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THE OKLAHOMA BAR Journal

Volume 94 — No. 5 — May 2023

Oklahoma Legal History



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THE OKLAHOMA BAR Journal

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Oklahoma Legal History is Ours to Make

By Brian Hermanson

A S A CHILD, I LOVED TO LEARN ABOUT historical figures. I would spend hours reading the biographies of people who shaped our history. I was amazed at how many of them started from humble beginnings yet ended up being famous for their deeds. Many did not seek fame, but the circumstances they faced and the manner in which they faced those circumstances made them historic. It must be noted that some people became historic because of the good choices they made and others for the bad ones.

When I went to college, my interest in history continued as I became a political science and history major.

Even now, I find myself drawn to articles about the people who shaped our world. People seem to marvel at the people who do those good acts and demonize those who rebel against what is good.

During my years of practice, I have had the opportunity to read about many attorneys who have taken incredibly unpopular positions for the good of the profession. One of those stories in early American history is about John Adams. As many of us know, John Adams was one of our country's founders and a writer and signer of the Declaration of Independence. He also became the second president of the United States. But some people hold him in the highest esteem for his defense of eight British soldiers

who opened fire on colonial citizens during the Boston Massacre in 1770. While Adams was a strong patriot, he felt it was his duty to provide a defense for the charged soldiers.

Adams put his career at risk, but his defense of those soldiers was credited for the men becoming acquitted of the charges. What an incredible sacrifice he made to protect the rule of law.

During my legal career, I have had the

opportunity to meet many attorneys who I felt were giants of the legal profession. They have risked much to take a stand for what is right, even at the risk of their own reputation and livelihood. While I will not list them, I can tell you most of them were humble men and women. If you met them and had a discussion with them, you would not know there was anything special about them. If you talked to them about their past, they would minimize their involvement and change the subject.

But the one thing I find about these true heroes of our profession is that they were no different than any of you. While bright, they were no smarter than any other attorney. While heroic, they did not seek out fame and, in fact, withdrew from it. While brave in taking on a cause, they were placed in a position where they felt they had no other option but to stand up for those who needed their help.

These attorneys are the reason we should all be proud of the legal profession.

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But the one thing I find about these true heroes of our profession is that they were no different than any of you.



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Injustice in Choctaw County

How a Largely Forgotten Oklahoma Trial Set Thurgood Marshall on a Path to Power

By Michael J. Davis

THERE ARE TIMES IN AMERICAN HISTORY when a setback offers an opportunity, and smart lawyers are always on the lookout for such moments when the chances of an outright legal victory are slim. This was certainly the attitude of Thurgood Marshall in the case of *Lyons v. Oklahoma*, which brought the young NAACP attorney to the small town of Hugo to defend an accused young Black man, Willie D. Lyons.¹

A PHONE CALL FROM OKLAHOMA TO NEW YORK

Still in the incipient phase of his career, Thurgood Marshall was only 31 years old when longtime Oklahoma civil rights activist Roscoe Dunjee called the Harlem, New York, offices of the NAACP. Dunjee explained that an Oklahoma man had purportedly been tortured into a false confession by authorities in the days following a brutal nighttime slaying of a family in the rural southeast corner of the state, often referred to as *Little Dixie*. Marshall replied that it was a case “which we should be in on with all of our resources.”²

Opposite page: *Thurgood Marshall (center), later a justice of the U.S. Supreme Court, challenges the OU College of Law alongside civil rights pioneer Ada Lois Sipuel Fisher and Tulsa attorney Amos Hall during the 1948 legal battle. Courtesy Oklahoma Historical Society.*

The fact that Dunjee was interested in the aid of Marshall, who was only seven years out of law school, is a testament to his growing reputation at the time. Marshall was on the precipice of arguing his first solo case before the U.S. Supreme Court, that of *Chambers v. Florida*.³ The *Chambers* facts were starkly similar, where four Black men had been pressured into a confession through intimidation, threats of violence, persistent interrogation and sleep deprivation over the course of many days. Marshall, now in charge of the legal division of the NAACP,⁴ would prevail in that case and even use it as applicable precedent in the *Lyons* case. At the time, Marshall’s salary with the organization was a meager \$2,800 annually, even in his leadership role. He supplemented his income by delivering groceries.⁵

‘TWO MEN SHOT PAPA AND MAMA’

