About IT: Avoiding Micro-Aggressions and Managing Implicit Bias." The Law Day presentation will feature the announcements of the winners of the annual Liberty Bell Award, Brunton-Will CLE Award and Sandra Day O'Connor Award. Plus, there will be a special presentation from keynote speakers Phil Armstrong and Hannibal Johnson, from the 1921 Tulsa Race Massacre Centennial Commission. Go to [www.TulsaBar.com](http://www.TulsaBar.com) for more information.

*Send details about your county Law Day event to [LawDay@okbar.org](mailto:LawDay@okbar.org). Information will be posted to the Law Day website.*





# "Thank you" is not enough.

The Oklahoma Lawyers for America's  
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assistance to those who have honorably  
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# Contest Winners From Across the State

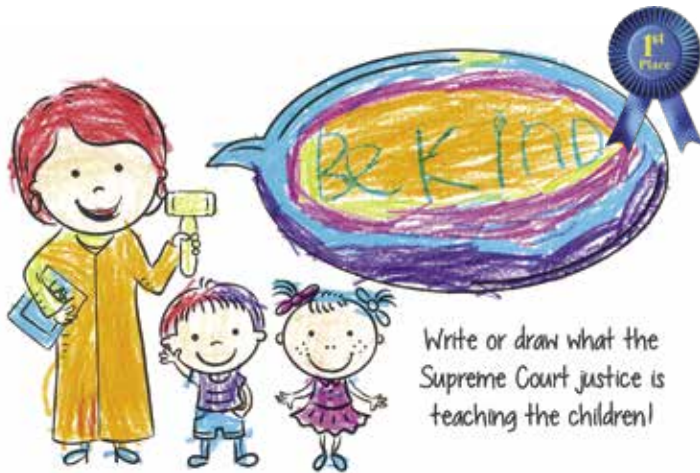
**T**HE OBA LAW DAY COMMITTEE would like to thank Oklahoma educators, students and their families for participating in the 2021 Law Day Contest. This year, nearly 1,300 students from across the state entered the contest.

First- through 12th-grade students demonstrated their knowledge of the history and concepts of the theme through essays and multimedia art. Pre-K and kindergarten students were given a choice of coloring activity pages related to the theme, allowing them to show off their budding creative and writing abilities. For both elementary and secondary students, the contest gave them an opportunity to explore how the rule of law is the foundation of American rights and liberties.



**Hannah Delgado**  
Grand Prize  
Eleventh Grade Art  
Ardmore High School,  
Ardmore





Write or draw what the Supreme Court justice is teaching the children!

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

Law Day is a public community service of the Oklahoma Bar Association. Visit [www.okbar.org/lawday](http://www.okbar.org/lawday) for more information.



1

The rule of law ensures equality and fairness for everyone.

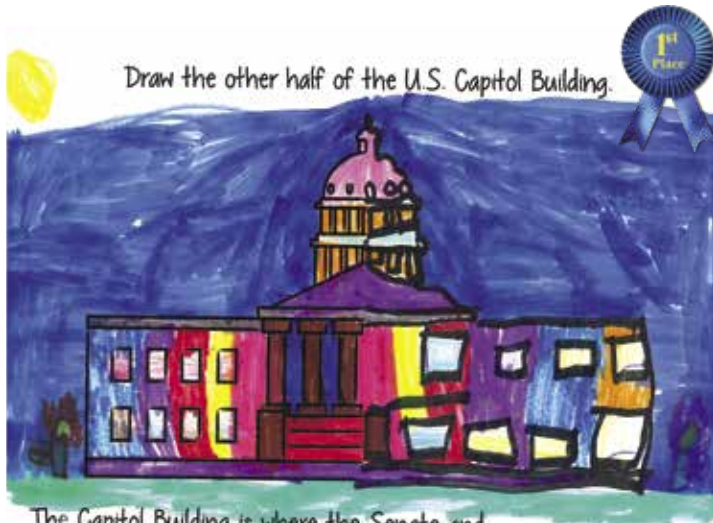


Draw toppings for the pizza. Everyone has a right to an equal slice of pizza!



Law Day is a public community service of the Oklahoma Bar Association. Visit [www.okbar.org/lawday](http://www.okbar.org/lawday) for more information.

2



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

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

Law Day is a public community service of the Oklahoma Bar Association. Visit [www.okbar.org/lawday](http://www.okbar.org/lawday) for more information.



3

The rule of law ensures equality and fairness for everyone.



Draw toppings for the pizza. Everyone has a right to an equal slice of pizza!



Law Day is a public community service of the Oklahoma Bar Association. Visit [www.okbar.org/lawday](http://www.okbar.org/lawday) for more information.

4

**1. Brecklyn Smith**  
First Place  
Pre-K Coloring  
Flower Mound Public School  
Lawton

**2. Finn Carson**  
Second Place  
Pre-K Coloring  
Flower Mound Public School  
Lawton

**3. Emma Brielle Duarte**  
First Place  
Kindergarten Coloring  
Jackson Elementary School  
Pauls Valley



**4. Zoe Fletes**  
Second Place  
Kindergarten Coloring  
Covenant Community School  
Stillwater

5

## Laws Give us Equality



Laws are important because they keep life fair. All children in America can go to school and learn. This is because our Constitution requires that "all kids be given equal educational opportunity no matter what their race, ethnic background, religion, or gender, or whether they are rich or poor citizen or non-citizen."

See the full entry at [www.okbar.org/lawday](http://www.okbar.org/lawday).

6

## Laws are for safety.

Laws are like rules at school, but they are for many people. The state for Oklahoma has laws to keep everyone safe. An important law everyone should obey is to stop at stop signs. It protects people that cross the street and people who are in cars not get hurt. I am glad laws are passed to keep us safe. Police help remind drivers that everyone should follow our state's laws.



7



**5. Xylia Lozano Ramirez**  
First Place  
First Grade Writing  
Watonga Elementary School  
Watonga



**6. Libby Wigington**  
Second Place  
First Grade Writing  
Watonga Elementary School  
Watonga



**7. Jocelyn Russell**  
First Place  
First Grade Art  
Covenant Community School  
Stillwater





The constitution is important because it was made in 1787. The people that wrote it was the government back then only white men could vote and that wasnt fair for all people Then after a while all people could vote in then that was fair.

8

See the full entry at [www.okbar.org/lawday](http://www.okbar.org/lawday).

The Constitution is important because Founding Fathers 1787 List of people 1st 3 words rules are important because you don't have to fight and you don't have to be mean and they all was help you and they bill of rights The highest law nickname in the United States of America preamble 1st part every people

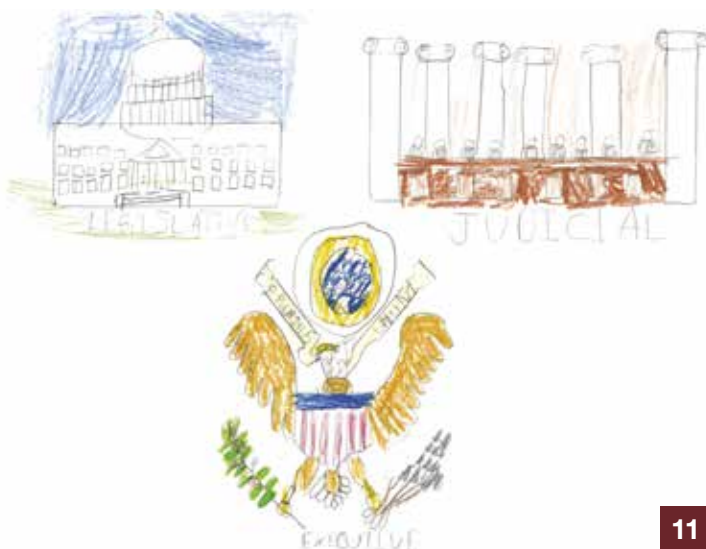
9

See the full entry at [www.okbar.org/lawday](http://www.okbar.org/lawday).

Love



10



11



**8. Rylee Humphries**  
First Place  
Second Grade Writing  
Lincoln Elementary School  
Pryor

**9. Melody Anderson**  
Second Place  
Second Grade Writing  
Lincoln Elementary School  
Pryor



**10. Lannyn Clinesmith**  
First Place  
Second Grade Art  
Leedey Public Schools  
Leedey



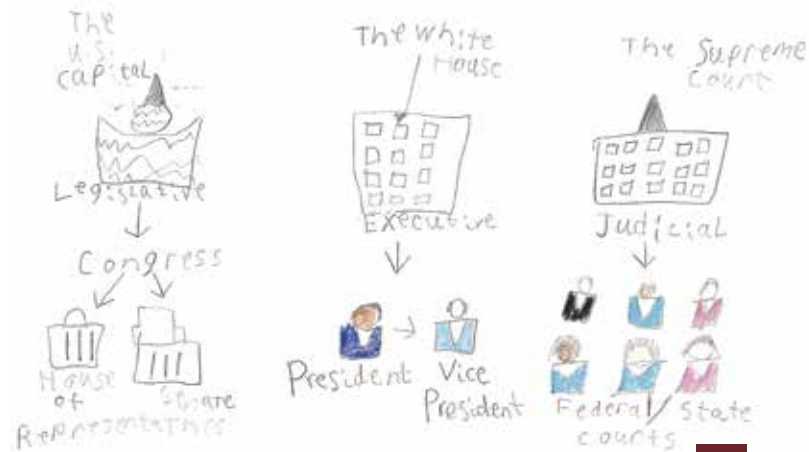
**11. Luke Kauffman**  
Second Place  
Second Grade Art  
Regent Preparatory  
School of Oklahoma  
Tulsa

13

The Legislative Branch writes bills. The legislature can declare war and they can impeach the president. They can over ride the president's veto. Legislatures biggest job is writing bills/laws.

See the full entry at [www.okbar.org/lawday](http://www.okbar.org/lawday).

## United States Constitution

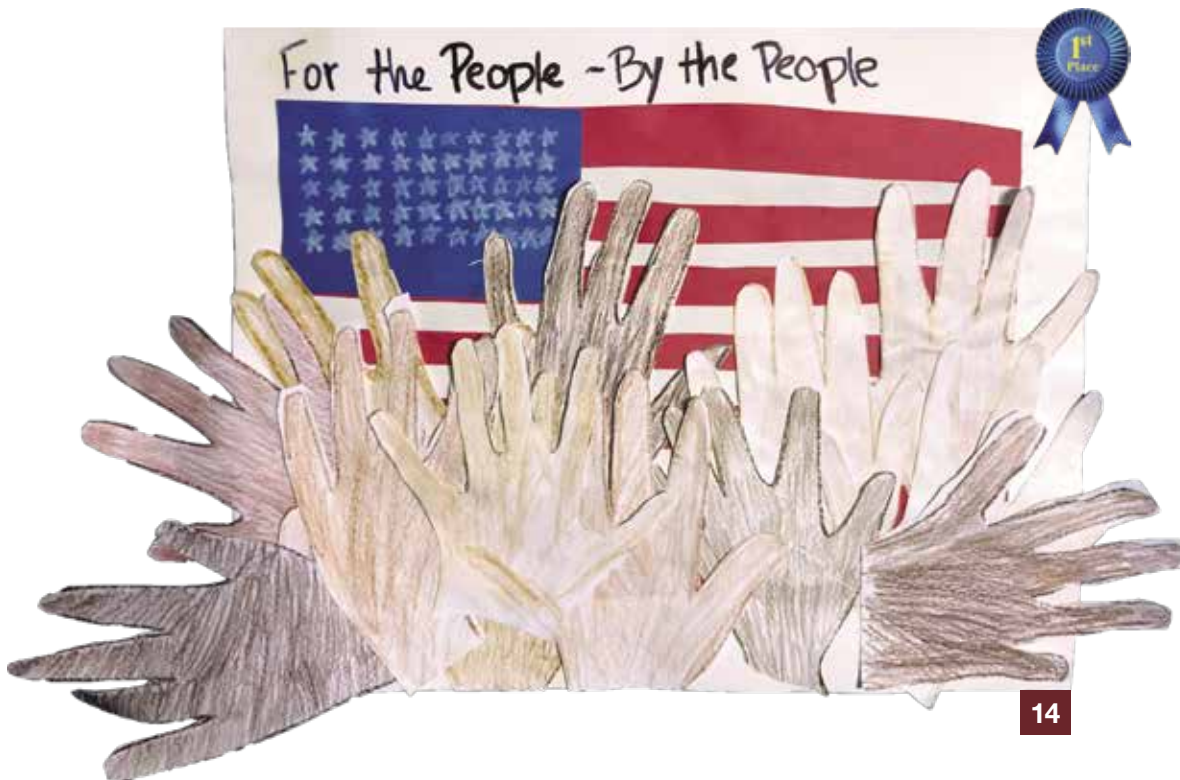


15



The Oklahoma Legislature is people who represents you and decide on laws. A legislature job is first make a law and also discuss on bills than vote on bills than request bills. Read the full entry at [www.okbar.org/lawday](http://www.okbar.org/lawday).

12



14



**12. Carlee Dry**  
First Place  
Third Grade Writing  
Lincoln Elementary School  
Pryor



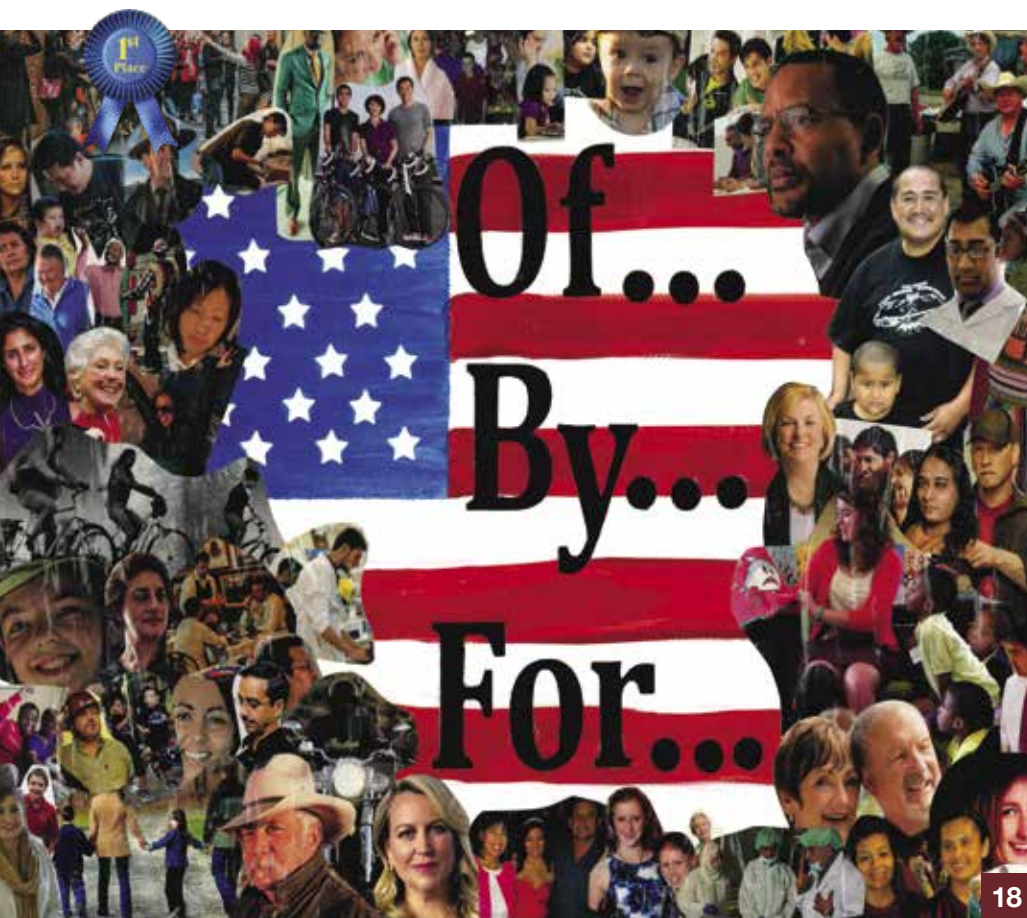
**13. Boston Wallace**  
Second Place  
Third Grade Writing  
Jackson Elementary School  
Pauls Valley

**14. Isabelle Van Pelt**  
First Place  
Third Grade Art  
Covenant Community School  
Stillwater



**15. Aspen Boggs**  
Second Place  
Third Grade Art  
Leedey Public Schools  
Leedey





## THE IMPORTANCE OF LAWS

It is important for people to respect the law because laws are designed to stop arguments and disagreements between people. Laws create boundaries for all people to follow. When the laws are followed, people stay safe, the land stays clean, and people are happy. People that do not follow the laws are not happy because they usually have a lot of people angry with them. People that do not follow the law usually steal, kill, and destroy the property of others. If all people would respect the law all the time, the world would be safe because nothing bad would ever happen. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*

## WHY IS IT IMPORTANT FOR PEOPLE TO RESPECT THE LAW? WHY IS IMPORTANT FOR LAWS TO BE FAIR?

It is important for people to respect the law because the laws of our country were made to protect us. If people do not respect the law, they will not obey the law, and they could get a ticket, wind up in jail, get hurt, or even die. People can get really upset about things that happen, but that does not make it okay for them to break laws.

*Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*



**16. Joshua Kuehl**  
First Place  
Fourth Grade Writing  
Covenant Community School  
Stillwater



**17. Elijah McDaniel**  
Second Place  
Fourth Grade Writing  
Covenant Community School  
Stillwater



**18. Sophie Buchanan**  
First Place  
Fourth Grade Art  
Russell Babb Elementary School  
Harrah



**19. Cael Gensman**  
Second Place  
Fourth Grade Art  
Covenant Community School  
Stillwater



22



Every law starts with an idea (Rifkin, 2020). For example, a company was pouring waste into a freshwater pond. People liked to swim in the pond, and the waste was not good for them or the animals that lived there. So a woman had an idea. She decided that the company needed to stop pouring waste into their pond. She contacted her Congressman, and he thought that it was a good idea too. Then the idea became a bill. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*

20

## THE ROLES OF CONGRESS, THE PRESIDENT, AND THE SUPREME COURT IN THE LAWMAKING PROCESS

21

When the Founding Fathers created our Constitution, they wisely chose a system of checks and balances, so no one possessed too much power. The Constitution sets up three branches of government: the Executive Branch, the Legislative Branch, and the Judicial Branch, each having power over each other. The bicameral Legislative Branch, or Congress, makes the laws. The Judicial Branch, under the Supreme Court, the highest court in the land, interprets the laws and decides if they are fair. The Executive Branch executes, or carries out, the laws. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*



23



**20. Maggie Kershen**  
First Place  
Fifth Grade Writing  
Homeschool  
Norman



**21. Hannah Kauffman**  
Second Place  
Fifth Grade Writing  
Regent Preparatory  
School of Oklahoma  
Tulsa



**22. Camille Lomoro & Logan Halferty**  
First Place  
Fifth Grade Art  
Bishop John Carroll  
Cathedral School  
Oklahoma City



**23. Hannah Kauffman**  
Second Place  
Fifth Grade Art  
Regent Preparatory  
School of Oklahoma  
Tulsa





## SIMILAR DIFFERENCES

24

A government plays a very important role in a country. They provide the parameters for citizens to live, laws to be governed by and help maintain a civil society as defined by that government. The important roles that will be compared between the U.S. and Mexico is the system of government, the role of a citizen in selecting government, and the role of a citizen in selecting the lawmaking process with the system of government. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*



26



Have you ever wondered how Dominica's government works? It is pretty different from the United States but it's similar in some ways. In this essay we will compare and contrast the way the United States and Dominica's government systems work, how the officials are elected, and finally how each country makes their laws. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*

25



27



**24. Kara Brown**  
First Place  
Sixth Grade Writing  
Newman Middle School  
Skiatook



**25. Trey Vaughn**  
Second Place  
Sixth Grade Writing  
Newman Middle School  
Skiatook



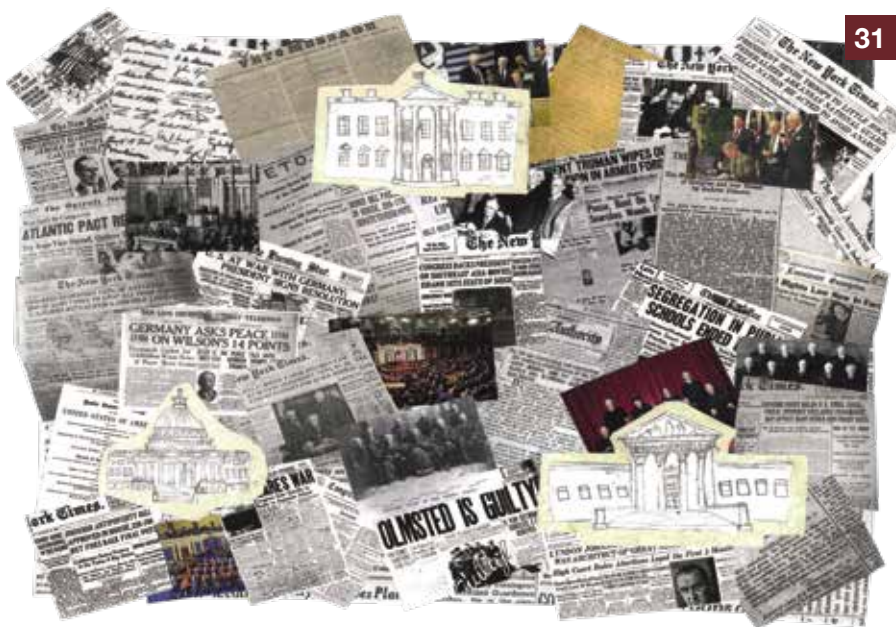
**26. Nihal Zehra Erez**  
First Place  
Sixth Grade Art  
Dove Science Academy  
High School  
Oklahoma City



**27. Ashlie Nguyen**  
Second Place  
Sixth Grade Art  
Independence Intermediate  
School  
Yukon



30



31



## KAZAKHSTAN AND THE UNITED STATES: THEIR SYSTEM OF GOVERNMENT AND ROLE OF CITIZENS IN LAWS AND ELECTIONS

28

Not everybody has heard of the Republic of Kazakhstan. I learned of it when my dad went there to teach English for a few summers. Although it may seem to have many similarities to the United States according to its Constitution, what is actually practiced is very different. Kazakhstan's government is set up in a way that is similar yet different to the United States. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*

## JAPAN - VS - THE UNITED STATES

29

Japan's system of Government, Japan's constitution was promulgated in 1946 and came into force in 1947, superseding the Meiji Constitution of 1889. It differs from the earlier document in two fundamental ways: the principle of sovereignty and the stated aim of maintaining Japan as a peaceful and democratic country in perpetuity. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*



**28. Mary Kauffman**  
First Place  
Seventh Grade Writing  
Regent Preparatory  
School of Oklahoma  
Tulsa

**29. Taloa Scott**  
Second Place  
Seventh Grade Writing  
Calera Middle School  
Calera



**30. Alisha Nguyen & Sophia Hart**  
First Place  
Seventh Grade Art  
Bishop John Carroll  
Cathedral School  
Oklahoma City



**31. Mary Kauffman**  
Second Place  
Seventh Grade Art  
Regent Preparatory  
School of Oklahoma  
Tulsa





34

See the video at [www.okbar.org/lawday](http://www.okbar.org/lawday).



In the United States of America, the Constitution is the “supreme law of the land,” as the Supremacy Clause of Article VI states. The Constitution is the main law of the United States, and as such takes precedence over state law and state constitutions. If the Constitution is the law of our country, then judges are the arbiters who protect the law, interpret, and follow it. Every person, no exceptions, is subject to the law, and judges must have a deep understanding of the Constitution as part of their professions. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*

32

### CASE NOTES BY BLAB, YOUR FAVORITE SECRETARY SHRIMP

The date is March 6, 1819 and I do not want to write these case notes. However, due to my occupation as a lawyer’s secretary, it seems I have no choice. Hello, my name is Blab, and I will be walking you through the happenings inside the Shrimp Supreme Court regarding the “McConchshell v. Oceano” case. You, a human, may know it as “McCulloch V. Maryland.” This marine metaphor will illustrate the power of the Federal government over the states, as well as show you how ‘the rule of law presides over citizens. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*

33



35



**32. Lucy Kershen**  
First Place  
Eighth Grade Writing  
Homeschool  
Norman

**33. Eleanor McDermott**  
Second Place  
Eighth Grade Writing  
Monte Cassino Middle School  
Tulsa



**34. Allison Turner & Divya Thomas**  
First Place  
Eighth Grade Art  
Monte Cassino Middle School  
Tulsa



**35. Emma Rasor**  
Second Place  
Eighth Grade Art  
Monte Cassino Middle School  
Tulsa



### LADY LAW

36

Lady Law standing tall,  
 she will answer justice's call.  
 Wearing a blindfold, she cannot  
 see,  
 and will therefore decree with  
 honesty.  
 White, black, or even blue,  
 she will never physically see you.  
 She will only ever observe your  
 sins,  
 but for these, she will not judge  
 your kin.  
 Read the full poem at [www.  
 okbar.org/lawday](http://www.okbar.org/lawday).



### RULE OF LAW

The law that keeps our country  
 in line,  
 Will keep our people safe and fine.  
 Breaking the law can be bad,  
 Try to stay calm and don't get mad.  
 We must be accountable  
 to laws that are publicly  
 promulgated,  
 As well to those that are  
 independently adjudicated.  
 We must be accountable, so we  
 do not sin,  
 We cannot let the devil win.  
 Read the full poem at [www.  
 okbar.org/lawday](http://www.okbar.org/lawday).

39



**36. Ruby Galazin**  
 First Place  
 Ninth Grade Writing  
 Mingo Valley Christian School  
 Tulsa



**37. Nehemiah Auxer**  
 Second Place  
 Ninth Grade Writing  
 Mingo Valley Christian School  
 Tulsa



**38. Isabella Foster**  
 First Place  
 Ninth Grade Art  
 Mingo Valley Christian School  
 Tulsa



**39. Joshua Gertz**  
 Second Place  
 Ninth Grade Art  
 Mingo Valley Christian School  
 Tulsa





I consider myself incredibly lucky to have parents who are very accepting of people who are different from them. I was taught from an early age that people who are attracted to the same gender are normal and should not be treated differently. My mom taught me acceptance because she was raised that way and my dad taught me acceptance because of the diverse types of people he has had to work with during his time in the military. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*

40

On a chilly winter's evening in January of 2021, I was bewildered by the news on my television. The news displayed images, and even videos of an angry mob attacking Capitol hill. I was in shock how they could let men bearing confederate flags and that had the mindset of overturning the election into the building. I was surprised because multiple times in 2020 the National Guard was called to protect Capitol Hill in response to peaceful protests from Black Lives Matter. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*

41

**40. Billie Parker**  
First Place  
Tenth Grade Writing  
Lawton High School  
Lawton

**41. Nathan Gibson**  
Second Place  
Tenth Grade Writing  
Lawton High School  
Lawton

42



**42. Emma Page**  
First Place  
Tenth Grade Art  
Cushing High School  
Cushing

**43. Cami Akins**  
Second Place  
Tenth Grade Art  
Roland Public Schools  
Roland

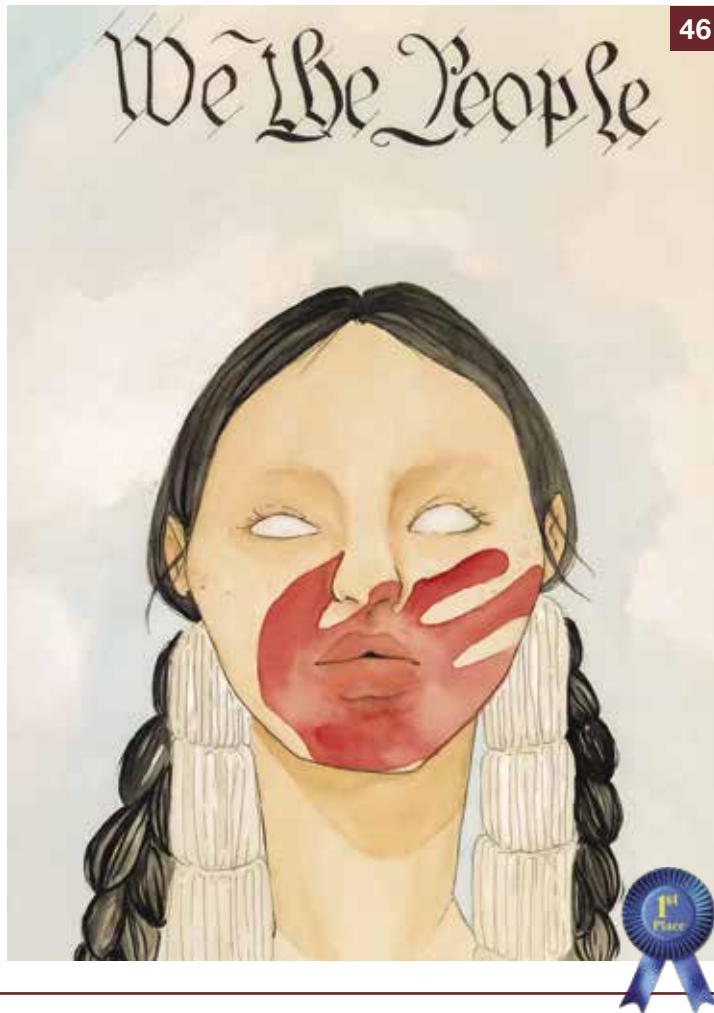
## SHARED RESPONSIBILITIES OF LAW

The founding fathers knew that dividing the power of law between multiple branches of government would be very important to the survival of their new country. They knew, from looking back at the history of government, that placing too much power in one branch could be detrimental to the success of the nation. So, they divided the power among the legislative, the executive, and the judicial branches. Each branch is responsible for a substantial part of lawmaking and enforcement within the U.S. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*

45



47



46



## FREEDOM AND EQUALITY

The United States is a unique country with a unique government. The founding fathers wanted a way that the government could improve its system as the country continued to change. Adding amendments is how the United States adjusts to what is needed in the country and make all the states comply with the laws. These amendments can have a huge impact on American's everyday lives but are also needed to protect citizen's rights. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*

44



**44. Jenna Scott**  
First Place  
Eleventh Grade Writing  
Pawnee High School  
Pawnee



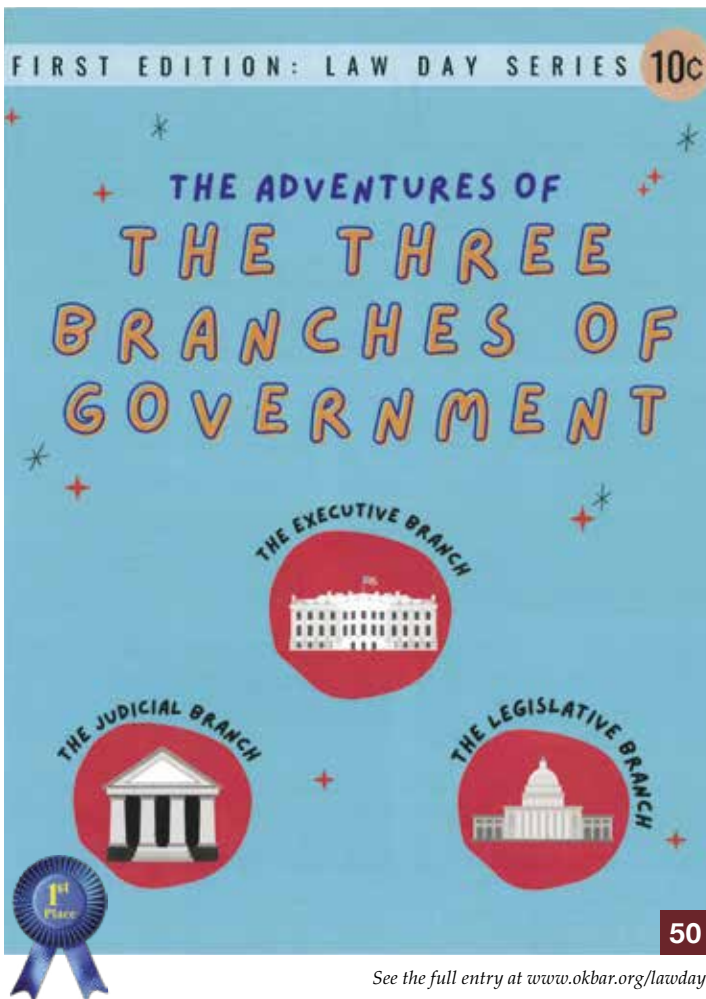
**45. Sutton Burnett**  
Second Place  
Eleventh Grade Writing  
Pawnee High School  
Pawnee



**46. Jazmyn Ragle**  
First Place  
Eleventh Grade Art  
Ardmore High School  
Ardmore

**47. Khoa C. Nguyen**  
Second Place  
Eleventh Grade Art  
Union High School  
Tulsa





See the full entry at [www.okbar.org/lawday](http://www.okbar.org/lawday).



## LAW DAY

Martin Luther King Jr.,  
Born on January 15, 1929,  
Was a role model and leader  
For people of all races

He stood up for his race  
And spoke for black people  
Telling everyone that he had a dream  
That whites and blacks will unite  
*Read the full poem at [www.okbar.org/lawday](http://www.okbar.org/lawday).*



It's 1966, people are twisting and shouting to popular artists like The Mamas & the Papas, The Beatles, and The Beach Boys, which are shooting to the top of the Billboard Hot 100. Lyndon B. Johnson is president, color TV has arrived and the favorite shows of the year are Batman and Star Trek. Miniskirts are the latest fashion, and NASA has launched Lunar Orbiter 1, which was the first U.S. spacecraft to orbit the moon. However, a strong, deep tremble is beginning to shake beneath the core of the nation. *Read the full essay at [www.okbar.org/lawday](http://www.okbar.org/lawday).*



**48. Josie Moore**  
First Place  
Twelfth Grade Writing  
Gore High School  
Gore

**49. Ricky Powers**  
Second Place  
Twelfth Grade Writing  
Kiefer High School  
Kiefer



**50. Palmer Strubhar**  
First Place  
Twelfth Grade Art  
Piedmont High School  
Piedmont

**51. Madeline Schutts**  
Second Place  
Twelfth Grade Art  
Calera High School  
Calera

## Law Day History

**LAW DAY WAS CONCEIVED BY THE LATE HICKS EPTON**, a Wewoka attorney who served as Oklahoma Bar Association president in 1953. Before he became president, Mr. Epton served as head of the public relations committee, and in 1951, he launched one of the most important public relations programs ever undertaken by the OBA: Know Your Liberties – Know Your Courts Week. This was one of the last weeks of April dedicated to educating the public about the legal system and celebrating the liberties we have as Americans.



The Know Your Liberties – Know Your Courts Week spread across the nation and earned for the association two Freedom Foundation awards.

In preparation for the second annual Know Your Liberties – Know Your Courts Week, OBA President John Halley encouraged all lawyers to participate.

“Every American should know more about his liberties under the law and more about the American court system,” Halley said. “The more they know about them, the more they will appreciate the American way of life. It is the responsibility of the lawyer to see that the

citizens of this country are given the opportunity to be informed. The goal is worth the effort and if the system fails or the liberties are lost, the responsibility will rest heavily on the legal profession.”

In 1958, President Dwight D. Eisenhower established Law Day nationally by presidential proclamation. On this occasion, he said, “It is fitting that the American people should remember with pride and vigilantly guard the great heritage of liberty, justice and quality under law. It is our moral and civil obligation as free men and as Americans to preserve and strengthen that great heritage.”

The OBA continued its celebration of Know Your Liberties – Know Your Courts Week, but after much hesitation, the decision was made to give up the name in 1960. The change was made only to take advantage of the extensive national publicity given to Law Day through the efforts of the American Bar Association.

The first of May was set aside in 1961 by a Joint Resolution of Congress as a “special day of celebration by the American people in appreciation of their liberties and the reaffirmation of their loyalty to the United States of America” and as an occasion for “rededication to the ideals of equality and justice under laws.”

Since the first observance, the American Bar Association, the national voluntary organization of the legal profession, has acted as the national sponsor of Law Day. State, county and local bar associations organize individual projects throughout the country. Many national organizations also recognize Law Day, including the National Education Association, National Governors’ Association, United States Conference of Mayors, Boy Scouts and Girl Scouts of America and civic and services clubs such as Rotary International and Kiwanis International.



**Hicks Epton** was born in Arkansas and earned his law degree at OU in 1932. He moved to Wewoka where he

practiced law for 40 years. He served four years as chairman of the board of Admissions of the Oklahoma Bar, was president of the Oklahoma Bar Association in 1953 and of the Oklahoma Bar Foundation from 1954 through 1956.





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# Pro Bono: More Important Now Than Ever

By Katie Dilks



OKLAHOMA  
ACCESS TO JUSTICE

## Pro Bono Opportunity Portal

Looking for legal assistance? [Click here.](#)

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**COVID-19 Relief Opportunities**



**Children & Families Opportunities**



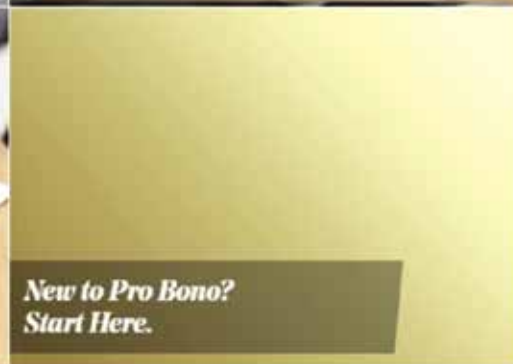
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### Who you can help

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-  Domestic & Sexual Violence Survivors
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### What you can do

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-  Litigation
-  Policy, Advocacy, & Research



---

**O**KLAHOMANS' LIVES AND WORK HAVE BEEN UPENDED BY COVID-19, and those in the legal field are no exception. Over the past year, we have adjusted to the "new normal" of videoconference proceedings, emailed court filings, remote networking and yes, even remote pro bono work. One unique challenge of the COVID-19 crisis has been that so much of our neighbors' suffering has happened behind closed doors. With so much hidden hardship, it is crucial for Oklahoma's legal community to find ways to continue to step up and serve those in need across the state.

Although Law Day will look different this year, opportunities exist right now to help from the comfort and safety of your home or office. Last summer, the Oklahoma Access to Justice Foundation launched OKProBono.org, a statewide pro bono portal that connects legal volunteers with ways to help across the state. The dozen organizations participating in the portal have been thoughtful and creative about finding ways to use volunteers that meet our current circumstances, offering remote pro bono options such as helping prepare immigration forms, conducting virtual mediations, offering brief advice and conducting intake interviews (perfect for law students!).

OKProBono.org was created with the support of the Oklahoma Bar Foundation and the George Kaiser Family Foundation and at the request of the Access to Justice Foundation's legal services partners. With our state feeling the

acute, early impact of COVID-19, these providers predicted the need for increased help and knew an effective solution would look a little different from normal. That need has largely materialized, and legal services partners are now facing a year with higher rates of consumer and medical debt cases, divorce, domestic violence, eviction and foreclosure – not to mention the disaster-related legal needs that tend to arise every year across the state, starting as early as the statewide winter storm in February.

Now is the time for Oklahoma lawyers to recommit to the professional standard of providing pro bono legal services to those in need. Law firms and legal departments should set pro bono standards for their attorneys and legal staff. Solo and small firm attorneys should be supported and celebrated for the role they play in providing access to justice. The need is greater than ever, and we now have a robust infrastructure

to connect volunteers with the organizations working with low-income Oklahomans. If this past year has proven one thing, it is that we truly can survive and achieve great things when we work together.

In October, the Oklahoma Access to Justice Commission passed a resolution recognizing and thanking Oklahoma pro bono volunteers as part of the National Celebration of Pro Bono. The Access to Justice Foundation reiterates that genuine gratitude and is here to be an active partner for any and all seeking to create or expand their pro bono practice.

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#### **ABOUT THE AUTHOR**



Katie Dilks is executive director of the Access to Justice Foundation in Tulsa.

# Estate Planning, Probate and Trust Section Note: Probate Venue (aka Jurisdiction) Is Important: *Fulks* Overrules *Walker*

By Kraettli Q. Epperson

**T**HERE IS A SPECIFIC statute in Title 58: Probate Procedure, Chapter 1: Jurisdiction, Section 5: Venue of Probate Acts, that identifies the proper county (venue) for filing a probate or administration case in the district courts in Oklahoma. This probate venue statute contains a five-part list that is divided between 1) decedents who are Oklahoma residents when they die, regardless of where they die (58 O.S. §5(First))<sup>1</sup> and 2) decedents who are not Oklahoma residents at the time of their death but leave a part of their estate in Oklahoma (58 O.S. §5(Second)-(Fourth)), with a category for “all other cases” for other non-resident circumstances (58 O.S. §5(Fifth)).<sup>2</sup>

## ERRONEOUS RULING IN WALKER

A 2018 Oklahoma Court of Civil Appeals case (*Walker*) held that the state Legislature had (in 1941) eliminated the need to determine which county was the proper venue and declared that – for any person dying while a resident of Oklahoma – venue was proper in any county in the state of Oklahoma, without regard to the county of residence of the decedent.<sup>3</sup>

It is easy to understand that, for the convenience of the probate attorney and their client, it would be useful if the selection of the venue (i.e., county) for filing a probate action in an Oklahoma District Court could be made at the discretion of the attorney. The attorney could take cases involving a deceased person whose residence was located across the state but file the proceeding in the county where the attorney’s law office is located. This use of a local venue would save time and fees for the client by eliminating travel time. An attorney would presumably be more willing to take probate cases that would be unappealing if filed and prosecuted outside the county of their office. This option would also expand the pool of attorneys available to the client. In addition, a client (e.g., personal representative) would usually find it convenient to be able to attend hearings in the county where they reside instead of traveling across the state to the county of the decedent’s last residence.