On a cold New Year’s Eve night, in the last hours of 1939, gunshots rang out across the agricultural fields just northwest of Fort Towson. Elmer and Marie Rogers and their three young children were a poor sharecropper’s family in a small tenant house.⁶ Caught entirely by surprise, with buckshot coming through the window, Elmer was immediately incapacitated, and Marie was shot shortly thereafter as she ran to the porch encouraging her seven-year-old son James Glenn to grab the baby and run.⁷ As he ran, the home went up in flames, covering up much of the evidence and surely killing his four-year-old brother, Elvie Dean, as well. Unfortunately, all James Glenn Rogers ever saw of the assailant was a man’s hand, and it was entirely unclear to his mind

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whether the hand was black or white but gloved in black leather.⁸

Investigators at the scene noted that coal oil had been used to set the home ablaze.⁹ By Jan. 2, a tip had resulted in the quick arrest of Frank Wellmon, a prison inmate who had been incarcerated for homicide but who had been permitted to work as a “trustee” at a work camp in the nearby small town of Sawyer.¹⁰ Inmates with trustee status had been known to have lax supervision, with many routinely leaving by night to gamble and even go on hunting expeditions.¹¹ By Jan. 9, another man, Houston Lambert, had been arrested and had confessed to being present at the scene of the crime – his hair was noticeably singed. The *Hugo Daily News* ran a full two-inch banner headline, “Officers Break Murder Mystery,” on Jan. 12, 1940. Despite

a confession from Lambert being printed in that issue of the newspaper and no mention of coercion in the obtaining of it, the charges were inexplicably dropped against Wellmon and Lambert within a matter of days.¹²

The timing of the release of the initial suspects coincided with the arrival of the governor’s designated “special investigator” on the case, Vernon Cheatwood.¹³ Lambert’s story about the events of the crime changed dramatically over the intervening days, with him suddenly implicating a Black man who had never been mentioned prior.¹⁴ It was no secret that the lax supervision of the Sawyer work camp for inmates was already a local scandal.¹⁵ Perhaps concerned about any ties between this gruesome crime and allegations of neglect of duty by state officials appointed by the governor, the entire focus of

the investigation changed overnight to a local 21-year-old Black farmhand by the name of W.D. Lyons, who had previously served short sentences for burglary and larceny.¹⁶ Without any explanation or elaboration for the sudden shift, the *Hugo Daily News* headline read: “Negro Admits Murder of 3.”¹⁷ That article cryptically adds that other suspects had “passed out of the picture as far as the murder is concerned.”¹⁸ The circumstances of Lyons’ alleged confession would be the central point of the coming litigation. Despite there being no specific threats of violence, the National Guard was present at Lyons’ initial hearings, with 20 guardsmen sent from Durant, another 10 from Atoka and nine from Hugo.¹⁹ Lyons would wait in custody for more than a year before the trial, which began Jan. 27, 1941.



The Oklahoma State Penitentiary in McAlester. Courtesy Oklahoma Historical Society.

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THE TRIAL

The most illuminating insights about the trial of Lyons, outside of the transcript, come from Marshall's dispatches back to the NAACP headquarters in correspondence with Walter White, the organization's chief executive. The antique practices of the justice system might shock modern lawyers. With so many from the jury pool declaring that they already had firm views on the case, prejudice or some other conflict of interest, Judge George R. Childers was contemplating ordering the county attorney to go out into the community in real time to round up more potential jurors free-style.²⁰ Marshall later wrote that he and his co-counsel, Stanley Belden, withheld some of their challenges during *voir dire* simply to avoid a circumstance that would have enabled the prosecutor to hand-pick his own jury pool from "his friends, relatives, etc."²¹

The defense strategy was one of psychological stress. Belden, a white attorney with a long history of litigation for civil rights and social justice causes in Oklahoma, would examine the prosecution's witnesses, but when it came time for the presentation of the defense, Marshall would take the lead on the suspicion that Lyons' assailants might make missteps when being put in the unusual position of being vigorously questioned by a Black lawyer. In Marshall's words, "We figured they would resent being questioned by a Negro and would get angry and this would help us out."²²

CLIMACTIC REVELATIONS

The facts drawn out by the defense at trial showed that Lyons had been tortured into confessing, with at least one confession



The Choctaw County Courthouse in Hugo. Courtesy Oklahoma Historical Society.