The *Walker* decision relied on a perceived change made in the probate venue statute (58 O.S. §5) whereby the original numbers for each of the subsections in the statute were changed from a *written* to

a *numerical* designation (i.e., from “FIRST,” “SECOND,” etc., to “1,” “2,” etc.). The *Walker* COCA decision concluded such “numbering” change had occurred and reflected a “legislative” intent in 1941 to alter the process for determining the proper venue, so any county became acceptable.<sup>4</sup>

## FULKS OVERRULING WALKER

However, this same issue – as to which county was the proper jurisdiction and venue for a probate proceeding – was recently addressed in 2020 by the Oklahoma Supreme Court in the case of *Fulks*.<sup>5</sup>

In the *Fulks* decision, the Oklahoma Supreme Court held: 1) there was no *legislative* change in the priority “numbering” of the subsections of the probate venue statute (such numbering change was made unilaterally by the *publisher*), 2) the probate venue selection priorities never changed and 3) *Walker* was expressly “overruled.”<sup>6</sup>

## CONTINUING PROPER PROBATE VENUE FOR A RESIDENT OF OKLAHOMA

So, if *Walker* was overruled, what was the existing law – before *Walker* – regarding 1) which county



was the proper venue for the conduct of a probate – in particular for a decedent who was a resident of Oklahoma at the time of death – and 2) the consequences if the wrong venue is selected and judgments and orders are issued?

The case law that guided such (pre-*Walker*) question is found in a case discussed in *Walker* and then discarded because the underlying statute had allegedly been changed. The court in *Walker* admitted, “The Oklahoma Supreme Court held in *Presbury*, 1923 OK 127, at ¶7, 213 P. at 312, that wills must be proved, and letters testamentary or of administration granted, first in the county of which the decedent was a resident at the time of his death.”<sup>7</sup>

The 1923 *Presbury* case provided: “Where the decedent is a resident of the state, the court having *jurisdiction* to probate his will is specifically fixed by this statute in the county court of the county in which the decedent was a resident at the time of his death, and such *jurisdiction* cannot be shifted about to any other county, near or remote, merely by being diligent in making the first application for the probate of the will in some other county than that of the residence of the decedent. *Only one county can*

*have jurisdiction in such cases*, and that is the county of which the decedent was a resident at the time of his death.”<sup>8</sup> Note, *Presbury* speaks specifically to jurisdiction without limiting the discussion to venue.

At least one Oklahoma Supreme Court case infers that 58 O.S. §5 is prescribing more than just proper venue. “We think certain provisions of 58 O.S. 1971 §5 are more applicable to a consideration *regarding the extent of the general grant of probate jurisdiction* made in 58 O.S. 1971 §1 et seq.”<sup>9</sup>

In summary, the holding of *Fulks* confirms that probates must be filed in the proper county as identified in the probate venue statute (58 O.S. §5), and not in just any county. Specifically, if the decedent died as a resident of Oklahoma, the probate proceeding must be filed in the county of residence. Consequently, an attorney needs to file any probate proceeding in the correct county as set forth in the probate venue statute, as guided by the holdings in *Presbury* and *Fulks*, and must disclose to the court the residence of the decedent at their death. Under *Presbury*, for an Oklahoma resident decedent, the *only county* with “*jurisdiction*” is the county in which the decedent resided.



## POSSIBLE VOID NATURE OF JUDGMENTS AND ORDERS FILED PURSUANT TO WALKER

The *Fulks* decision was based on an appeal raised in a timely manner, and it reversed the trial court that had erroneously followed *Walker*. Due to its facts, the holding in *Fulks* fails to address the situation as to whether a judgment or order issued by a probate court in the wrong venue is jurisdictionally void and, therefore, subject to being vacated “at any time” beyond the appeal window.<sup>10</sup>

As to the ability to vacate such improper judgment or order after the period of time allowed for an appeal has lapsed, at least one case has held that a probate judgment could be vacated after the appeal time: “We have repeatedly held that the false allegation of the jurisdictional fact of residence in probate proceedings constitutes a fraud upon the court such as will justify the vacation of an order or judgment under Section 1031(4) above ... The basis of jurisdiction in both probate and divorce cases is residence.”<sup>11</sup> “Our statute fixes a limitation of two years to commence a proceeding to vacate a judgment because of fraud, 12 O.S. 1941 §1038.”<sup>12</sup> In *Meyers*, the appellant additionally pleaded that the offending underlying order was jurisdictionally void *ab initio* for lack of residency. Having resolved the appeal on the initial fraud contention, the Supreme Court did not address the remaining assertions of error.<sup>13</sup>

Until the Oklahoma Supreme Court speaks directly to this remaining point – as to vacating a probate judgment and order two years beyond the appeal window for a judgment or order that was rendered in a court without proper venue – the answer will remain unclear.

*Author's Note: Thanks are extended to Rusty Brown (Tulsa attorney), Michael Thom (Oklahoma City attorney) and Jack Wimbish (Tulsa attorney) for*

*their research and drafting assistance, although this author takes full responsibility for the conclusions stated herein.*

### ABOUT THE AUTHOR



Kraettli Q. Epperson is a partner with Mee Hoge PLLP in Oklahoma City. He received his J.D. from the OCU School of Law in 1978 and practices in the areas of mineral and real property title disputes. He chaired the OBA Title Examination Standards Committee from 1988 to 2020 and taught Oklahoma Land Titles at the OCU School of Law from 1982 to 2018.

### ENDNOTES

1. “Wills must be proved, and letters testamentary or of administration granted: First. In the county which the decedent was a resident at the time of his death, regardless where he died.”

2. “Fifth, in all other cases, in the county where letters for administration is first made.”

3. *In re Estate of Walker*, 2018 OK CIV APP 63, 439 P.3d 424; *Walker* ¶19, “Accordingly, a priority no longer exists in the statute and a probate action may be filed in any of the applicable situations listed in §5. As a result, venue was proper in Osage County District Court in PB-2012-43, as it was the county where application for letters was first made.” See 58 O.S. §5, “Fifth, in all other cases, in the county where letters of administration is first made.” In *Walker*, a probate was completed in Osage County, although the decedent’s residence was in Mayes County (proper county); decedent’s wife sought to dismiss the second probate (filed in the correct county) due to non-appeal of the first probate; the trial court refused to dismiss the second probate; on appeal the Oklahoma Court of Civil Appeals reversed the trial court and held the first probate was valid because the probate venue statute was amended in 1941 to allow a probate for a resident of Oklahoma to be filed in any county.

4. *Walker* ¶18, “Thus, the Legislature prioritized venue in which a probate action should be filed by its use of ‘First, Second, ...’ The Legislature subsequently amended the statute, specifically removing the priority language.”

5. *In the Matter of the Estate of Fulks*, 2020 OK 94, 477 P.3d 1143; in *Fulks*, a probate was initiated in Nowata County by the decedent’s spouse with no averment of the decedent’s residency; the decedent’s daughter (an heir and devisee), objected to the probate being conducted in Nowata County because the decedent died in Osage County, all of the decedent’s real and personal property was in Osage County and, she asserted, proper venue was in Osage County under the probate venue statute; the daughter sought to transfer the probate to Osage County; the trial court denied the request; the daughter appealed and the Oklahoma Supreme Court reversed and remanded the case to the trial court directing that the case be transferred to the county of the decedent’s residence, Osage County.

6. *Fulks* ¶12: “The 1982 amendments were small changes intended to clarify language relating to residency requirements. Title 58 O.S. Supp.

1982 §5, reads the same as the current version. Consequently, the publisher’s changes from words such as “First” to “1” has no affect (sic) on the statutes’ substantive meaning. Our precedents vary on construction of §5 based on the variation in facts and circumstances. The present question has never been addressed by this Court based on the change from written to numerical designations. We would not do so now but for the recent opinion of the Court of Civil Appeals in *In re Estate of Walker*, 2018 OK CIV APP 63, 439 P.3d 424, in which the Court of Civil Appeals held that the Legislature had amended the statute so that probate could be filed in any county. We do not agree with this premise, it is overly broad and statutorily inconsistent.” AND *Fulks* ¶123: “In *In re Estate of Walker*, 2018 OK CIV APP 63, 439 P.3d 424, the Court of Civil Appeals addressed the venue of probates. Like this cause, *Walker*, supra, also involved the request to transfer a probate case based upon a change of venue after administration of letters were first made. The Walker Court noted the original statutory change enactment of 1910, but it incorrectly assumed that the Legislature subsequently amended the statute to removing priority language of ‘First, Second,’ etc. Thus, *Walker*’s holding that a priority no longer exists in the statute because of a legislative amendment, and that a probate action may be filed in any of the applicable situations listed in §5, was based on an incorrect assumption. As a result, the rule suddenly became that probate venue was proper anywhere in the State of Oklahoma. To the extent that *Walker* is inconsistent with this opinion it is hereby overruled. Because we hold that Osage is the only proper county in which this probate may proceed, we need not address the intrastate forum non conveniens arguments made by the daughter.” The *Walker* case was not approved by the Oklahoma Supreme Court and, therefore, was not precedential. 20 O.S. §305, “No opinion of the Court of Civil Appeals shall be binding or cited as precedent unless it shall have been approved by the majority of the justices of the Supreme Court for publication in the official reporter.”

7. *Fulks*, ¶18.

8. *Presbury*, 1923 OK 127, ¶11, 213 P. 311,312. In *Presbury*, a probate was filed in Osage County; a second probate was subsequently filed in Kay County; the relator in Osage County filed a Motion to Dismiss the Kay County Court proceedings solely because the Osage County probate was filed first, although it was found the decedent was a resident of Kay County at the time of his death; the trial court held that the case filed in Osage County was the proper jurisdiction because it was filed first, without regard to where the decedent’s residence was located; the relator on the Kay County probate (a county court) appealed to the District Court which reversed and held that Kay County was the proper jurisdiction (as decedent’s residence); on appeal the Oklahoma Supreme Court denied the application for a writ of probate and affirmed the District Court’s determination that the probate court of Kay County was the proper jurisdiction, as decedent’s residence; See also, *Seifert v. Seifert*, 1921 OK 282, 200 P. 230.

9. *Mitchell v. Cloyes*, 1980 OK 184 ¶127, 620 P.2d 398, 402.

10. 12 O.S. §1038, “A void judgment, decree or order may be vacated at any time, on motion of a party or any person affected thereby.”

11. *Meyers v. Meyers*, 1948 OK 246, ¶8, 199 P.2d 819, 820-821.

12. *Meyers*, ¶18; See 12 O.S. §1038, “Proceedings to vacate or modify a judgment, decree or order, for the causes mentioned in paragraphs 4 [fraud], 5 and 7 of Section 1031 of this title must be commenced within two (2) years after the filing of the judgment, decree or order ...”

13. *Meyers*, ¶19.



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# Use of a Revocable Living Trust as a Preferable Alternative to Probate: General Observations and Pitfalls to Avoid, Part 1

*By Maria Tully Erbar and Andra Erbar Peterson*

**THIS ARTICLE IS INTENDED** to address some of the potential factual circumstances which in due diligence should be explored, as well as situations where unforeseen circumstances can involve a trust in unwanted battles between the laws applicable to wills and contract and property law-based principles of trusts.<sup>1</sup> Frequently as a general practitioner, you may experience a client wanting some “estate planning,” but who is ignorant of what the term entails and usually quite uncertain about any details relating to the matter.

In these situations, a good place to start is to assess where the client is – and then determine her estate-planning goals. The client’s starting point might be a concern that “the government is going to take all my money” or “the lawyers and courts will wind up with most of it anyway.” These cavils are often raised by those clients who do not subscribe to publications such as *Forbes*, but they present good opportunities to start a meaningful discussion about the client’s estate planning needs. You can disabuse your client of that ever-present fear of “death taxes” by telling her that Oklahoma has

repealed estate and gift taxes and there is not even a requirement to file a federal estate tax return for estates whose total valuation does not exceed \$11,580,000,<sup>2</sup> and thus tax avoidance is usually only a concern for the ultra-rich.

## **BENEFITS OF A LIVING TRUST**

From the topic of estate taxes, you then segue into an introduction to the benefits of a living trust<sup>3</sup> and explain it provides many useful advantages to consider as an alternative to the traditional probate method of winding up one’s post-death affairs and distributing the estate. Often, after an explanation that the client does not need to base her estate plans on the avoidance of tax exposure, the client will ask whether or not there is any need for an estate plan. She should be told there is such a need, unless she wants to let the court distribute her estate according to the laws of intestacy. The two best methods to achieve the client’s testamentary goals are either by will<sup>4</sup> or through a trust.<sup>5</sup> A revocable living trust is usually more efficacious than a simple will; it offers more flexibility and provides helpful lifetime management tools; and it will

almost invariably save the client (and/or the objects of the client’s future bounty) a great deal of time and money in the long run. At this juncture, the client needs to know about the relative costs of probate versus the administration and termination of a revocable trust. Although attorneys charge much more for creation of a trust-centered “estate plan” than for a simple will, trusts – if properly drafted and maintained – can serve not only as functional equivalents of a will, but they also, “unlike wills, are management arrangements that offer significant benefits unavailable from wills during the settlor’s lifetime.”<sup>6</sup>

It is essential for the attorney to be aware of some particular considerations that may impact drafting decisions in formulating a trust-centered estate plan. As with any aspect of the practice of law, the first rule of the drafter in preparation of a trust instrument is to know the facts. The lawyer should be fully familiar with the client’s distributive intent, the extent of her estate, her family status and her personal history. Knowledge of these facts is essential research to enable the attorney to avoid,





insofar as possible, unforeseen circumstances that could result in legal battles with family members or other putative beneficiaries who believe they were treated unfairly in the distributive directives of the trust.

Several questions should be answered by the client. For example, how is title to real property or other assets that will be put into the trust held? Are bank accounts maintained with a “P.O.D. clause?” What other, alternate arrangements for transfer has the client erected (perhaps unwittingly) as bars to the efficient and complete administration and ultimate transfer of this estate through the mechanism of her trust? Who are the named insurance beneficiary(ies)? Does the client have an antenuptial agreement? Lacking a thorough working knowledge of

all these facts before drafting and executing documents often leads to the creation of an imperfect estate plan. For example: Client wants her home in the country (Blackacre) to be distributed equally between her nephew, Jimmy, and her niece, Mary Jane. However, she has unfortunately forgotten to advise that a few years ago, she deeded Blackacre to herself and Jimmy as joint tenants. If this oversight is not caught and corrected, your client’s transfer of her beautiful homestead to the trust will operate only as a severance of the joint tenancy,<sup>7</sup> and the client’s estate-planning revocable trust will possess only a one-half interest as tenant-in-common while Jimmy will have an equal interest *outside of the trust*.

Final result: Jimmy has three-fourths interest, and Mary Jane has

only a one-fourth interest. Mary Jane, who was informed by her aunt that she and cousin Jimmy would share equally in the estate, will be extremely disappointed by her aunt’s trust. In the worst-case scenario, Mary Jane will be pounding on your door, writing bar complaints about you – or even consulting another lawyer about suing you. Foresight and caution can avoid this unfortunate and unintended result.

Enlarging this hypothetical scenario illustrates a flaw (or at least a curiosity) in our existing law: suppose that Mary Jane discovers this problem only days before auntie would have expired by natural causes, and in a heated confrontation, she kills her aunt. Under this circumstance, it appears Mary Jane would still receive a one-fourth interest in Blackacre, although if

auntie had used a will instead of a trust for distributive purposes, Mary Jane would be out of luck. Oklahoma's version of the "slayer statute" (84 O.S. §231) clearly bars testamentary inheritance from the deceased victim of the beneficiary's wrongful, criminal act, but the statute may not apply to a trust distribution.<sup>8</sup> Thus, in drafting the trust, one should consider inclusion of a clause barring benefits from the trust to anyone who slays the settlor.

The foregoing fiasco in the division of Blackacre presents just one example of a troublesome circumstance that might have been avoided by careful drafting. There are a plethora of others. The better practice would require the lawyer to independently ascertain how all the client's property is held, so that necessary and appropriate changes and transfers may be made to enable a seamless and effective estate plan. Another necessary step is to conduct a complete review of the client's family and marital history. Has the client been married before, and could there be any lingering transfer restrictions from an earlier divorce? Or was any promise ever made (for example, in a heartfelt, handwritten graduation note) that auntie was going to give Mary Jane a million dollars? Is there another child from some earlier liaison who, though never in attendance at family gatherings, might surprisingly show up on the courthouse steps?

These are just some of the reasons you should employ a detailed questionnaire to be completed by your estate planning clients. All these circumstances and more need to be explored, and the time and effort such exploration will take needs to be factored into what the client will be charged. Once this is explained to the client, she might decide there is nothing to worry about and opt to proceed

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After the attorney has been satisfied that she has a clear picture of the terrain upon which she will be operating, it will be easier to properly draft provisions of the trust that comply with the client's wishes and that anticipate insofar as possible pitfalls that may later arise before the trust is finally determined and distributed.

without these investigations into the ownership of the intended trust res. In this event, you should recommend the client sign a waiver form that shields the attorney and her office from responsibility for mishaps that might occur because the client provided incorrect or incomplete information. After the attorney has been satisfied that she has a clear picture of the terrain upon which she will be operating, it will be easier to properly draft provisions of the trust that comply with the client's wishes and that anticipate insofar as possible pitfalls that may later arise before the trust is finally determined and distributed. In the remainder of this article is a very brief survey of some – though certainly not all – of the legal quagmires to anticipate and (if possible) to avoid.<sup>9</sup>

#### **CIRCUMSTANCES OF A MARRIED COUPLE**

Let us begin with the circumstances of a married couple. Do they want a joint (or "marital") trust or two separate trusts, each mirroring the other? The answer

to this question has to be, "it depends on the circumstances." A joint trust can function quite efficiently for a married couple with no internal family discord, no prior marriage or children from outside the union and no significant separate income or estate belonging to either of the partners. However, the drafter still must be cognizant of matters which, if not discussed at the time of preparation of the estate plan, may well become troublesome hurdles at a later stage of the estate plan. For example, the perennial worry in such a situation seems to be that after the first spouse dies, the surviving spouse will marry again, and the focus of attention may move away from the children of the first union. What will prevent the surviving spouse from changing the distributive terms of the (formerly) joint trust?

Here are some suggestions to avoid such a disruption of the estate plan. A joint trust (often called something like "The Smith Family Trust") clearly should state that it is *contractual* in nature and



origin, that it is to provide for the settlors during their lifetimes with the survivor continuing to be cared for and to have the continuing right of day to day trust management, but that amendments can only be made by *joint* action of the settlors/trustees so that upon the death or incapacity of the first of them, the trust becomes irrevocable, and its terms – including designation of the final beneficiaries – are fixed contractually.<sup>10</sup>

In order to fully protect the client's trust concerning the irrevocability issue, it is advisable the trust instrument denotes the final beneficiaries (that is, the children of the marriage who might otherwise be lumped in the "by descent" grouping and constituting only the remainder interest) and also that it provide those beneficiaries a small, annual income in order to establish in them a present interest *by purchase*. This drafting suggestion is in response to Section 175.41 of the Oklahoma Trust Act<sup>11</sup> that requires *all* holders of an interest by purchase to agree to revocation of a self-styled "irrevocable trust."

It is the "by purchase" proviso that is the source of potential trouble, because this means that if children only have a contingent interest in the remainder, they take such interests by descent, and the surviving spouse would be the only interest holder whose consent is necessary to invoke the formerly "joint" decision to revoke (or amend) the trust. Fortunately, *Black's Law Dictionary* provides us with a definition of an interest "by purchase" as an "acquisition ... by any means whatever except by descent," which definition has been recognized by Oklahoma in *Oklahoma City v. Board of Education of Oklahoma City*,<sup>12</sup> citing *Kohl v. United States*.<sup>13</sup>

In this suggested iteration of the proposed subject trust, the children would not take their present

annual income interest as an inheritable interest or *by descent*, but as current, named beneficiaries – that is, *by purchase rather than by descent*. Thus the trust, which by its terms becomes irrevocable upon the death or incapacity of the first trustor, cannot be transformed back into a revocable status except upon agreement of the surviving spouse and all named children, according to the requisite terms of the governing statute.<sup>14</sup> The case of *In re Living Trust of Reid*<sup>15</sup> offered a similar result (upholding the integrity of the original trust) in a circumstance wherein an amendment that changed the ultimate disposition of assets, but which was offered *subsequent to the grantor's death* in an attempt to achieve a distributive outcome was rejected. The court stated "where the settlor reserves the right to amend a trust during his or her lifetime, and conditions effect of the amendment on a written notice of the change delivered to the trustee, but while living fails to deliver the notice to the trustee, the undelivered amendment is ineffective to alter the terms of the trust. To hold otherwise absent a specific trust provision permitting amendment by will would permit the modification of a trust – although subject to *amendment, modification or revocation during the life* of the settlor – *after* the trust by its own terms became *irrevocable and immutable to change upon settlor's death*." By so ruling, the *Trust of Reid* court erected another circumstance to bolster the permanence and irrevocability of a trust instrument, based upon adherence to the contractual terms within the instrument itself.

## OTHER CHALLENGES TO OVERCOME

There are other challenges to be overcome, including issues concerning the enforceability of

a "joint and mutual" instrument when one party seeks a change to its terms by claiming a forced share under the forced heir provisions of intestate succession.<sup>16</sup> Do the trust's terms prevail over spousal elections? Under the principles discussed previously related to circumstances where the trust indenture created parties vested with an interest earned other than by descent, inclusion of all assets within the *inter vivos* trust leaves no property upon which a probate administration could be had. Further, were the surviving spouse to attempt to create an administrable estate for distributive purposes contrary to the terms of the trust, (an event analogous to the case in *Robison, supra*), participation in and receipt of benefits under the trust should be viewed as an estoppel barring such act.

Issues of surviving spousal powers or of reconciling trust provisions with the spousal election pale when measured against the fallout that arises when trust provisions collide with the laws governing property division upon the dissolution of the marital union. Do the distributive trust provisions (and for that matter, the status of the property held by the trust) remain – or does the divorce tear them asunder with the marriage? Can the rights of a third-party beneficiary established in an antenuptial agreement be enforced following the divorce of the contracting parties? What is the significance of "property acquired by joint industry during coverture" in the context of wills and trusts? Does marital property retain its marital character upon its transfer into a trust? What protections for pretermitted heirs and surviving spouses can be implemented in drafting a revocable trust? The attorney should anticipate all of the questions raised in

this article in connection with the use of a revocable trust in estate planning, along with other issues and drafting suggestions that will be addressed in a future article.

*Author's Note: Ms. Erbar wishes to acknowledge her gratitude to the late Patricia Flanagan for her encouragement in the development of this article.*

## ABOUT THE AUTHORS



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Her practice is focused primarily on probate, trusts, guardianships and family law matters. Ms. Erbar is a member of the OBA Estate Planning, Probate and Trust Law Section, as well as the Family Law Section.

After attaining her M.A. in vocal performance from OU, Andra Erbar Peterson spent several years singing professionally. She is a 3L at OCU Law with interests in wills and estates, family law, health law and immigration law. She is currently a legal intern for Oklahoma Family Network and Oklahoma City County Health Department and is a licensed realtor.

## ENDNOTES

1. See generally, Newman, Alan, "Revocable Trusts and the Law of Wills: An Imperfect Fit" (2008), Akron Law Publications, 169, [https://ideaexchange.uakron.edu/ua\\_law\\_publications/169](https://ideaexchange.uakron.edu/ua_law_publications/169).
2. As of 2020, this was the threshold amount above which a requirement for filing operates. This amount increases to \$11,700,000 with the advent of 2021. The amount includes the total of the taxable valuation of the deceased's estate and prior taxable gifts. See IRS website and related statutes and regs for details.
3. "Living trust" is the term commonly and widely applied to *revocable* trusts wherein the settlor retains complete control while living and *compos mentis*. They also provide for the disposition of the settlor's estate upon death but can also provide for the settlor's personal use of her largesse during her life, her maintenance without court oversight in the event of her subsequent incapacity or incompetence and can also usually offer the benefit of privacy to the settlor and her family with respect to dispositive plans for her assets. Clients invariably find that once they get their trust set up and functioning,

their circumstance feels no different than pre-trust. However, by electing a trust-centered estate plan, they have (hopefully) eliminated the need to ever use or be subject to a guardianship or conservatorship, invoking provisions of a Power of Attorney, and eventual court supervision of their estate during the probate process. You should include a durable POA, nomination of guardian and pour-over will in every estate plan, but, with due diligence and careful drafting – and the client's careful attention to a few practical details – these documents may very well never be utilized. Other useful benefits of a trust-centered plan include the ability to plan for interactions with Medicaid, for a special needs trust and other specialized purposes that are not covered in this article. A trust requires a settlor, object, beneficiary and any necessary operating and ending instructions; there is any number of basic forms to be found as drafting aids. This article does not deal with the routine structural details, as they are widely available to the general practitioner. Rather, attention is paid to additional, particular aspects and considerations that may impact certain drafting decisions concerning your client's trust-centered estate plan, other than the aforementioned tax-planning possibilities. Also, this article does not venture into the many management tools and efficiency arrangements that a trust can offer while the settlor still lives.

4. Needless to say, of course, there is always an essential part of the trust-centered estate plan that *is* a will – the too often underused "pour-over" variety. A pour-over will, discussed in the second installment of this article, acts as a very useful guard against possible subsequent trouble from omissions to the trust or after-acquired property, but the will is a prophylactic rather than a driving force for the estate plan.

5. [A revocable trust is] "... an ambulatory instrument that speaks at death to determine the disposition of the settlor's property." *Matter of Estate of Tisdale*, 855 N.Y.S.2d 809 (Sur. Ct. 1997).

6. See generally, Newman, *op cit*.

7. *Shackleton v. Sherrard*, 1963 OK 193, 385P.2d 898: A joint tenancy terminates upon "any act which is inconsistent with its continued existence." A deed by one joint tenant to a third party severs the joint tenancy and creates a tenancy in common. The "four unities" required to establish and maintain a joint tenancy are still alive and well in Oklahoma. See *Valdez v. Occupants of 3908 SW 24<sup>th</sup> Street, Oklahoma City*, 2011 OK 99, 270 P.3d 143.

8. The statute does not specifically mention trust distribution, and the closest it comes is the statement that reads, "No person ... shall ... receive any interest in the estate of the victim ..." However, it could well be argued that a trust distribution is *not from the estate of the deceased, but from a separate and distinct entity previously created by the deceased*. The reader is directed to an excellent article by Judge Gregory C. Blackwell, "Property: Creating a Slayer Statute Oklahomans Can Live With," 57 Okla. L. Rev. \_\_\_\_, (2004) wherein the deficiencies of the current statute are thoroughly discussed. The article suggests we should shift our language to "expectancies" and says in part: "There are some rights that are expectancies upon which everyone can agree. Rights gained under a will, through intestacy, and by contract all traditionally fall into this category. Some rights are more difficult to categorize, such as the right of survivorship in jointly owned personalty, powers of appointment, irrevocable trusts, other will substitutes, vested remaindermen, and cases where "a donor names the slayer as a default taker, subject to a power

exercisable by the victim. ... These are all examples of problem areas that a slayer statute should specifically address." (Footnotes omitted.)

9. The reader will no doubt notice the several references to and discussion about probate cases in the following discussion. Trust and wills are both methods whereby a person can accomplish, *inter alia*, a directive for passing her estate to others upon her demise. Wills and related probate (wills and intestate succession) have a much longer and more varied history; it is often upon these cases that current conflicts are decided, and it is often useful to attempt to analogize from probate to trust law. The effort is commendable – and probably the best path through unexplored territory – but results are not always the same. "... [T]he trend in both statutory and case law is to subject trusts, and persons interested in them, to the same law that would apply if the settlor had instead used a will to provide for the disposition of her property at her death. ... while there are many revocable trust issues that are being, and should be, resolved by reference to the law of wills, *there are many others for which that is not the case.*" Newman, *op cit*.

10. As a caveat, it should be pointed out that although contractual provisions in joint and mutual wills have been recognized and upheld by Oklahoma courts, the provisions of 84 O.S. §52 (allowing for revocation of joint and mutual wills) notwithstanding, the cases are not without difficulties. In *Matter of Estate of Whiting*, 1990 OK CIV APP 6, 789 P.2d 255, the Court of Appeals reasoned the statutory language "cannot, in our opinion, be expanded to prohibit people from validly contracting to achieve irrevocability of their mutual wills." Later in the same year (1990), the Supreme Court seemed to add a requirement upholding the contract irrevocability in cases where the surviving spouse had benefitted by taking under the joint will, as a form of ratification by estoppel, in *Robison v. Graham*, 1990 OK 93, 799 P.2d 610. A similar issue is addressed in the Trust Act at Section 175.41, discussed below.

11. The act is found at 60 O.S. §§175.1 *et seq*; §175.41 reads: "Every trust shall be revocable by the trustor, unless expressly made irrevocable by the terms of the instrument creating the same. Provided, that any trust may be revoked by the trustor upon the written consent of all living persons having a vested or contingent interest therein. The term 'contingent interest,' as used in this section, shall include an interest which a beneficiary may take by purchase, and exclude any interest which a beneficiary may take by descent. Provided further that this section shall not apply to a spendthrift trust unless same is created by the trustor for his own benefit."

12. 1938 OK 1, 75 P.2d 201.

13. 91 U.S. 367, (1875) 23 L. Ed. 449.

14. See *Harrison v. Johnson*, 1956 OK 201, 312 P.2d 951.

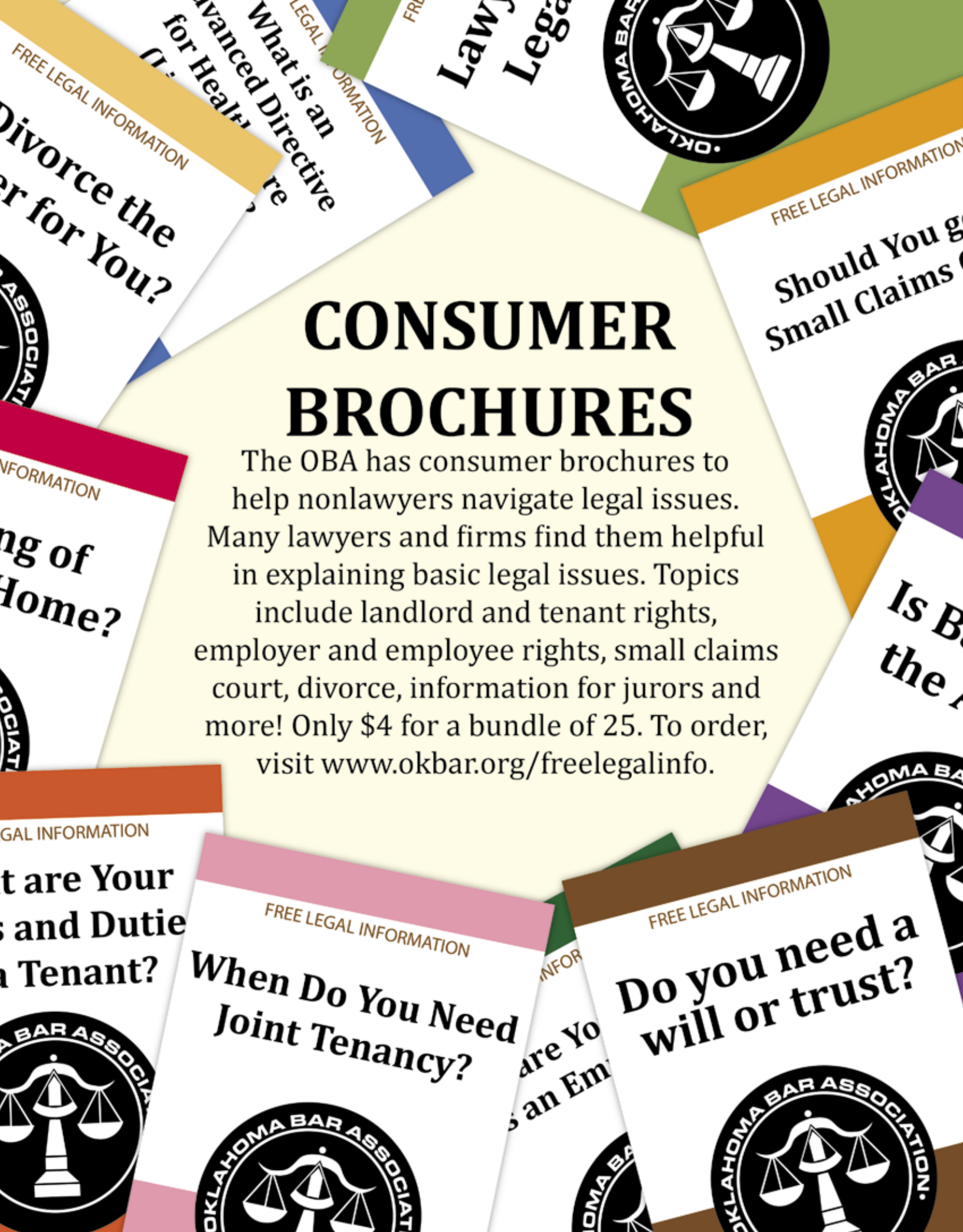
15. 2002 OK CIV APP 49, 46 P.3d 188.

16. 84 O.S. §44.



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# Judicial Nominating Commission Elections

## Nomination Period Opens

**THE SELECTION OF** qualified persons for appointment to the judiciary is of the utmost importance to the administration of justice in this state. Since the adoption of Article 7-B to the Oklahoma Constitution in 1967, there has been significant improvement in the quality of the appointments to the bench. Originally, the Judicial Nominating Commission was involved in the nomination of justices of the Supreme Court and judges of the Court of Criminal Appeals. Since the adoption of the amendment, the Legislature added the requirement that vacancies in all judgeships, appellate and trial, be filled by appointment of the governor from nominees submitted by the Judicial Nominating Commission.

The commission is composed of 15 members. There are six non-lawyers appointed by the governor, six lawyers elected by members of the bar, and three at large members, one selected by the Speaker of the House of Representatives; one selected by the President Pro Tempore of the Senate; and one selected by not less than eight members of the commission. All serve six-year terms, except the members at large who serve two-year terms. Members may not succeed themselves on the commission. The lawyer members are elected from each of the six congressional districts as they existed in 1967. (Congressional districts were redrawn in 2011.) Elections are held each odd-numbered year for members from two districts.

### 2021 ELECTIONS

This year there will be elections for members in Districts 5 and 6. District 5 is composed of Oklahoma County, excluding eastern Oklahoma County and south of 89th Street. District 6 is composed of 23 counties in the north central and northwestern part of the state, as they existed in 1967. (See the sidebar for the complete list.)

Lawyers desiring to be candidates for the Judicial Nominating Commission positions have until Friday, May 21, 2021, at 5 p.m. to submit their nominating petitions. Members can download petition forms at [www.okbar.org/jnc](http://www.okbar.org/jnc). When submitting a nominating petition, candidates should include a biography of 100 words or less and a photo (preferably both digital). For additional details and a sample bio format, email Debbie Brink at [debbieb@okbar.org](mailto:debbieb@okbar.org).

Ballots will be mailed June 4, 2021, to active attorneys in good standing in Congressional Districts 5 and 6, as they existed in 1967. Ballots must be received at the Oklahoma Bar Center by 5 p.m. June 18, 2021. Ballots will be tabulated on June 21, 2021. Elections results will be posted June 21, 2021. In the event of a runoff, the ballots for the runoff election will be mailed June 25 and the deadline for their return is 5 p.m. July 16, 2021. Those ballots would be tabulated on July 19, 2021.

It is important to the administration of justice that the OBA members in the Congressional Districts 5 and 6 become informed on the candidates

and cast their votes. The framers of the constitutional amendment entrusted to the lawyers the responsibility of electing qualified people to serve on the commission. Hopefully, the lawyers in Congressional Districts 5 and 6 will fulfill their responsibility by voting.

### OBA PROCEDURES GOVERNING THE ELECTION OF LAWYER MEMBERS TO THE JUDICIAL NOMINATING COMMISSION

1. Article 7-B, Section 3, of the Oklahoma Constitution requires elections be held in each odd numbered year by Active members of the Oklahoma Bar Association to elect two members of the Judicial Nominating Commission for six-year terms from Congressional Districts as such districts existed at the date of adoption of Article 7-B of the Oklahoma Constitution (1967).

2. Ten (10) Active members of the Association, within the Congressional District from which a member of the Commission is to be elected, shall file with the Executive Director a signed petition (which may be in parts) nominating a candidate for the Commission; or, one or more County Bar Associations within said Congressional District may file with the Executive Director a nominating resolution nominating such a candidate for the Commission.

3. Nominating petitions must be received at the Bar Center by 5:00 P.M. on the third Friday in May.

4. All candidates shall be advised of their nominations, and unless they



indicate they do not desire to serve on the Commission, their name shall be placed on the ballot.

5. If no candidates are nominated for any Congressional District, the Board of Governors shall select at least two candidates to stand for election to such office.

6. Under the supervision of the Executive Director, or his designee, ballots shall be mailed to every Active member of the Association in the respective Congressional District on the first Friday in June, and all ballots must be received at the Bar Center by 5:00 P.M. on the third Friday in June.

7. Under the supervision of the Executive Director, or his designee, the ballots shall be opened, tabulated and certified at 9:00 A.M. on the Monday following the third Friday of June.

8. If there are three or more candidates, the candidate who receives forty percent (40%) or more of the votes cast, shall be declared the winner. If two candidates receive more than forty percent (40%) of the votes each, the candidate with the highest number of votes shall be declared the winner.

9. In case a runoff election is necessary in any Congressional District, runoff ballots shall be mailed, under the supervision of the Executive Director, or his designee, to every Active member of the Association therein on the fourth Friday in June, and all runoff ballots must be received at the Bar Center by 5:00 P.M. on the third Friday in July.

10. Under the supervision of the Executive Director, or his designee, the runoff ballots shall be opened, tabulated

and certified at 9:00 A.M. on the Monday following the third Friday in July.

11. Those elected shall be immediately notified, and their function certified to the Secretary of State by the President of the Oklahoma Bar Association, attested by the Executive Director.

12. The Executive Director, or his designee, shall take possession of and destroy any ballots printed and unused.

13. Following the approval of these procedures, the election procedures, with the specific dates included, shall be published in all print and electronic publications of the Oklahoma Bar Association and placed on the Oklahoma Bar Association website until the deadline for filing nominating petitions.

## NOTICE

### Judicial Nominating Commission Elections Congressional Districts 5 And 6

Nominations for election as members of the Judicial Nominating Commission from Congressional Districts 5 and 6 (as they existed in 1967) will be accepted by the Executive Director until 5 p.m., Friday, May 21, 2021. Ballots will be mailed June 4, 2021, and must be received at the Oklahoma Bar Center by 5 p.m. on June 18, 2021.



**District No. 5**  
Oklahoma (Part)\*  
\*Part of  
Oklahoma  
County  
EXCLUDING:  
Choctaw  
Harrah  
Luther  
Midwest City  
Newalla  
Nicoma Park  
Spencer  
South of 89<sup>th</sup>  
Street

**District No. 6**  
Alfalfa  
Beaver  
Beckham  
Blaine  
Canadian  
Cimarron  
Custer  
Dewey  
Ellis  
Garfield  
Grant  
Harper  
Kay  
Kingfisher  
Lincoln  
Logan  
Major  
Noble  
Payne  
Roger Mills  
Texas  
Woods  
Woodward

# Session Update

By Miles Pringle

**O**N MARCH 23, THE Legislative Monitoring Committee hosted – virtually – the OBA's annual Day at the Capitol that can still be accessed online (approved for 2 hours of MCLE credit). We were unable to actually visit the Capitol this year, but the program still provided a lot of great information on the 2021 Legislative Session, including how

to follow the legislative process online. Luckily there are a lot of great ways to access the Legislature without being physically present.

So, what is going on in the Legislature? The first bill signed into law was SB 1031, which amended procedures for the Open Meetings Act. Regarding other legislation, generally, bills were required to be out of their

house of origin on March 11 and have until April 22 to pass the opposite house. Everything is all set to be wrapped up by May 28. Be aware that just because a bill does not pass this year does not mean it goes away. The current session is the *First Session* of Oklahoma's 58<sup>th</sup> Legislature. Bills filed this current session may be revisited next year in the *Second Session* of the 58<sup>th</sup> Legislature.

Oklahoma received good news earlier this year when the Oklahoma State Board of Equalization

authorized spending an additional \$1.2 billion on next year's budget. This projected uptick will help the Legislature fund Medicaid expansion. There has been a lot of discussion on what else the funds can be put toward, including investments in core services, new tax cuts and replenishing rainy day funds tapped during the pandemic.