happening in the midst of present duress and the final confessions made with at least the lingering threat of further violence.²³ In the hours preceding the first purported confession, Lyons was transported by authorities to the county prosecutor's office at the Hugo courthouse, whereupon he was hit with a "blackjack" repeatedly on the back of the head and neck en route.²⁴ According to Lyons' own testimony, corroborated by witnesses, he was later handcuffed to a chair and surrounded by 12 men, including Cheatwood, who proceeded to threaten the use of "red hot irons" if Lyons did not confess.²⁵ With this threat failing to produce the desired result, Cheatwood proceeded to beat Lyons for a number of hours.²⁶ Eventually, with physical violence not bringing about a confession, Cheatwood and the county sheriff brought out a pan containing the charred victim's remains and placed it in Lyons' lap.²⁷ Lyons stated at trial that he confessed, around 2:30 a.m., signing a document that had already

been written out for him, "[b]ecause I didn't want to be tortured any more, and because I couldn't stand any more of the beating."²⁸ At trial, Cheatwood denied using any violence, but the testimony from witnesses did not bear this out.

In an electrifying dialogue, Marshall exposed Cheatwood for witness tampering in open court. Ms. Leslie Skeen, a bookkeeper at the nearby Webb Hotel, testified that Cheatwood asked her for help finding his blackjack so he could show it off to hotel guests at the time. When Skeen took the stand to testify to this, Marshall asked, "Did Cheatwood, last night, suggest that you forget what he said to you in the hotel lobby on the former occasion?" Skeen, clearly not buckling under the pressure of the governor's special investigator, replied, "Yes ... I told him I hadn't forgotten it and to me it would be telling a lie if I had."

Even the family of the victims, including the father and sister-in-law of Marie Rogers, testified that Cheatwood had bragged to them prior to trial that he had "beat

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Lyons for seven hours from his head to his feet,” causing Marshall to later write about their testimony, “There are some good white people in the world.”²⁹

Perhaps the most incredible moment of the trial was when the county prosecutor, Norman Horton, ended up conceding the use of violence against Lyons in dramatic fashion. While grilling Lyons on the stand, Horton asked about his claim that he had been beaten with the use of a blackjack, saying, “[U]pstanding members of the community, sworn officers all, have denied this.”³⁰ To which, Lyons replied, “Well, sir, you seen it, you was there.”³¹ The transcript shows that Horton immediately, perhaps furiously, told the judge that this was a lie and then challenged Lyons to take back his statement. Lyons insisted, “Oh yes, you were there.”³² Able to take no more of the interaction, Horton, to an astounded courtroom, then exclaimed at Lyons in admission, “Why, I stopped them from whipping you!”³³

The defense later called the former sheriff, Roy Harmon, to the stand as a witness. Harmon had consistently denied being present for any harm done to Lyons, but the defense produced a damning photograph, which had apparently been taken by a policeman during or after the beating of Lyons, showing Harmon, Cheatwood and a bloodied Lyons in the frame.³⁴ When he claimed he could not recognize himself in the enlarged photo, which was visible enough for the crowd in the courtroom to see themselves, the courtroom erupted in laughter and mockery at Harmon’s brazen denial. Judge Childers had to threaten to clear the courtroom to make the disillusioned audience quiet.³⁵ This

caused Marshall to later write, “Ninety percent of the white people by this time were with Lyons.”³⁶

SUBSEQUENT PURPORTED CONFESSIONS

Facts revealed at trial showed that after Lyons’ initial interrogation, he was transported the following day, likely without sleep, to the Oklahoma State Penitentiary in McAlester. He testified to further beatings at the hand of Deputy Sheriff Van Raulston, as well as being placed in the room with the electric chair until he relented to state to a stenographer that he committed the crime.³⁷ Included in the stenography is a statement from Lyons that “no force” had been used upon him preceding his confession.³⁸ Finally, the state argued that Lyons confessed a third time, orally, while speaking to a guard.³⁹ Judge Childers, who was unconvinced that duress was proven in these confessions, permitted their admissibility at trial.