If you are interested in getting more involved with the Legislative Monitoring Committee, I encourage you to join the committee! You'll find the link to sign up on [www.okbar.org](http://www.okbar.org). Our next event will be the Legislative Debrief in August when we will learn about many of the bills that pass.

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### ABOUT THE AUTHOR



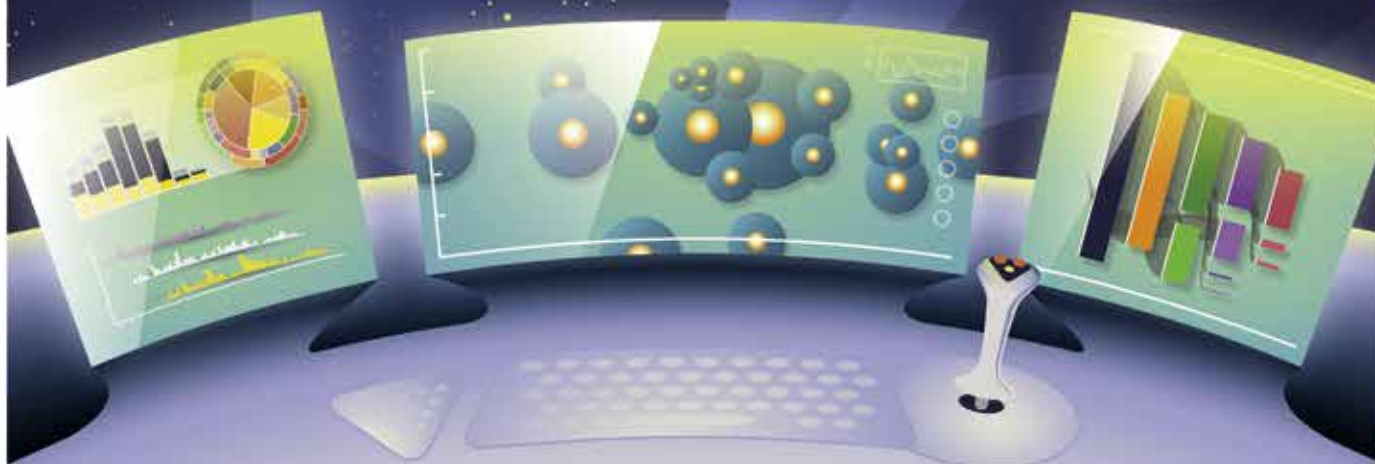
Mr. Pringle is general counsel for The Bankers Bank in Oklahoma City and serves as the Legislative Monitoring Committee chairperson. Contact him through the committee's Communities page online in MyOKBar.



*The bronze statue, As Long as the Waters Flow, by artist Allan Houser graces the grounds of the Oklahoma State Capitol Building.*



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# Oklahoma Mock Trial Goes Virtual

*By Andrea Medley*



*From left McAlester High School Team Black members Olivia Harkins, Emily Collins, Caleb Brown, Maria Fassino, McKinsey Tighe, Raksha Tabada and coaches Nicole Green and retired Judge James Bland display their Oklahoma High School Mock Trial Program championship trophy.*



## THE OKLAHOMA HIGH

School Mock Trial Program went virtual in 2021. Last fall, faced with a decision to either forego competition this year or attempt a virtual competition season, the Mock Trial Committee began the daunting task of putting together a virtual competition. Equipped with the funding and support of the Oklahoma Bar Foundation, the committee purchased a software platform to host Oklahoma's first virtual mock trial competition. The software allowed us to remotely manage the competition with the use of electronic ballots, real-time monitoring of multiple virtual courtrooms and quick round results and team rankings.

There were many obstacles to overcome this year beyond learning the software and the practical logistics of virtual trials. There were technical issues, slow or dropped connections and every imaginable type of noise distraction. If that was not enough, Oklahoma experienced unprecedented winter weather during crucial weeks of the competition that resulted in rolling power outages during competition and lack of heat and water not only for the teams but also attorneys and volunteers. We quickly learned Oklahoma high school students are resilient! The students adapted well to the virtual competition,



*Kerah Ward, with Broken Arrow Team Black, won the best courtroom artist award.*

and despite all the hindrances this year, they did not miss a beat. The attorneys who navigated the virtual world, many for the first time, hopefully learned some new technology skills to use in their own practice in the increasingly virtual nature of the practice of law.

The competition used an original case written by the Mock Trial Committee. It was a criminal case involving a long-standing family feud between two families that arose over a botched hanging in the 1800s. When descendants from each of the feuding families are together in the rodeo arena, and

one of them ends up dead from an alleged roping accident, first-degree murder charges are levied against the surviving descendant. The witnesses included a local reporter, the investigating police officer, dueling medical examiners and the defendant.

There were 30 teams from 18 different high schools across the state that competed this year. Over 200 attorneys from across the state donated their time to learn the software platform and score the virtual competition using electronic ballots. The competition consisted of nine days of virtual

competition, with two to four virtual courtrooms running simultaneously on each competition day. Dedicated volunteers and committee members worked long hours sitting in front of their computers, overseeing the courtrooms and managing all the administrative work that comes with putting on the competition.

new to the mock trial program. Last year, the school had two teams rank in the top eight, and their Team White was ranked in the top eight this year. Owasso High School is no stranger to the finals, producing state champion teams for the past three years. Owasso finished the competition with three teams in the top eight this year.



*In the program's 41-year history, it was first time the competition was held virtually.*

## FINALS AND STATE CHAMPIONS

On March 2, the two top-ranked teams competed in the virtual championship round. For the first time, the final round was livestreamed on YouTube. The case was presented to a distinguished, virtual panel of judges, who were Presiding Judge Shon T. Erwin, Judge Charles Goodwin, Judge Dana Kuehn, Judge Janice Loyd, retired Judge Glenn Adams and Judge Martha Rupp-Carter.

The finals match-up this year was Owasso High School Team Lewis versus McAlester High School Team Black. McAlester defeated Owasso to claim the title of Oklahoma High School Mock Trial champion. This was McAlester High School's first time in the finals; however, they are not

McAlester Team Black is coached by teacher Nicole Green and attorney coach James Bland. Team members are Caleb Brown (recipient of the Best Witness award for the defense), Emily Collins, Maria Fassino, Olivia Harkins (recipient of the Best Attorney award for the defense), Kamden McKelvey, Kirstyn Santino, Raksha Tabada and McKinsey Tighe.

Owasso Team Lewis is coached by teacher Dustin DeVore, Judge Daman Cantrell and attorney coaches Ken Underwood, Meagan Murdock, Kaylind Baker and law student Nick Hazelrigg. Team members are Terressa Evington, Morganne Grobe, Kayla Gross, Marley Hutchins (recipient of the Best Attorney award for the prosecution), Brooke Myers, Shreya Rohatgi (recipient of the Best

Witness award for the prosecution), Draven St. George and Seth Wyrick.

The final rankings for the remaining teams that competed in the semifinal round are:

- 3<sup>rd</sup> Place – Classen School of Advanced Studies, Oklahoma City
- 4<sup>th</sup> Place – Jenks High School Team Circus
- 5<sup>th</sup> Place – Bishop Kelley High School Team Red, Tulsa
- 6<sup>th</sup> Place – Owasso High School Team Boseman
- 7<sup>th</sup> Place – Owasso High School Team Brown
- 8<sup>th</sup> Place – McAlester High School Team White

As the reigning state champions, McAlester High School Team Black will represent Oklahoma at the National Mock Trial Competition, which will be held virtually in May. I have no doubt Oklahoma will be well represented on the national stage by this talented team.

Our courtroom artist competition continued to thrive in its third year. With four submissions this year, the winning entry came from Kera Ward from Broken Arrow Team Black.

## FINAL THOUGHTS

I continue to be amazed at the dedication of the mock trial community and its willingness to participate in this program year after year. There is no way to list every person who contributed to making this a successful season. I do want to recognize and thank the Oklahoma Bar Foundation, which funds the mock trial program through the generosity of Oklahoma lawyers. Thank you to the Mock Trial Committee for your time and effort and a special thanks to Kevin Cunningham, the talented architect of the original



case this year. As always, a hearty virtual hug to our Mock Trial Coordinator Judy Spencer. She continues to be the guiding star of Oklahoma mock trial.

Closing the chapter on another great season of mock trial, I remain cautiously optimistic for the return to in-person competition next year. In the meantime, the Mock Trial Committee is already formulating a plan for the creation of our own software platform to manage future competitions. If you are interested in being a part of the committee or volunteering for mock trial next year, email [mocktrial@okbar.org](mailto:mocktrial@okbar.org).

#### ABOUT THE AUTHOR



Andrea Medley practices in Tulsa and serves as chairperson for the Oklahoma High School Mock Trial Committee.

#### MOCK TRIAL COMMITTEE

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# 2019 Ain't What It Used to Be

*By John Morris Williams*

**WITH COVID-19 NUMBERS** on the decline and the release of a third vaccine, things are looking up a bit. I recently heard the only thing that spreads faster than a virus is hope. There is some truth to that I suppose, whether it be actual hope or false hope. There is even a school of thought that says hope is measurable. Perhaps I should have taken that test before I wrote this article. My thought is that 2019 ain't what it used to be, and it is never going to be like that again.

I am often hearing the words, "When things return to normal." The reference is intended to be how things were in 2019. Maybe we should have measured global hope back then and compared it to now. My guess is that 2019 would not have tested as a banner year of hope either. I suggest we are not going back to 2019, and absent COVID-19, we were never going to replay 2019 in 2021. The world without a pandemic was already set on a course of significant and lasting change.

History repeatedly tells us that times of disruption do not destroy the laboratories of ideas and innovation. In fact, times of upheaval tend to force societies to find new ways to adapt and progress when the environment is stable and fertile enough to venture out.

Last spring, as the country began the COVID-19 shutdown, legal news carried stories of very

large firms downsizing office space or letting existing leases expire. The goal was to minimize overhead when most of the lawyers and support staff were working from home. The need to cut overhead was real, given that the demand for legal services was down. Thankfully, since those days, the demand for legal services has increased. Also, the way legal services are delivered has significantly changed.

Long-distance travel to meet with clients or conduct discovery and even in-person court appearances have not rebounded at the same rate as the overall demand for legal services. As things return to "normal," some things may be forever changed.

## PERMANENT SHIFT?

Silicon Valley may be an indicator of how the business world may have permanently shifted.

Large employers, such as Google and Microsoft, easily shifted to employees working off-site. A significant number of those employees, without being tethered to a physical worksite, moved to other states where the cost of living and the environment was more pleasing to them. Specific technology jobs may be more transportable than the provision of legal services, but there is a theme developing here that we cannot ignore. It is not going to be 2019 all over again when the pandemic passes. It was never going to be. However, 2021 may expose opportunities we might not have anticipated.

The time and cost savings of virtual client meetings and elimination of travel to physical courtrooms may assist in creating greater access to justice. The efficiencies of allowing clients to not be absent from work and not having to have transportation to a

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Law firms in small to mid-sized legal markets may also find themselves able to compete in larger markets as clients have become accustomed to no, or very little, actual physical proximity to counsel.

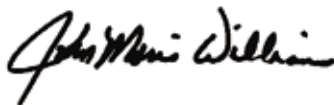


lawyer's office can be meaningful to a great number of people. This is, of course, dependent on clients having the technology to connect to lawyers and law offices. Most do, even if it is with a cell phone.

Law firms in small to mid-sized legal markets may also find themselves able to compete in larger markets as clients have become accustomed to no, or very little, actual physical proximity to counsel. Of course, these engagements will require proper licensing if multiple jurisdictions are involved. There are opportunities that likewise can work in the other direction, allowing lawyers in large, urban areas to serve and represent clients in remote areas. I suspect economics may continue to play a large role

on the physical location of lawyers and lowering of overhead to maintain or gain a competitive edge.

Whatever the future brings, we at the OBA want to be with you and assist you in meeting the opportunities of change. 2019 ain't what it used to be, and it is not ever going to be again, but the OBA will be the same organization always changing to enhance the professional lives of its members.



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To contact Executive Director Williams, email him at [johnw@okbar.org](mailto:johnw@okbar.org).



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# Best Practices for Attorney-Client Communication

*By Jim Calloway*

**C**OMMUNICATION IS something we all do every day. Some days we do it better than others. We have all had the experience of making some statement we immediately wish we could take back. Most of us would admit we could invest some time improving our communication skills. Managing your professional communications with clients is a critical skill and business process for lawyers today.

We have all heard the truism that the greatest single source of complaints against lawyers is failing to communicate. This used to largely mean failing to return phone calls. But now, as readers are aware, there are numerous technology-based paths a client can use to communicate with you. The fact that there are so many methods of communication can make tracking and responding to client inquiries more challenging. It is appropriate to limit the clients' use of some of these methods. Just because a client first contacted a law firm via its Facebook page doesn't mean it is appropriate to use Facebook Messenger to communicate during the representation.

Bad or nonexistent communication with clients has many other negative consequences. If a critical phase is underway in litigation and



the client doesn't get a response to their inquiries, a client's attitude can rapidly go from offended to angry to worried that something has gone wrong with their legal matter. The client may forgive the communication failure, but they also may not forget. Damaging the bond of trust between attorney and client is something we all want to avoid. If the client feels they have been avoided and ignored at times during the representation, the client may be more skeptical of the lawyer's recommendation about the resolution of the matter.

Those who investigate attorney misconduct are well aware that lengthy gaps in updating clients

are often a symptom of a deeper problem. Whether it is research revealing the legal theory of the case is problematic or something worse, like a statute of limitations or court deadline having been missed, allowing the client to become frustrated or even angry with the lawyer just makes the situation worse. Negative news must still be communicated promptly. So, let's cover some ways to improve your law firm's client communication.



### **ALL SIGNIFICANT CLIENT COMMUNICATION MUST BE DOCUMENTED IN THE CLIENT FILE**

It may not be possible to be perfect at that as sometimes we advise clients at nights and weekends by phone or run into them unexpectedly in public and discuss their matter. Some omissions in documentation will occur, but you do want to strive for perfection. The simple fact is a lawyer who handles many matters for many clients over many years will not be able to remember the details of every matter. That's why lawyers have long maintained client files containing the documents associated with the case.

A lawyer needs to review the client file for the language in contracts, correspondence and other documents. It is unlikely you will always recall accurately the details of every phone conversation or personal discussion with the client unless you have good notes in the client file. A lawyer will handle many legal matters over a career. The client may only have one legal matter. Should a dispute later arise, the client will have very clear memories of every conversation with their lawyer about their divorce case or their neighbor suing them. If you believe the client is not recalling the communication

accurately, documentation in the client file is your best, and sometimes only, defense.

We must communicate with the client during representation to assist our client in making good, strategic decisions. We must document client communications so we and others working on the matter in our law firm understand the matter's status. We must also document client and third-party communications in the file for our own self-protection.

### **DELEGATION OF COMMUNICATION TASKS CAN IMPROVE EFFICIENCY**

There will be times when an important project has to be completed, or there are other reasons why you cannot return a client's telephone calls. If your law firm employs secretaries or legal assistants, they can assist you with client communications as long as they understand the principle noted above – if they don't document their communication with the client in the client file, then it is like it never happened. Often, a good assistant can handle some of these returned calls completely, such as a client who isn't sure of a court date or deadline. These are precisely the type of communications that you want to document in the client file. If the client fails to make a court

appearance, seeing that someone from your office discussed the date with them personally last week brings a measure of comfort to the lawyer even as the lawyer deals with the situation.

Digital communications like emails, text messages and voice-mails provide an accurate account of communication, but these are only valuable if one can locate them when needed. So, most of these need to be retained in some manner. Some things can be printed out to be included in a traditional paper-based client file, but some have to be retained in their native format.

I have noted before that enterprise texting tools, like ZipWhip, can be used to retain all text message communications.<sup>1</sup> These tools also provide the benefit of allowing others to log in to assist with managing text messages. Law firm websites that have a "text us" feature on their website most likely use enterprise texting tools with staff members assigned to check the "inbox" at the beginning of each day and during each day. Practice management software tools make it easier for everyone working on a client file to document their communications easily.

## WHAT IS THE LAWYER'S VALUE?

We provide legal services and solutions to problems based on our knowledge and training. Legal services often relate to the intangible. Court orders and other legal processes are often not well understood by our clients. Often, the value of our services is demonstrated through our communication with our clients. We listen to the facts of the situation and advise them of the legal challenge and our proposed solution. If your client is a business, its assistant general counsel may understand the legal challenge well. But for individuals who are hiring a lawyer for the first time or do so only infrequently, it is critical to provide them with brochures and handouts and other material to take home to review after they

do and, often more importantly, what they are *not* supposed to do.

Stress on the part of a receiver of the message is one of the classic communication barriers. The more stressed one is, the harder it is to recall a conversation that took place the previous day – or week. The types of matters that bring individuals to see a lawyer are often stress-causing events, such as a death in the family, being sued, being arrested, being terminated from employment or being injured in an automobile accident.

Handouts that these clients can review later to refresh their memories of your initial advice are very important. These should cover general information and frequently asked questions. All such brochures and handouts should contain contact information for the lawyer or law firm, including the



have retained you. These materials should generally cover the client's type of legal problem. In some situations, the legal problem is obvious to the client (*e.g.*, "I got arrested and don't want to go to prison."), but those clients still need clear reminders in writing about what they are supposed to

website address. While the point of these communication tools is to assist this client, if you do a good job with your handout or brochure, you should not be surprised if the client shares it with a friend or relative who may become your client themselves in the future.

## USE SIMPLE AND CLEAR LANGUAGE

For consumer clients, use a middle school vocabulary level to improve readability. Avoid legal jargon unfamiliar to the general public when you can, and when you must use it, explain what these terms mean. Lawyers like complete detailed and complete explanations, with caveats if they are needed. Today's consumers like it short and sweet. If you are going to give today's client a multipage handout, try to make certain the most critical information is on the front page.

## APPRECIATE THE IMPORTANCE OF NONVERBAL ASPECTS OF COMMUNICATION

If you have a limited amount of time to return many client phone calls, be aware that while you have many matters, this may be the client's only matter. Take a breath and focus between each call when returning several client calls. Avoid sounding stressed or rushed on the phone with clients.

Make certain your staff understands you should only be interrupted while talking with the client in your office if there's an emergency or you receive communication pertaining to the client's matter. Even if the client is understanding, interrupting a client meeting to take a call will be taken by some as they were less important to you than the caller, at least at that moment.

## AUTOMATING CLIENT COMMUNICATION

There are now many tools that automate client communication. These tools can be very useful, such as setting up text message reminders before court appearances or client appointments with you in the office. But building good

form letters for client communications is another great way to “automate” communication. Building checklists and workflows should result in many situations where when task #3 is completed, client communication #4 is automatically prepared for delivery. These should reiterate what has been accomplished and the next step.

### WHAT CREATES UNHAPPY CLIENTS? VIOLATING THEIR EXPECTATIONS

A critical part of every new engagement or initial client interview should be setting reasonable expectations for the client, both in terms of potential results or resolutions and in terms of the time frame it will take to realistically accomplish the legal work. So, take some time to help the client have realistic expectations, both about the task ahead and the way your law firm operates. Take a few moments to explain that you will not always be available to take their phone calls or answer emails, but your policy is always to return them within 48 hours (or whatever your policy provides). Explain that your assistant may be available when you are not. If it is going to take a year before their matter can be heard, make sure the client understands that before they leave your office (or you close the videoconference). Always give your clients the opportunity to ask questions at the close of any one-to-one meeting discussing their case.

Make sure you stress to all your staff the level of friendly courtesy they are expected to display when dealing with your clients, even if the client is sometimes not having their best day when communicating with them.

### BILLING IS ALSO A CLIENT COMMUNICATION OPPORTUNITY

The late J. Harris Morgan authored the ABA book, *How to Draft Bills Clients Rush to Pay*. In those books, the theme was that narrative statements in client billing should demonstrate both the value to the client and effort on the part of the lawyer. Today, we also note there are some clients who pay more attention to their bills than other communications they receive from the lawyer. So, don't miss out on this communication opportunity.

### CONCLUSION

“The single biggest problem in communication is the illusion that it has taken place,” is a quotation attributed to George Bernard Shaw.

While you will never know exactly what others are thinking,

using the tips above will give you a better opportunity to make sure your client understands their legal matter and what your law firm is going to do to resolve it. Documentation provides the lawyer with a record to refer to should the lawyer's services or communications with the client later be brought into question.

---

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](mailto:jimc@okbar.org) or find more tips at [www.okbar.org/map](http://www.okbar.org/map). It's a free member benefit.

#### ENDNOTE

1. “Text Messaging for Lawyers,” Law Practice Tips, May 2019, OBJ, [www.okbar.org/barjournal/may2019/obj9005calloway](http://www.okbar.org/barjournal/may2019/obj9005calloway).



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# Adverseness: Material, Direct or Nonexistent?

By Richard Stevens

**W**HEN DEALING WITH A potential conflict, lawyers are often required to determine whether “material adversity” exists between a client and a former or prospective client. ABA Formal Opinion 497 gives guidance to lawyers in making that determination.

ORPC 1.9 (a) addresses the issue as to former clients as follows:

(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person’s interests are materially adverse to the interests of the former client unless

the former client gives informed consent, confirmed in writing.

Similarly, ORPC 1.18 addresses the issue regarding prospective clients:

(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from

representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).

ABA Formal Opinion 497 attempts to answer the question, “What does the term ‘materially adverse’ mean to the practitioner?” The term “materially adverse” was used in the ABA’s 1908 Canons of Ethics (which many current practitioners studied in law school, this author included). The current wording of Rule 1.9(a) was adopted by the ABA in 1983. In 2002, Rule 1.18 was adopted and seems to have borrowed the “materially adverse” language from Rule 1.9. ORPC 1.7 prohibits “(1) the representation of one client [which] will be *directly adverse* [emphasis added] to another client.” A previous ABA Formal Opinion (99-415) concluded that only direct adverseness meets the requirement of material adverseness. At that time, Comment [1] of 1.9 said that Rule 1.7 governed the issue of adverseness. That sentence has since been removed.

ABA 497 explores the reach of “material adverseness” in several situations. The authorities that have passed on the matter generally

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ABA 497 explores the reach of “material adverseness” in several situations. The authorities that have passed on the matter generally conclude that “material adverseness” requires more than a representation, which is simply harmful to a client’s economic or financial interest without some “specific tangible direct harm.”

conclude that “material adverse-ness” requires more than a representation, which is simply harmful to a client’s economic or financial interest without some “specific tangible direct harm.” They also indicate that direct adverseness is “material,” but “material adverse-ness” may be present when direct adverseness is not.

Obviously, ABA 497 concludes that “material adverseness” may be found in suing or negotiating against a prior client.

The opinion also considers the material adverseness of a lawyer attacking their own prior work. It cites a case holding that a lawyer cannot challenge the validity of a patent the lawyer themselves obtained for a former client. Another case held that a lawyer may not challenge a restrictive real estate covenant for a new client that the lawyer previously drafted for the prior seller of the land. The opinion also cites cases that find material adversity, where a lawyer, while not attacking their own prior work, instead sought to undermine the work or results achieved for a former client.

“Material adverseness” may also be found in examining a former client. Most often, the issue in such cases is the use of information gained from the prior representation. However, as the opinion

states, “Courts have sometimes found ‘material adverseness’ when the lawyer proposes to examine a former client, where no information from the prior representation will be used.”

The opinion discusses waiver and informed consent and concludes with a recitation of common situations that may result in “material adverseness.” The recitation is not exclusive, and the concept of “material adverseness” is broad enough to warrant a reading of ABA Formal Opinion 497 by any lawyer confronted with representation that may be averse to former or prospective clients.

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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](mailto:richards@okbar.org) or 405-416-7055. Ethics information is also online at [www.okbar.org/ec](http://www.okbar.org/ec).



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## Meeting Summaries

*The Oklahoma Bar Association Board of Governors met on Friday, Jan. 15, 2021.*

### REPORT OF THE PRESIDENT

President Mordy reported he worked on various committee appointments and a board event to be held the day before the February board meeting. He attended the Financial Institutions and Commercial Law Section annual meeting; Lawyers Helping Lawyers Assistance Program meeting and Oklahoma Attorneys Mutual Insurance Co. board meeting.

### REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he participated in planning calls with President Mordy and President-Elect Hicks, planning calls and video calls regarding launching the new electronic publication *Courts & More* and management staff meeting to discuss moving forward in 2021. He also had a conversation with Chief Justice Darby regarding the board's virtual swearing-in ceremony and modified script for the event.

### REPORT OF THE PAST PRESIDENT

Past President Shields reported she attended the swearing-in ceremony for Deborah Reheard as a special district judge in Okmulgee County and received information about the status of the *Schell* litigation.

### BOARD MEMBER REPORTS

**Governor Hilfiger** reported the Muskogee County Bar Association elected Andy Hayes as its new president, and he spoke with other county bar association presidents in his district to introduce himself. **Governor Pringle** reported he chaired a Legislative Monitoring Committee meeting, continued planning the committee's Legislative Kickoff, drafted a short legislative update for the February bar journal and wrote an article for the Oklahoma County Bar Association *Briefcase*. He attended the OCBA *Briefcase* Committee meeting and the Financial Institutions and Commercial Law Section annual meeting. **Governor Rochelle** reported he attended two Access to Justice Committee meetings. **Governor Vanderburg** reported new officers for the Kay County Bar Association are Rob Davis as president and Lauren Jech as treasurer.

### REPORT OF THE YOUNG LAWYERS DIVISION

Governor Moaning reported the division will hold its first 2021 meeting later in the month. She said the annual roast of the immediate past YLD chair usually held in January will be postponed. She shared YLD members will soon assemble bar exam survival kits adding hand sanitizer and will help staff the high school mock trials competitions.

### REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported the OBA is not involved in any litigation except for the *Schell* case. She shared details on the Registration of Out-of-State Attorneys (ROOSA) program and the trends observed in the increase in out-of-state lawyers not licensed to practice in Oklahoma seeking a special temporary permit to practice in the state.

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

### BOARD LIAISON REPORTS

Governor Vanderburg said the **Awards Committee** will meet soon. Governor DeClerck said **Disaster Response & Relief Committee** Chair Molly Aspan reports that lawyers with Legal Aid Services of Oklahoma and the Oklahoma Indigent Defense System are helping with evictions along with the Access to Justice Commission. Governor Hilfiger said the **Law Day Committee** contests with the theme, Advancing the Rule of Law Today, are now underway, and the committee continues to work on developing TV show segments. The show and free legal advice usually take place around May 1, nationally designated as Law Day. Governor Pringle said the **Legislative Monitoring Committee** will hold its Legislative Kickoff on Jan. 29. He shared the program topics that



will be discussed in addition to a legislative panel of four lawyer legislators. It will be free CLE for all bar members for a few days with a bigger window for committee members. He thanked Executive Director Williams and Educational Programs Director Johnson for their help. Executive Director Williams noted all board members have been added to the committee.

#### **APPOINTMENTS**

The board approved President Mordy's appointments of:

Court on the Judiciary Trial Division – L. Vance Brown, Oklahoma City, term will expire 3/1/2023.

Court on the Judiciary Appellate Division – D. Ken Williams Jr., Tulsa, term will expire 3/1/2023.

#### **NATIONAL CONFERENCE OF COMMISSIONERS FOR UNIFORM STATE LAWS**

President Mordy announced he proposes to submit the names of M. Joe Crosthwait, Midwest City; Heather L. Hintz, Oklahoma City; and Valerie Couch, Oklahoma City, to the governor for consideration and appointment of one person, term will expire 6/1/2025.

#### **SCAD NO. 2020-107/ COMPLIMENTARY DISTRICT COURT RULES**

Governor Garrett called attention to paragraph 8 in SCAD No. 2020-107 the Fourth Emergency Joint Order Regarding the

COVID-19 State of Disaster that utilization of remote participation in court proceedings is encouraged. In referencing Tulsa County District Court's Amended Administrative Order AO-2020-5 (Phase 3), she pointed out Tulsa did a good job of explaining how to use Microsoft Teams. She asked if the OBA could provide similar information for bar members? It was noted every court has its own rules for procedures related to COVID. Executive Director Williams said a list of court administrative rules can be found on both OSCN.net and the OBA's website at [okbar.org/covid19](http://okbar.org/covid19). He said if the OBA website is missing any court rules, they can be added. He said bar members with comments should email him at [johnw@okbar.org](mailto:johnw@okbar.org), and he shared that early in the pandemic when the webpage COVID-19 resources and information were first posted, the opportunity to email comments was made available. When no response was received, it was taken down.

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*The Oklahoma Bar Association Board of Governors met on Friday, Feb. 26, 2021.*

#### **REPORT OF THE PRESIDENT**

President Mordy reported he participated as a scoring panelist in three high school mock trial rounds, recorded opening remarks for the OBA Legislative Kickoff and discussed the upcoming Law Day date and events with

committee chair Ed Wunch. He attended virtually the Southern Conference of Bar Presidents, National Association of Bar Presidents meeting, Legislative Monitoring Committee meeting, Lawyers Helping Lawyers Assistance Program Committee meeting, OBA Legislative Kickoff and ABA Midyear meetings, including the House of Delegates and Oklahoma delegates meeting.

#### **REPORT OF THE VICE PRESIDENT**

Vice President Geister reported he served as a presiding judge and scoring panelist for the OBF/OBA's High School Mock Trial Competition. He encouraged others to get involved. He attended the OBA's Legislative Kickoff and complimented the organizers on an excellent program.

#### **REPORT OF THE PRESIDENT-ELECT**

President-Elect Hicks reported he is beginning to work with the Strategic Planning Committee. He attended the Oklahoma Bar Foundation orientation, OBF Board of Trustees meeting, Southern Conference of Bar Presidents plenary and breakout, National Association of Bar Presidents meetings, National Caucus of State Bar Associations zoom meeting, Oklahoma ABA Delegates teleconference and ABA Midyear meetings and House of Delegates.

## REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he attended a meeting about Day at the Capitol, Legislative Monitoring Committee meeting, Legislative Kickoff and virtual Southern Conference of Bar Presidents plenary and breakout sessions, National Association of Bar Executives, National Conference of Bar Presidents meetings, production meeting on the *Courts & More* publication, YLD board meetings and staff directors meeting. He helped with the build out of bill list for the Legislative Monitoring Committee, communicated with Legislative Liaison Clay Taylor regarding HB 2080 relating to non-payment of taxes by OBA members and referral for discipline to the OBA and conducted the final interview for the hiring of new communications specialist Kiel Kondrick, who is working with Dawn Shelton in production of website and electronic communications.

## REPORT OF THE PAST PRESIDENT

Past President Shields reported she attended the OBA Legislative Kickoff, Southern Conference of Bar Presidents meeting, NCBP meeting, Lawyers Helping Lawyers Assistance Program Committee meeting, Oklahoma ABA Delegates teleconference, ABA Midyear meetings and House of Delegates.

## BOARD MEMBER REPORTS

**Governor DeClerck** reported he attended the Legislative Kickoff. **Governor Edwards** reported he conducted a character and fitness interview of an applicant for OBA admission for the Oklahoma Board of Bar Examiners, served as a scoring panelist for two rounds of the OBF/OBA's High School Mock Trial Competition and attended the OBA's Legislative Kickoff. **Governor Garrett** reported she attended the

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Governor Rochelle said the Access to Justice Committee has been active. Court clerks are being asked legal questions, and they proposed a booklet of what they can and shouldn't do.

OBA Legislative Kickoff and Tulsa County Bar Association virtual member charcuterie making party. She met telephonically with Educational Programs Director Janet Johnson and Felina Rivera about upcoming cannabis OBA CLE programming and participated in TU College of Law mock interviews for students. **Governor Hilfiger** reported he attended the Law Day Committee meeting and volunteered to judge the 6th and 7th grade writing entries.

**Governor Hutter** reported he attended the Legislative Kickoff and Cleveland County Bar Association monthly CLE. **Governor Pringle** reported he moderated the OBA's Legislative Kickoff, chaired the Legislative Monitoring Committee meeting, began planning for OBA Day at the Capitol and submitted an update on the legislative session for the *Oklahoma Bar Journal*. **Governor Rochelle** reported he attended the Legislative Monitoring Committee and Access to Justice Committee meetings. **Governor Smith** reported she emailed the chairpersons of the Membership Services Committee and Military Assistance Committee to introduce herself as their new Board of Governors liaison and in her role as OBA Awards Committee Chairperson, via President Mordy, she solicited input from the board for any ideas for new or modified

OBA awards. She also attended the OBA Legislative Kickoff.

## REPORT OF THE YOUNG LAWYERS DIVISION

Governor Moaning reported the YLD has had a very active month helping to judge mock trial competitions and stuffing bar exam survival kits. The division will take on updating the Young Adult Guide app and helping with assistance related to disaster. She participated in the ABA YLD Assembly, where a National Young Lawyers Week was approved, served as a scoring panelist for three rounds of the OBF/OBA High School Mock Trial Competition, reviewed essay entries submitted for the 2021 Law Day contest and chaired the February YLD meeting. She attended the ABA House of Delegates meeting and National Caucus of State Bar Associations meeting.

## REPORT OF THE SUPREME COURT LIAISON

Justice Rowe said members of the court are doing well. All the justices and their staff members have been vaccinated. He reported the Oklahoma Judicial Center building, including the appellate court clerk office, will open to the public on March 1 pursuant to CDC protocols.

## REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx directed board members' attention to the annual Professional Responsibility Commission Report that summarizes the department's activities for the calendar year. She said last year there was a dip in the number of grievances submitted. She attributed the pandemic as part of the reason; however, there has been a slight decrease for the last several years. As a result of the decrease, the department has been able to make significant progress on handling backlog. She pointed out the number of out-of-state attorney applications has not decreased as a result of the pandemic, and in fact, it was a banner year thought to be caused by pandemic issues, such as lawsuits against insurance companies that involve bringing in national counsel. Questions were asked and discussed.

A written report of PRC actions and OBA disciplinary matters for January and the Professional Responsibility Tribunal Annual Report were submitted to the board for its review.

## BOARD LIAISON REPORTS

Governor Rochelle said the **Access to Justice Committee** has been active. Court clerks are being asked legal questions, and they proposed a booklet of what they can and shouldn't do. A draft will be submitted to the board for its review. Governor Vanderburg said the Kay County Bar Association is taking applications for the Clark Scholarships and the Northcutt Scholarships, which are existing programs created by local attorneys to support people with Kay County connections of at least three years. Applicants must have a 2.0 GPA on a 4.0 scale and be admitted as a full-time student at one of the three Oklahoma accredited law schools. Applications must be submitted by late March or early April. The size

of the scholarships is dependent on the number of qualified applicants and the total income for the past year. Historically, scholarships range from \$1,000 to \$6,000. The scholarship may be awarded for each of the three years of schooling, if the applicant remains qualified. Past President Shields said the **Lawyers Helping Lawyer Assistance Program Committee** met and new liaisons at A Chance to Change were introduced. It was reported the program had 14 clients since December. The committee is going to work on outreach this year and is committed to making presentations around the state as things open up. Governor Hilfiger said the **Law Day Committee** is considering moving Law Day to the fall. Contest judging is taking place now. A total of 1,239 entries have been received: 664 writing, 391 art and 184 coloring. Governor Pringle said the **Legislative Monitoring Committee** had greater participation for its Legislative Kickoff holding it on a weekday instead of Saturday, which was the previous practice. Day at the Capitol is coming up March 23 and will take place virtually with 2 hours MCLE credit. He reviewed programs and speakers. Governor Smith said the Military and Veterans Law Section and **Military Assistance Committee** had a joint meeting focusing on the Oklahoma Lawyers for America's Heroes Program. The challenge is how to enhance the participation of lawyers. The qualifications of heroes receiving help will be reviewed. The program coordinator is on leave, and Practice Management Advisor Julie Bays is currently handling activities. Governor Hutter said the **Solo & Small Firm Conference Planning Committee** will meet next week. Executive Director Williams said the conference set for Choctaw Resort Casino in Durant was cancelled in 2020 due to COVID-19 and moved to June

2021. However, the June date was not going to work for an in-person meeting and the resort can't accommodate a July date. Inquiries will be made about holding the conference in Durant in 2022, and a decision about the 2021 conference is pending. Feedback from past participants is that in-person interaction is very important. Discussion followed.

## CLIENTS' SECURITY FUND APPOINTMENT

The board voted to approve President Mordy's appointment of Derek K. Burch, Oklahoma City, to the Clients' Security Fund Committee with a term to expire Dec. 31, 2023.

## FORMATION OF CANNABIS LAW COMMITTEE

Governor Garrett said it came to her attention after reviewing pending legislation that there is a need for more information for judges and practitioners on cannabis law. Governor Garrett said she and Felina Rivera would volunteer to be committee leaders. Executive Director Williams briefed the board on the status of a 2018 House of Delegates proposal recommending an amendment to the Oklahoma Rules of Professional Conduct to add a limited exception for lawyers providing counsel to clients regarding marijuana-related laws in Oklahoma. The resolution passed and was submitted to the Supreme Court, which did not take action. He also noted the OBA has offered quite a bit of programming on the topic. Discussion followed. The board decided to table the proposal for more research.

## NEXT MEETING

The Board of Governors met in March, and 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, April 16.



# OBF 75 Faces of Impact: Maria's Story

*By Candice Pace*

**M**EET MARIA, CLIENT OF OBF grantee Catholic Charities, and one of the OBF's 75 Faces of Impact. Her story is made possible by the generosity of OBF donors.

I never imagined I would end up a victim of human trafficking and a survivor of domestic violence.

When I was 16 years old, Javier, my boyfriend and the father of my child, brought our baby and me to the U.S. from Mexico. He promised we would build a better life for our family. I felt excited about the opportunities. After we arrived in the U.S., he told me to get to work cooking and cleaning for him and his employees. He took my documents and told me to not leave the house because anyone on the street could be working for immigration. He said if they caught me, they would deport me. I did not understand my rights, and I was afraid.

Shortly thereafter, Javier told me he had to travel for work. He locked me in the house and boarded up the windows, saying it was for my protection. I was left in that house for eight months. He came back sporadically to bring food and diapers, but that is when the abuse began. He would rape and beat me each time he returned. Because of this, I became pregnant again. After giving birth, I was released from the hospital, and Javier



demanding I do laundry for him and his employees. I was tired and still in pain from childbirth, but he did not care. He dropped me off at the laundromat with our newborn and toddler. Three days later, I was forced to cook and clean for Javier and his employees. There was no time for me to rest, heal and bond with my baby.

I was miserable and trapped in this nightmare. He told me if I tried to leave, he would find me and beat me. Then, he hit me so hard, my eardrum ruptured. I knew at this point the abuse was only going to get worse, and I was tired of living this way. When he left the room, I had a moment to text a friend to ask for help. My friend called the police, and Javier was arrested. I was relieved to find out I could get a restraining order to protect my children and me.

I was referred to a nonprofit for basic needs and shelter. The caseworker said I needed an attorney, but I told them I could not afford one. They referred me to the Immigration Legal Services program at Catholic Charities of the Archdioceses of Oklahoma City. Their staff attorney helped me get a U visa for my daughter and me. I learned I was eligible for a U visa since I was a victim of crime and would help the authorities with the investigation. The same lawyer later represented me in the deportation proceedings initiated against me when I entered the U.S.

Having an attorney's help gave me tremendous hope. The assistance I received not only saved my life, but it empowered me to start my own business. I always dreamed of being a makeup artist and hairstylist, and now I was free to follow my dreams and earn my own income. Since then, I have bought a trailer and have a home for my family. My life was changed drastically, and now I can focus on being a good mom.

Maria's story is unique because not only was she a victim of violence, she also needed immigration legal services adding to the complexity of her overall case. That is why giving to the Oklahoma Bar Foundation is so important because each year

we fund many Oklahoma nonprofits that provide legal services for domestic violence victims as well as immigration legal services.

Unfortunately, many Oklahoma women and children live in similar, violent situations like Maria and need the help of an attorney. Reports show that family violence has increased tremendously due to

the COVID-19 pandemic lockdown. In honor of the OBF's 75th year, we are conducting a campaign to raise \$25,000 for OBF grantees who provide legal services to victims of violence. Donate to our 75 for 75 Campaign and 100% of proceeds raised will go to these grantees.

You can help by donating to our 75 for 75 Campaign at

75for75.swell.gives. You can also fill out the 75 for 75 Campaign Donation Form and mail your payment to the Oklahoma Bar Foundation, P.O. Box 53036, Oklahoma City, OK 73152.

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Ms. Pace is OBF director of development & communications.

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Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Email: \_\_\_\_\_ Phone Number: \_\_\_\_\_

\_\_\_\_\_ Yes, I would like to end family violence by donating to the 75 for 75 Campaign.