The jury, in turn, returned a guilty verdict and sentenced Lyons to life in prison. Remarking on the sentence, Marshall stated later, “You know that life for such a crime as that ... shows clearly that they believed him innocent.”⁴⁰

In a terrible blow, the United States Supreme Court would end up affirming the determination of the trial court in Hugo, rejecting the idea of suppressing the subsequent confessions, despite all the evidence of prior duress and force in a 6-3 decision on June 5, 1944. Justice Frank Murphy, writing in dissent, fired off eloquently, “This flagrant abuse by a state of the rights on an American citizen accused of murder ought not to be approved.”⁴¹ Justice Murphy went on to say that even if one

assumed no violence accompanied the second or third confessions, “The whole confession technique used here constituted one single, continuing transaction.”⁴²

‘A GOOD CRIMINAL CASE’

Despite the apparent injustice of Lyons’ conviction and further injustice of his unsuccessful appeal before the Supreme Court, the case operated as a boon to the NAACP fundraising needs at a time when the organization was ramping up litigation across the country. Marshall wrote during the second day of litigation, “I think we should aim at \$10,000,” and he had already himself raised \$120 in the small Oklahoma town of Idabel and another \$275 in Hugo when not attending to the trial.⁴³ He added, “We have been needing a good criminal case and we have it.”⁴⁴ Additionally, the attention the case received brought new clout to the fledgling civil rights organization and new energy to civil rights litigators nationwide.

Psychologically, Thurgood Marshall would write that the case gave him hope, despite the difficulties. In regard to the strategy of instigative examination and cross-examination of authorities as a Black lawyer, he stated: “It worked perfect. They all became angry at the idea of a Negro pushing them into tight corners and making their lies so obvious. Boy, did I like that – and did the Negroes in the courtroom like it. You can’t imagine what it means to these people down there who have been pushed around for years to know that there is an organization that will help them.”⁴⁵

Family members of the victims would later make it widely known that they felt W.D. Lyons was innocent, railroaded unfairly into

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confessions, convicted due to racial prejudice and made a patsy for the homicide of their loved ones. E.O. Colclasure, Marie Rogers' father, joined the national NAACP and raised money for Lyons' defense at the appellate levels. Colclasure filed papers to open the Fort Towson chapter of the NAACP, of which he became the president.⁴⁶ He would go on to say, "Race prejudice prevents me from apprehending the murderers of my daughter," and, "In the two years I have watched this false investigation I have seen no evidence that in any way connects to this defenseless black boy."⁴⁷ In a statement provided to Dunjee during an interview, he said, "Many white men near Fort Towson are afraid to leave their homes at night because they know that the same demons who stole the life of my daughter are running foot-loose in Choctaw County."⁴⁸

The seeds of change for Oklahoma were planted in the *Lyons* case. Fundraising spiked for incipient civil rights litigation in the region, and minds began to gradually change – particularly among judges and other public servants. Marshall would famously go on to successfully represent a number of other Oklahomans in civil rights cases that have received more attention from legal historians and law reviews, including Ada Lois Sipuel Fisher and George McLaurin. Marshall would take 32 cases to the U.S. Supreme Court, and *Lyons v. Oklahoma* would turn out to be just one of three where he did not prevail. He would go on to his crowning achievement of *Brown v. Board of Education* and thereafter would serve on the Supreme Court of the United States as an associate justice.⁴⁹ W.D. Lyons would

serve more than 20 years in prison and eventually received a pardon signed by Gov. Henry Bellmon in May 1965.⁵⁰

ABOUT THE AUTHOR



Michael J. Davis is an assistant professor of criminal justice at Southeastern Oklahoma State University, where he

also serves as special assistant to the president for Compliance. Mr. Davis recently completed a three-year term on the OBA Board of Governors (2020-2022) and currently serves on the MCLE Commission.