Choose your level of impact:

\_\_\_ \$75 \_\_\_ \$175 \_\_\_ \$275 \_\_\_ \$375 \_\_\_ \$475 \_\_\_ \$575 \_\_\_ \$775 \_\_\_ \$1,075 \_\_\_ Other \$ \_\_\_\_\_

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Credit card payments can also be made on our campaign giving site: 75for75.swell.gives



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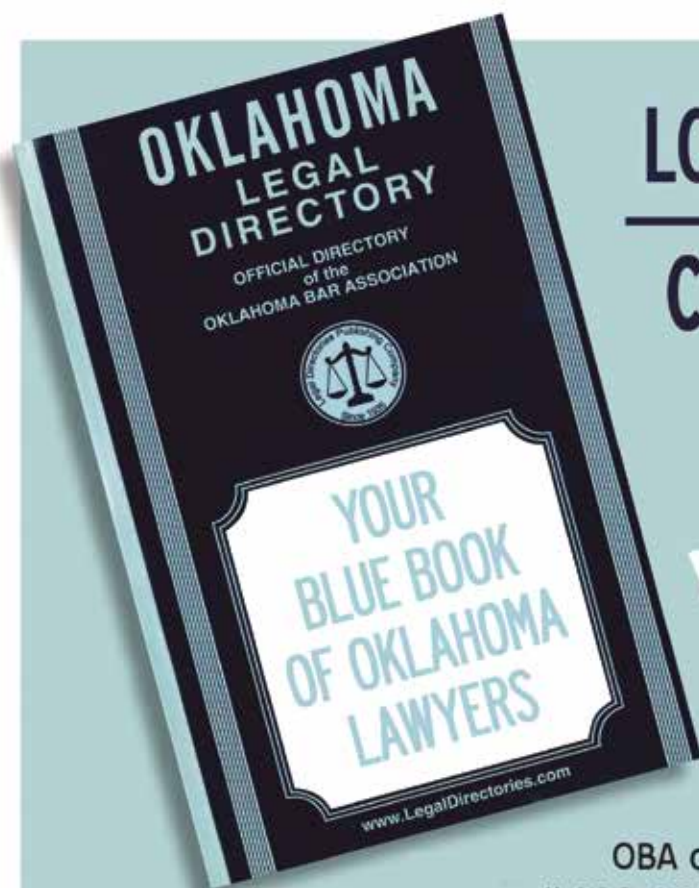
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# The Law From the Perspective of a Fourth Grader

By April Moaning

**LAW DAY IS RIGHT AROUND** the corner! It is a day originally envisioned by 1953 OBA President Hicks Epton, proclaimed by President Eisenhower and subsequently established by public law. Each year, Law Day is dedicated to the celebration of the rule of law, appreciation of our legal system and the rededication to the

ideals of equality and justice. The 2021 Law Day theme is “Advancing the Rule of Law Now.” According to the ABA, this theme serves as a reminder that we “share the responsibility to promote the rule of law, defend liberty, and pursue justice.”

As mentioned in my February 2021 article, the OBA Law Day Committee hosted an art and

writing contest for students in Pre-K through 12th grade. The contest is just one of many ways members and committees of the OBA honor Law Day. I had the privilege of judging essays submitted by fourth graders, who were tasked with answering the following questions: Why is it important for laws to be fair? Why is it important to respect the law?

In response to the inquiry about fairness, many of the students focused on social unrest, war, lack of uniformity, jealousy and confusion. My favorite response was written by a student who focused on laws that treated men and women differently. He stated a man and woman should be afforded the same right to participate in sports, and if a law is written to prevent women from participating in a sport, the women might become angry. He ended his analysis by stating, “A group of angry women is never a good thing.” I couldn’t help but laugh as it was quite fun and enlightening to step into the mind of a fourth grader. At the end of the day, the contestants all had the same message: Laws should be fair because it is the right thing to do. Many of us are on board with the concept of fairness. I am honored to be a member of a profession that has the tools necessary to combat laws that



YLD Chair-Elect Dylan Erwin watches ABA House of Delegates Chair Barbara Howard during the virtual ABA YLD Midyear Meeting, which was held Feb. 17 - 22.



*YLD members are updating the content of the OBA Young Adult Guide app, which offers legal information tailored to those new to adulthood.*

may be unjust or unfairly applied to certain individuals. I am hopeful that the fourth graders who voiced their opinions regarding the importance of fair laws will grow up to serve as future leaders in the legal profession.

The unanimous consensus among the fourth graders regarding the second inquiry was that

a lack of respect for the law can result in arrests, tickets, jail time, injuries and/or hospitalization. I think many of these concepts take a backseat as children near adulthood. Many teenagers are excited about freedom, transitioning into adulthood, voting, staying out past curfew, purchasing and driving a car, renting an apartment and/or starting their first job. However, we all know that with freedom comes great responsibility.

The YLD wants to ensure that as children near the age of majority, they not only know their rights under the law but also understand their legal responsibilities and the importance of respecting the laws. In order to accomplish this, we have an annual goal of encouraging students to download the Young Adult Guide app. This year, we hope to reach an even larger pool. At the advisement and direction of OBA Executive Director John Morris Williams, we plan to conduct a virtual town hall geared toward helping young adults understand their roles, rights and responsibilities under the law. We understand that during the past year there have been substantial revisions to many laws that impact young adults. As such, we have commenced the process of updating and revising the Young Adult Guide. If you wish to contribute your expertise relating to

criminal, employment, family, consumer credit and/or contract law, please send an email to [aprilmoaninglaw@gmail.com](mailto:aprilmoaninglaw@gmail.com) or [ltalbert@stocktontalbert.com](mailto:ltalbert@stocktontalbert.com). Volunteers are always appreciated, and it is the perfect way to honor Law Day.

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



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# **BETWEEN TWO WEEDS: CANNABIS SERIES: JOINT SESSIONS**

**Stay up-to-date on the status of proposed cannabis legislation being considered by the Oklahoma Legislature.**

This program will provide an update as to the status of cannabis related legislation that is currently being considered by the Oklahoma Legislature. The program follows up on the cannabis law segment presented during the "50 Bills in 50 Minutes" portion of the 2021 Oklahoma Legislative Kickoff CLE provided in February. Cannabis Attorneys Amber Garrett and Felina Rivera discuss the pros and cons of the bills that are actively being considered by the House and Senate and advise on where each bill is on the path to becoming law.

## **ABOUT OUR SPEAKERS:**

Amber Peckio Garrett is Martindale-Hubbell® AV rated solo practitioner with Amber Law Group in Tulsa, OK. Ms. Peckio Garrett has 16 years experience who specializes in personal injury, civil litigation and family law. She received dual bachelor's degrees in Economics and Political Science from Southeastern Oklahoma State University. She received her Juris Doctor degree from the University of Tulsa College of Law in 2003 where she currently serves as a member of the Alumni Board.

Ms. Peckio Garrett is a current Trustee of the Oklahoma Bar Foundation where she serves on the Grants and Awards Committee. In addition, she currently serves as the Chairperson of the Law Related Education Committee. Ms. Peckio Garrett has served the OBA as the youngest ever Chairperson of the Women in Law committee (2007).

Felina Rivera is a civil litigation and cannabis attorney who has represented a large array of clients in the areas of tax law, insurance defense, personal injury, family law, consumer litigation, and cannabis law. Within her cannabis law practice, Felina assists clients with all aspects of their businesses, including guiding clients through the licensing application process, zoning and building permits, industry contract negotiations, and OMMA compliance. She is admitted to practice law in the State of Oklahoma, the Western District of Oklahoma, and Federal Tax Court. In addition to her legal career, Felina is also an active musician. She can often be found playing guitar and singing at local live music venues throughout the state.

## ON THE MOVE

**Nicole Morgan** has joined the Oklahoma City law firm of Kirk & Chaney. She focuses her practice on the defense of health care providers, trucking companies and other entities and individuals. Ms. Morgan received her J.D. from the OCU School of Law in 2014 and volunteers with Legal Aid Services of Oklahoma and the OCU chapter of the Innocence Project.

**Christopher R. Haunschild** has joined the Oklahoma City office of Crowe & Dunlevy. **Danielle Hood** has joined the firm's Tulsa office. Mr. Haunschild is a member of the firm's Taxation Practice Group. He received his J.D. from the TU College of Law and his LL.M. in taxation from the New York University School of Law. Ms. Hood is a member of the Aviation & Commercial Space, Banking & Financial Institutions, Corporate & Securities and Real Estate practice groups. She received her J.D. from the University of Kansas School of Law.

**Lezel Safi** has joined Bedlam Law in Yukon. She practices primarily in the area of family law, including divorce, custody, paternity and guardianships. Ms. Safi received her

J.D. from the OCU School of Law in 2019, where she was named a 2019 William J. Holloway Jr. Student Award recipient. Previously, she was an associate attorney with Gilchrist Aviation Law P.C.

**Jennifer K. Christian** and **Kayla M. Kuri** have joined the Oklahoma City office of Phillips Murrah. Ms. Christian is an of counsel attorney who assists clients in a wide range of transactional matters and litigation involving business law, contractual disputes, real estate, banking, healthcare, business divorce, construction, trust administration, insurance coverage and bad faith and employment-related matters. Ms. Kuri is an associate attorney who represents individuals and both privately held and public companies in a wide range of commercial and business matters, including mergers and acquisitions, real estate transactions, private securities offerings and commercial financing transactions.

**Trent Shores** has joined GableGotwals as a shareholder. Mr. Shores, a former U.S. attorney for the Northern District of Oklahoma, was the chief federal

law enforcement officer responsible for all federal criminal prosecutions and civil litigation in the Northern District. He is a member of the OBA Indian Law Section and is admitted to the U.S. District Courts for the Northern, Eastern and Western Districts of Oklahoma, the U.S. Court of Appeals for the 10th Circuit and the U.S. Supreme Court.

## KUDOS

**Paula Wood, Michael J. Miller, Timothy Dowd** and **Travis C. Smith** have been recognized by the ABA Standing Committee on Pro Bono and Public Service for their dedication to pro bono service through their participation in Oklahoma Free Legal Answers, sponsored by the OBA, ABA and Oklahoma Supreme Court Access to Justice Commission. These recipients each answered 50 or more civil legal questions in 2020. The committee presents the annual ABA Free Legal Answers 2020 Pro Bono Leaders recognition to individual attorneys, law firms, corporate law departments and other organizations that have provided extraordinary pro bono services through ABA Free Legal Answers.

### 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 August issue must be received by July 1.*

## IN MEMORIAM

**Sherri Kay Anderson** of Tulsa died Feb. 6. She was born March 31, 1954, in Cushing, Ms. Anderson received her J.D. from the TU College of Law in 2004.

**John Terry Bado** of Edmond died Feb. 2. He was born Dec. 3, 1947, in Oklahoma City. Mr. Bado attended Baylor University on a track scholarship and received his J.D. from Baylor Law School in 1971. **He served as a captain in the U.S. Army JAG Corps and was stationed in Columbia, South Carolina, Taipei, Taiwan and at the Pentagon in Washington, D.C., before leaving as a major in 1979.** In 1981, he founded Bado & Bado Law Firm with his wife. He practiced in the areas of oil and gas and adoption and helped moderate continuing legal education classes on adoption.

**Clay Steven Hager** of Edmond died Feb. 9. He was born Feb. 25, 1958, in Enid. After graduating from Enid High School in 1976, Mr. Hager earned his bachelor's degree from Phillips University in 1981 and became a photojournalist for the Enid News & Eagle. In 1987, he received his J.D. from the OU College of Law. He served as a senior staff attorney at Oklahoma Indian Legal Services, where he had worked since 1990. He also served as chief judge for the Kickapoo Nation in Kansas and on the Kaw Nation of Oklahoma Supreme Court. He received the 2015 Hargrave Writing Prize at the Oklahoma Supreme Court's annual Sovereignty Symposium and was honored as the 2008 Attorney of the Year by the Pawnee County Court Appointed Special Advocate program. Memorial contributions may be made to Oklahoma Indian Legal Services.

**Carol Hansen** of Forest Park died Feb. 23. She was born July 3, 1929, in Oklahoma City. Judge Hansen received her J.D. from the OCU School of Law in 1974 and began her legal career as judicial council to Oklahoma Supreme Court Justice John B. Doolin. After serving as marshal of the Oklahoma Supreme Court in 1984, she was appointed to the Court of Appeals by Gov. George Nigh as Judge, a position she held until retiring in 2012. In 1993, Judge Hansen was elected chief judge of the Court of Appeals and was the first woman to serve in that position in any Oklahoma appellate court. She was the recipient of the first Ralph B. Hodges-Robert E. Lavender Award for Judicial Excellence given by the Oklahoma Supreme Court. Memorial contributions may be made to the Paul and Carol Hansen Endowed Scholarship in Athletics at OCU or to the Benevolence Fund at Mayflower UCC.

**Donald Lee Henderson** of Flower Mound, Texas, died Jan. 24. He was born July 11, 1927, in San Angelo, Texas. **At 17, he enlisted in the U.S. Marine Corps and served in China during World War II.** Upon being honorably discharged, Mr. Henderson received his bachelor's degree from Texas Technological College in 1949 and his J.D. from the OCU School of Law in 1970. He was a petroleum engineer with Mobil Oil and had a private law practice in Oklahoma City. He was a citizen of the Cherokee Nation and a member of the Oklahoma and Texas Petroleum Engineer Associations.

**Don Richard Lane** of Pampa, Texas, died Aug. 5. He was born Aug. 30, 1930, in Pampa. Mr. Lane received his J.D. from the OU College of Law in 1954, graduating 6th in his law school class. While at OU, he was president of Phi Alpha Delta legal fraternity, Phi Kappa Sigma fraternity and was a member of the OU Men's Glee Club for four years. **He served on active duty for two years in the Judge Advocate General's Department of the U.S. Air Force and was admitted to the U.S. Court of Military Appeals in Washington, D.C. He continued to serve in the Air Force reserve for several years following active duty, reaching the rank of major.** Mr. Lane served as city judge and city attorney for Pampa for over 40 years, retiring from the city in 2007 and from his private law practice in 2014. For 11 years, he was director of the First National Bank in Pampa, and he was a Life Fellow of the Texas Bar Foundation. Memorial contributions may be made to the First United Methodist Church in Pampa.

**Clifford D. McEntire** of Oklahoma City died Dec. 31. He was born Nov. 23, 1939. Mr. McEntire received his J.D. from the OCU School of Law in 1989.

**Judith Ann Morgan** of Leesburg, Virginia, died Jan. 15. She was born June 28, 1939, in Des Moines, Iowa, and was raised in Green Bay, Wisconsin. Ms. Morgan received her J.D. in 1982 from the first American Bar Association accredited class for the George Mason University School of Law. She served as assistant director for the OCU School of Law, an associate with Bulla and Associates and the



law librarian for Kornfeld, Franklin & Phillips. In 1986, she was named law library director for the OCU School of Law, a position she held until her retirement in 2010. Ms. Morgan also served as president of the Mid-America Association of Law Libraries and published several research articles. Memorial contributions may be made to the Alzheimer's Association.

**P**atrick John Morgan of Leesburg, Virginia, 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 in Englewood, Colorado.

**M**ichael Duane Patterson of Norman died Feb. 20. He was born March 16, 1959, in Houston. After graduating from OU with a bachelor's degree in petroleum land management, Mr. Patterson received his J.D. from the OU College of Law in 1991.

**J**erry Edward Perigo of Tulsa died Dec. 25. He was born June 4, 1946. Mr. Perigo received his J.D. from the TU College of Law in 1976.

**W**illiam Joseph Perry of Pawnee died Feb. 10. He was born April 3, 1941. Mr. Perry received his J.D. from the OU College of Law in 1966.

**J**ames Dudley Williams of Porter died Feb. 9. He was born Aug. 24, 1933, in Atlanta. After graduating high school in 1951, he attended the University of Missouri, graduating with a bachelor's degree in journalism in 1955. **While at the University of Missouri, Mr. Williams joined the U.S. Navy through ROTC. He was honorably discharged as a lieutenant (junior grade) in 1957.** He received his J.D. from the TU College of Law's first night class in 1967. After practicing as an attorney for a few years, he became the manager of Yale Bowl, his parents' business, until it closed in the '80s. Memorial contributions may be made to AutismOklahoma, the Tulsa SPCA or your favorite animal welfare charity.

**B**ryan L. Wright Sr. of Guymon died Feb. 11. He was born April 13, 1939. Mr. Wright received his J.D. from the Washburn University School of Law in 1966.

## 2021 ISSUES

### 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

## 2022 ISSUES

### JANUARY

**Meet Your Bar Association**  
Editor: Carol Manning

### FEBRUARY

**Labor & Employment**  
Editor: Roy Tucker  
RTucker@muskogeeonline.org  
Deadline: Oct. 1, 2021

### MARCH

**Impact of  
McGirt v. Oklahoma**  
Editor: Aaron Bundy  
aaron@bundylawoffice.com  
Deadline: Oct. 1, 2021

### APRIL

**Law Day**  
Editor: Carol Manning

### MAY

**Energy**  
Editor: Tony Morales  
Tony@stuartclover.com  
Deadline: Jan. 1, 2022

### AUGUST

**Gaming**  
Editor: Scott Jones  
sjones@piercecouch.com  
Deadline: May 1, 2022

### SEPTEMBER

**Bar Convention**  
Editor: Carol Manning

### OCTOBER

**Education**  
Editor: Luke Adams  
ladams@tisdalohara.com  
Deadline: May 1, 2022

### NOVEMBER

**Municipal Law**  
Editor: Roy Tucker  
RTucker@muskogeeonline.org  
Deadline: Aug. 1, 2022

### DECEMBER

**Ethics & Professional  
Responsibility**  
Editor: Cassandra Coats  
cassandracoats@leecoats.com  
Deadline: Aug. 1, 2022

*If you would like to write an article on these topics,  
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# RHODES HIERONYMUS

## RHODES HIERONYMUS EXPANDS OKLAHOMA CITY OFFICE



Malinda Matlock, Partner



Elizabeth Sharrock, Partner



Joseph Stall, Associate

Rhodes Hieronymus Jones Tucker & Gable, PLLC announced the relocation of their Oklahoma City office to 1001 NW 63rd Street, Suite 280, Oklahoma City, OK. With the addition of office space, we welcome Malinda Matlock and Elizabeth Sharrock as Partners and Joseph Stall as an Associate. Malinda's experience is diverse in professional liability (medical, legal, A&E, E&O, D&O), employment litigation, sexual misconduct, premise liability, transportation, bad faith insurance claims and coverage disputes. She was peer selected as an Oklahoma Super Lawyer for 10+ years and is recognized as one of America's Top 100 High Stakes Litigators. Elizabeth specializes in professional liability, employment law, premise liability and general civil litigation. She is a 2017 Best Lawyers inductee, serves on the Rockin' G Equine Sanctuary board and makes her home in the Oklahoma City area. Joe Stall, likewise, lives in the Oklahoma City area and is experienced in complex litigation matters, including transportation, product liability, employment, medical negligence and construction.

## RHODES HIERONYMUS WELCOMES TULSA ATTORNEYS



Curtis Kaiser, Of Counsel



Lindsey Kaiser, Associate

Rhodes Hieronymus Jones Tucker & Gable, PLLC announced the addition of Lindsey Kaiser and Curtis Kaiser to the Tulsa location at 2 West 2nd Street, Suite 1000, Williams Tower II, Tulsa, OK. Lindsey graduated from the University of Oklahoma Magna Cum Laude with a degree in international business. She received her law degree from the University of Oklahoma College of Law. Lindsey has extensive experience in community association law as well as defense of insurance matters. Curtis brings with him over 35 years of experience in real estate transactions, real estate title work and community law. During the last 25 years, his primary focus has been estate planning, probate and community association law. Curtis has worked closely with developers, boards of directors and property managers serving condominium and neighborhood associations.

He is a graduate of the University of Tulsa College of Law.

CONTACT [INFO@RHODESOKLA.COM](mailto:INFO@RHODESOKLA.COM)

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# 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:**

**COMANCHE, GARFIELD, GRANT, 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, April 15, 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-2022 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, April 15, 2021 TO BE CONSIDERED TIMELY SUBMITTED.**

Sealed Offers will be opened at the OIDS Norman Offices on Thursday, April 15, 2021, beginning at 5:10 PM, 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 Thursday, April 15, 2021 @ 5:10 PM, 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, April 16th, 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 \_\_\_\_\_

\_\_\_\_\_

## CLASSIFIED ADS

### SERVICES

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WANT TO PURCHASE MINERALS AND OTHER OIL/GAS INTERESTS. Send details to P.O. Box 13557, Denver, CO 80201.

#### HANDWRITING IDENTIFICATION POLYGRAPH EXAMINATIONS

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Fellow - ACFEI	FBI National Academy

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### SERVICES

**BRIEF WRITING – EXPERIENCE MATTERS -** Civil Litigator with 15+ years writing for Federal and State Courts – summary judgement briefs, appellate briefs, discovery, medical records review and more: Serving solo law practitioners and law firms. JSLegalWritingServices.com: Phone: 405-513-4005 Email: jennifer@jslegalwriting.

BALL MORSE LOWE PLLC is a multi-state law firm seeking an established family law practice in the Tulsa area to partner with and help grow or assist in an exit. If you have an active family law practice that you would like to graft with a larger firm that will cover the expenses, marketing, technology, operations and support of your practice, we are interested in talking with you. You will continue to develop your practice and service your existing clients, but without the headaches of running the business. We are an established firm with a strong culture of employee development and client service. We are looking for attorney leaders who would like to grow with us. Interested parties, please contact us at office@ballmorselow.com to schedule a visit with our team.

### OFFICE SPACE

OKC OFFICE SPACE FOR LEASE. Near downtown (5 minutes or less to all three courthouses). Furnished. Two conference rooms. Full kitchen. Room for receptionist and file storage. Security System. Cleaning service bi-weekly. \$500 per month plus portion of bills. Well below market value. Please call (405) 413-1646 if interested.

CONCIERGE SERVICE FURNISHED PRIVATE OFFICE IN OKC - 0.8mi from OK County Courthouse, month-to-month. Included: 12-person & 6-person conference rooms, kitchenette, common space for up to 50, printer, Wi-Fi, supplies, coffee & tea. Call 405-633-1903. Email hello@workflowokc.com.



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EXCLUSIVE SUITE AVAILABLE IN OKC. Senior AV Preeminent-rated lawyer has available suite with area for secretary in luxury high rise building on NW Expressway. \$575/month plus telephone and copier. Email paul@peqlaw.com.

EXECUTIVE OFFICES IN MIDTOWN (OKC). Receptionist provided. Each office from \$950 - \$1,750/month depending on sq. ft. Contact Larry Spears or Jo at 405-235-5605.

## POSITIONS AVAILABLE

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.

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.

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.

## POSITIONS AVAILABLE

AV RATED INSURANCE DEFENSE/CIVIL LITIGATION FIRM seeks sharp, self-motivated associate attorneys with civil litigation experience. Openings in both Tulsa and Oklahoma City offices. Candidates should be organized, detail oriented and have strong research and writing skills. Excellent career opportunity for the right applicants. Send replies to Box DD, Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

MCAFEE & TAFT IS EXPANDING OUR GROWING LITIGATION TEAM and seeking one to two associate or Of Counsel attorneys to join its Litigation practice group for the following positions: General Litigation Attorney with 2-15 years of experience in the areas of complex business disputes, products liability, personal injury, insurance defense, coverage and bad faith, and professional negligence. Ideal candidates will have experience in preparing trial documents, understanding medical and technical issues in a variety of contexts, and experience in cases involving torts. Prior business or financial experience a plus. All inquiries will be treated confidentially. Top academic performance, strong writing and analytical skills, interpersonal skills, and the ability to work in a team environment are required. Please submit resume and law school transcript to Craig Buchan at McAfee & Taft, A Professional Corporation, Williams Center Tower II, Two W. Second Street, Suite 1100, Tulsa, OK 73102, or via email to craig.buchan@mcafeetaft.com. No phone calls please.

THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT is seeking applications from qualified persons for the position of Circuit CJA Case-Budgeting Attorney. The Budgeting Attorney will work across the circuit to aid appellate, district, and magistrate judges and CJA panel attorneys in a wide range of duties related to CJA case budgeting and voucher processing. For the full job announcement and application instructions, visit [www.ca10.uscourts.gov/hr/jobs](http://www.ca10.uscourts.gov/hr/jobs).

## POSITIONS AVAILABLE

NORMAN WOHLGEMUTH, a mid-size, fast-paced civil, business, family, and criminal litigation firm seeks a lawyer with 2-5 years of experience with an emphasis on litigation. Excellent writing skills are required and hiring bonuses are available for candidates with judicial clerkship experience. If interested, please send confidential resume, references and writing sample to JJeter@NWLAWOK.com.

ASSOCIATE ATTORNEY: Barnum & Clinton, PLLC, a well-established Norman Workers' Compensation Defense litigation firm is seeking an associate attorney, preferably with 3+ years' experience. Required: ability to work with others, availability for day travel, aggressive handling of legal issues, excellent professionalism, excellent analysis/writing skills, hard-working, detail oriented, and good reputation. Please send resume, including work history, law school transcript, and cover letter to cbarnum@coxinet.net.

THE UNIVERSITY OF TULSA COLLEGE OF LAW invites applications from both entry level and experienced faculty for possible visiting faculty positions beginning in the 2021-2022 academic year. We seek candidates with superior academic records whose performance to date has demonstrated excellence in scholarship and teaching or a strong potential to excel as scholars and teachers. The areas of teaching need will include torts and criminal law and may also include other first year and/or required or elective courses. The University of Tulsa College of Law, as an equal opportunity/affirmative action employer, is committed to equality of opportunity in its employment of faculty and staff, without discrimination on the ground of race, color, religion, national origin, gender, age, disability, or sexual orientation. Members of underrepresented groups are strongly encouraged to apply. If you would like to learn more about the College generally, you may visit our website at [www.law.utulsa.edu](http://www.law.utulsa.edu). Please submit letters of interest, résumés and diversity statements to Prof. Robert Butkin, Chair, Appointments Committee, University of Tulsa College of Law, 3120 E. 4th Place, Tulsa, OK 74104, or by email to [robertbutkin@utulsa.edu](mailto:robertbutkin@utulsa.edu).

## POSITIONS AVAILABLE

THE DEPARTMENT OF HUMAN SERVICES, Legal Services, is seeking qualified and experienced applicants for an Assistant General Counsel position housed in Oklahoma City. The ideal applicant should possess at least five years of broad state and federal civil litigation experience primarily in employment law but also in civil rights and tort actions. The duties of this litigation position require effective writing and communication skills to provide legal representation and advice, as well as training in a wide range of matters affecting the largest state governmental agency. The chosen candidate must be highly organized and ready to accept and manage an established caseload in various stages of litigation and involving a variety of legal issues. Salary is based on qualifications and experience. Excellent state benefits. Send resume, references, and a recent writing sample (less than 1 year old) to [judi.abrams@okdhs.org](mailto:judi.abrams@okdhs.org) or mailed to Judi Abrams, Operations Manager, Legal Services, Dept. of Human Services, P.O. Box 25352, Oklahoma City, OK 73125-0352.



**Tulsa Municipal Court Judge,**  
Full-Time: The Tulsa City Council is seeking applicants for one, full-time municipal court judge's position. Term: July 1, 2021 - June 30, 2023; continuing service subject to biennial reappointment. Annual salary: \$120,000.

### Minimum Qualifications:

- Must be licensed to practice law in the State of Oklahoma.
- Must be a resident and a registered voter in the City of Tulsa at the time of assuming office.
- Must have been a registered voter and actual resident of Tulsa, Osage or Rogers County for at least six (6) months prior to the date of application.
- Must have had a minimum of two (2) years of experience as a licensed practicing attorney, or as a judge of a court of record, or a combination thereof, with in the State of Oklahoma.

### To Apply:

Applications are available for download at [www.tulsacouncil.org](http://www.tulsacouncil.org), or may be requested via email to [secretary@tulsacouncil.org](mailto:secretary@tulsacouncil.org). Completed applications must be received in the Tulsa City Council Office, City Hall Fourth Floor, 175 East Second Street, Tulsa, OK 74103 no later than 5:00 p.m. on Friday, April 23, 2021 or they will not be considered. Questions? Call 918-596-1990.

## POSITIONS AVAILABLE

### CONNER WINTERS

Tremendous opportunity for a capable and energetic attorney with 2- 7 years of litigation experience to join Conner & Winters, LLP, a regional law firm. The firm's OKC office has an immediate need in the commercial and complex litigation practice. The ideal candidate will immediately have opportunities to participate in case development, depositions, hearings and trials before state and federal courts and regulatory agencies, as well as research, writing and discovery. Qualified candidates will have excellent academic credentials, demonstrated written and oral communications, a focus on attention-to-detail and an eagerness to learn and undertake new challenges. Compensation will be commensurate with experience and consistent with the most competitive compensation in the Oklahoma legal market. Interested candidates should submit a resume, law school transcript, writing sample and cover letter to [mallen@cwlaw.com](mailto:mallen@cwlaw.com).

THE DEPARTMENT OF HUMAN SERVICES, Legal Services, is seeking qualified and experienced applicants for an Administrative Law Judge position, within the Office of Administrative Hearings: Child Support and housed in Oklahoma City. The ideal applicant should possess at least five years of family law experience. Experience with child support matters is strongly preferred. Effective writing and communication skills are required to conduct (non-jury) evidentiary hearings to determine legal and factual questions involving child support enforcement and establishment, including paternity establishment. Duties also include drafting/reviewing orders. This position requires the ability to work at an expedited pace while handling a full docket. Proceedings are by video-conference and the majority of documents are processed digitally. Compliance with the Code of Judicial Conduct is required. Salary is based on qualifications and experience. Excellent state benefits. Send resume, references, and a recent writing sample (less than 1 year old) to [judi.abrams@okdhs.org](mailto:judi.abrams@okdhs.org) or mailed to Judi Abrams, Operations Manager, Legal Services, Dept. of Human Services, P.O. Box 25352, Oklahoma City, OK 73125-0352.

## POSITIONS AVAILABLE

MULLICAN & HART IS SEEKING A LITIGATION ASSOCIATE. The ideal candidate should have 1-5 years of prior legal experience. The candidate will support the Firm's clients in a variety of business litigation matters before state and federal courts. Work activities will include legal research and writing, discovery, preparing court filings, and participation in depositions, hearings and trials. Candidates should have an established, technology-driven work ethic and a focus on attention-to-detail. In addition, OK bar admission, excellent academic credentials and written and oral communications skills are required. Compensation will be commensurate with experience. Interested candidates should submit a resume, writing sample, cover letter and three references to [office@mullicanhart.com](mailto:office@mullicanhart.com).

EXPERIENCED PERSONAL INJURY ATTORNEY needed in the newly opened OKC office of an established firm. Candidates should have at least 7 years of litigation experience with an emphasis on personal injury matters. Significant trial experience is preferred. Compensation will be commensurate with experience; significant bonuses are available. Tremendous career opportunity. Submit a confidential resume and cover letter with salary requirements, to Box ZA, Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

### **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](mailto:Rebecca.l.pettit.mil@mail.mil) or call 405-228-5052.**



## POSITIONS AVAILABLE

### The Chickasaw Nation

Is accepting applications for the following:

Deputy General Counsel/ Director (Job ID: 69800);

Supervisory Prosecutor (Job ID: 69808);

Assistant General Counsel I/ Prosecutor  
(Job ID: 69810);

Legal Aide III (Job ID: 69807)

**For a description of the Chickasaw Nation, or to complete an application and view detailed information, please refer to <http://www.chickasaw.net/Careers>. If you would like additional information, you may contact: 580.436.7259, or PO Box 1548, Ada, OK 74821.**

**American Indian Preference**



THE UNIVERSITY OF TULSA COLLEGE OF LAW invites applications for one or more legal writing assistant professor positions to begin August 2021. Areas of teaching may include, though not necessarily limited to, Legal Writing I, Legal Writing II, Legal Writing III. Minimum qualifications include J.D. from an ABA-accredited law school, a strong academic record, and excellent written and oral communication skills. Relevant legal practice experience is preferred. The University of Tulsa College of Law, as an equal opportunity/affirmative action employer, is committed to equality of opportunity in its employment of faculty and staff, without discrimination on the ground of race, color, religion, national origin, gender, age, disability, or sexual orientation. Members of under-represented groups are strongly encouraged to apply. If you would like to learn more about the College generally, you may visit our website at [www.law.utulsa.edu](http://www.law.utulsa.edu). Please submit a letter of interest, resume, writing sample, and diversity statement to Prof. Robert Butkin, Chair, Appointments Committee, University of Tulsa College of Law, 3120 E. 4th Place, Tulsa, OK 74104, or email to [robert-butkin@utulsa.edu](mailto:robert-butkin@utulsa.edu).

## POSITIONS AVAILABLE

THE UNIVERSITY OF TULSA COLLEGE OF LAW invites applications for the Director of Academic Support position. The Director of Academic Support provides programming and activities from 1L orientation through post-graduation Bar preparation for student academic and professional success. To implement the goals of student success, the Director of Academic Support will work closely with the Associate Dean of Students, administrators and faculty to envision, develop and implement ongoing academic success, time management, and wellness programming for all students, with targeted programs as needed for students. The Director will provide programming for all 1L, 2L and 3L students, which may include, but is not limited to, workshops, programming, one-on-one tutoring, skills labs, mentoring, and/or other support activities that will meet student learning needs and improve student outcomes based on data-driven research. The Academic Support Director will be responsible for the law school's Bar support and success program, including teaching the required Bar preparation course that students take in their last semester of law school. Minimum qualifications include J.D. from an ABA-accredited law school, excellent communication skills, and relevant experience. The University of Tulsa seeks to recruit and retain talented students, faculty and staff from diverse backgrounds. The University of Tulsa is an affirmative action/equal opportunity employer and encourages qualified candidates across all group demographics to apply. The University does not discriminate on the basis of personal status or group characteristic including, but not limited to race, color, religion, national or ethnic origin, age, sex, disability, veteran status, sexual orientation, gender identity or expression, genetic information, ancestry, or marital status. Please submit a cover letter, résumé, diversity statement, contact information for three references to: The University of Tulsa, Office of Human Resources, 800 S Tucker Drive, Tulsa, OK 74104 or submit online at [tulsa.edu/job-application](http://tulsa.edu/job-application). The review of applications will commence immediately and will continue until the position is filled. The University of Tulsa is an Equal Opportunity Employer including Disability/ Veteran.

## POSITIONS AVAILABLE


PERRI DUNN PLLC IS SEEKING AN ASSOCIATE ATTORNEY with 2 – 4 years of prior legal experience. Members of our growing Firm are highly motivated and enjoy working in a team atmosphere. The candidate will represent the Firm's clients in a variety of civil litigation matters in state and federal courts. Associates will work closely with our partners, assisting in all phases of litigation including depositions, motion practice, discovery, hearings and trials. Candidates should have strong legal research and writing skills. Compensation will be commensurate with experience. Interested candidates should submit a cover letter, resume and a writing sample to [sadooley@perridunn.com](mailto:sadooley@perridunn.com).



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# A High School Mock Trial Redemption

*By April Moaning*

**WHAT DO YOU WANT TO** become when you grow up? That is the question asked of every young student. I always responded that I wanted to become an investigative reporter. At the time, I was not even quite sure if that was the proper title for the position of my dreams – I just knew I wanted to solve puzzles. I wanted to be the one to find all the nuances, put the pieces in their respective locations and present the final and complete puzzle. Fact-finding and problem solving were two skills I honed very early. I always envisioned the world as a game of “Clue.” Eventually, my father gently suggested I consider a career in the field of law. He told me about many of his experiences observing court as an employee of the Oklahoma Department of Human Services Child Support Division, and it seemed both fun and interesting. While he did not attend law school and was unable to represent parties in court, none of that mattered to me, and I admired his intelligence and confidence. If he thought a career in the field of law was a good match for me, I was definitely interested in exploring the career path.

Youth and Government, a YMCA national program, was my first opportunity to get my feet wet. I was not interested in debating policy or bills, nor was I interested



*From their participation in high school mock trials, students learn to speak confidently in front of others.*

in any other areas of the youth and government program. The courtroom was where I wanted to be! As a junior in high school, it was my first year in the competition, and I was not quite sure how to prepare. Luckily, I was paired with a senior who was very witty, intelligent and seemed to know exactly how to present a case. I was nervous but jumped in with both feet.

On competition day, my partner and I presented our case and went toe-to-toe with other high schoolers. I cannot recall what happened during the initial competitions as it was all a blur. My adrenaline was

at an all-time high. What happened next, however, was something that will remain embedded in my memory. My partner and I made it to the semifinals, and I was so excited! I spent all night memorizing my part for the trial, as I was completely taken aback that I had been chosen to advance in the competition. I was the only one in my grade who made it to the semifinals, and at the time, I attributed much of my team's success to my partner. She was the more seasoned student, and I was along for the glorious ride.

The next morning, I was ready bright and early for the next round

# THE BACK PAGE

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of competitions. Some of the other students in my grade were traveling with me to the semifinals to show their support. Unfortunately, my mock trial teacher did not have the same agenda. She was our ride to the competition, and she was running several minutes behind. I eagerly awaited her arrival as my partner (whose teacher had made sure she arrived at the courthouse early) awaited my arrival at the competition. My teacher finally arrived and transported my friends and me to the semifinals. We were 30 minutes late, and my partner was furious! She was so furious, in fact, she demanded I conduct the entire

I did not participate in Youth and Government during my senior year. It was not until I attended school at the TU College of Law that I mustered up the courage to try mock trial again. Two of my good friends and I signed up for the Black Law Students Association mock trial competition. Our coaches were Judge Tanya Wilson, Kiemonn Jones and Professor Johnny Parker. They were amazing coaches and helped us sharpen our direct and cross-examination skills. They also ensured we had great courtroom presence and often drilled us on the rules of evidence. I am most grateful for the times they

After months of work, we traveled to Oklahoma City for the competition. Our team put on a great trial, but there were many teams that were very sharp and polished. We did not make it as far in the competition as we had hoped, and we traveled back to Tulsa that same day. A couple of days later, I received an unexpected email about the competition. I opened the email and got the news that I had been chosen for the Best Advocate award for the Rocky Mountain Region! I was excited, and I felt like I had redeemed myself after the unfortunate outcome of the high school Youth and Government competition. It was one of my greatest law school accomplishments.

I honestly do not believe I would have been as successful in the law school mock trial competition had it not been for my high school experience. Youth and Government is where I first learned to confidently speak in front of others, became acquainted with the concepts of direct and cross-examination and learned to always expect the unexpected and adjust accordingly.

The OBF-OBA High School Mock Trial Program is phenomenal and allows students to get their feet wet, much like I did with the Youth and Government program. With the OBA program, the high school students receive the added advantage of receiving feedback from multiple attorneys and judges who can provide practical courtroom tips. Please consider serving as a judge or scoring panelist in the future.

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Ms. Moaning practices in Oklahoma City and is the Young Lawyers Division chairperson.



*The Bell Courtroom at the OU College of Law was the location for the 2018 Oklahoma High School Mock Trial Program championship.*

trial by myself. I was rattled with fear as I was not ready to try an entire case alone. I had not even memorized her parts! I froze. We lost. I cried. I knew that I loved the courtroom, but I was embarrassed and did not know when or if I would ever try mock trial again.

brought other trial lawyers in to give us practical courtroom tricks and tips. Ruth Addison Martin was one of the guest lawyers who came to assist. She was instrumental in helping with my closing argument and taught me how to connect with the jurors and judge.



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# TAX AND EMPLOYMENT LAW SURROUNDING THE COVID-19 PANDEMIC

This course discusses what business owners and employees need to know about how COVID-19 has affected the workplace, including requirements for the workplace, compliance with Federal Acts, mandates and CDC compliance considerations, and tax issue that may arise.

## ABOUT OUR SPEAKERS:

Rachel Mathew loves making the topic of tax policy, tax strategy, tax administration, tax cases, and tax law easy to understand for all! Rachel never planned on becoming a tax attorney. Yet the passion she exhibits today - to use her knowledge to help others - was the cornerstone of who she has always been from the very beginning.

Her unusually high aptitude for math became evident while working on her undergraduate degree. Though not required for her degree, Rachel found that she excelled in high level college math courses and took algebra, trigonometry, pre-calculus, calculus I, calculus II, calculus III, differential equations, and statistics. Rachel began in the tax and accounting field in 1999 and after working as an accountant, Rachel was inspired to become a tax attorney so she could use her knowledge of complex tax laws to help the public navigate the nightmare they faced at the IRS. Rachel and Rod Polston co-own Polston Tax with over 100 employees across the nation and together they have grown it into one of the largest tax resolution firms in the nation.

Attorney Katherine R. Mazaheri-Franze is the founder and managing partner at Mazaheri Law Firm. She advocates for plaintiff employees in all areas of employment law, including litigation in state and federal courts, in mediation, before administrative agencies such as the Equal Employment Opportunity Commission (EEOC), Department of Labor (DOL) and Oklahoma Employment Security Commission (OESC). She has successfully handled litigation involving claims of wrongful discharge, sexual harassment/assault, employment discrimination (based on race, age, gender, sexual stereotyping, pregnancy, national origin, and disability), retaliation, as well as disputes involving wage and hour matters, medical leave, confidentiality and non-compete agreements, employee handbook and company policy violations, and breaches of employment agreements. For over a decade, Mazaheri Law Firm has gained a powerful reputation for taking on cases that attack various social injustices leading to extensive recoveries for clients.



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