ENDNOTES

1. *Lyons v. Oklahoma*, 322 U.S. 596 (1944).
2. Letter from Thurgood Marshall to Roscoe Dunjee, editor, *The Black Dispatch* Publishing Co. (Jan. 18, 1941).
3. *Chambers v. Florida*, 309 U.S. 227 (1940). Thurgood Marshall had previously aided his mentor, Charles Hamilton Houston, in a number of cases, including *Missouri ex rel. Gaines v. Canada*, a U.S. Supreme Court case that forced the University of Missouri to permit Black students at an all-white school if it did not provide separate but equal facilities in accordance with *Plessy v. Ferguson*.
4. Denver Nicks and John Nicks, *Conviction: The Murder Trial that Powered Thurgood Marshall's Fight for Civil Rights 41* (2019). The NAACP legal division was spun off later that year to be the NAACP Legal Defense Fund, a separate entity for taxation purposes.
5. *Id.* at 7.
6. "Frightened Boy Sticks to Story: 'Two Men Shot Papa, Mama,'" *Hugo Daily News* (Feb. 2, 1940).
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18. *Id.*
19. "Soldiers from Atoka, Durant and Hugo Stand Guard," *Hugo Daily News* (Jan. 28, 1940) at 1.
20. Letter from Thurgood Marshall to Walter White (Feb. 2, 1941).
21. *Id.*
22. *Id.*
23. John F. Blevins, "Lyons v. Oklahoma, the NAACP, and Coerced Confessions Under the Hughes, Stone, and Vinson Courts" 417, 15 Va. L. Rev. 387 (2013).
24. Trial Transcript at 112, *Oklahoma v. Lyons* (Okla. Dist. Ct. 1940) (No. 2712).
25. Brief on Behalf of Petitioner at 5-6, *Lyons v. Oklahoma* (311 U.S. 596); Trial Transcript at 114, *Oklahoma v. Lyons* (Okla. Dist. Ct. 1940) (No. 2712).
26. Trial Transcript at 410, *Oklahoma v. Lyons* (Okla. Dist. Ct. 1940) (No. 2712).
27. *Id.* at 353.
28. *Id.* at 364.
29. Letter from Thurgood Marshall to Walter White (Feb. 2, 1941); Trial Transcript at 418, *Oklahoma v. Lyons* (Okla. Dist. Ct. 1940) (No. 2712).
30. Juan Williams, *Thurgood Marshall: American Revolutionary* 117 (1998).
31. *Id.*
32. *Id.*
33. "Lyons Denies Confession While on Stand," *The Black Dispatch* (Feb. 8, 1941) at 5.
34. Juan Williams, *Thurgood Marshall: American Revolutionary* 117 (1998).
35. *Id.*
36. *Id.*; Letter from Thurgood Marshall to Walter White (Feb. 2, 1941).
37. John F. Blevins, "Lyons v. Oklahoma, the NAACP, and Coerced Confessions Under the Hughes, Stone, and Vinson Courts" 401, 15 Va. L. Rev. 387 (2013).
38. *Lyons v. Oklahoma*, 138 P.2d 142, 153 (Okla. Crim. App. 1943).
39. Trial Transcript at 229, *Oklahoma v. Lyons* (Okla. Dist. Ct. 1940) (No. 2712).
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43. Letter from Thurgood Marshall to Walter White (Jan. 28, 1941); Letter from Thurgood Marshall to Walter White (Feb. 2, 1941).
44. Letter from Thurgood Marshall to Walter White (Feb. 2, 1941).
45. *Id.*
46. "White Man Heads Fort Towson NAACP," *The Black Dispatch* (Jan. 17, 1942) at 4.
47. Published Interview with E.O. Colclasure, *The Black Dispatch* (March 14, 1942) at 1.
48. *Id.*
49. Stanley Belden, co-counsel in the *Lyons* case would see his law practice out of Cushing lose clients in backlash for his civil rights advocacy. He would later relocate to California and, eventually, Oregon. [Denver Nicks and John Nicks, *Conviction: The Murder Trial that Powered Thurgood Marshall's Fight for Civil Rights* 136 (2019)].
50. *Id.* at 200.

Skinner v. Oklahoma: How Two McAlester Lawyers Derailed Criminal Sterilization in America and the U.S. Supreme Court Invented ‘Strict Scrutiny’ as a Result

By Michael J. Davis

IN 1926, JACK T. SKINNER STOLE 23 CHICKENS.¹ This was the first in a line of felonies for which Skinner pleaded guilty and that eventually led to his alleged categorization as a “habitual criminal” under the Oklahoma Habitual Criminal Sterilization Act of 1935.² This law, argued by its author to be a nonpunitive civil statute, permitted forcible sterilization for individuals with three prior convictions of felonies involving moral turpitude.³ Sterilization, in the words of Skinner’s attorney, Claud Briggs, was “the largest penalty that a red-blooded, virile young man could be required to pay.”⁴

After serving time for stealing chickens, Skinner was released from the Oklahoma State Reformatory in Granite and thereafter committed two separate armed robberies in 1929 and 1934.⁵ While confined in the Oklahoma State Penitentiary in McAlester, the law permitting criminal sterilization went into effect under the signature of Gov. Ernest Whitworth Marland in 1935, taking such minor notice as to be buried on the 12th page of *The Daily Oklahoman*.⁶

A native of Shawnee, Skinner had been raised by a violent stepfather

whom he ran away from home to escape. He was later the victim of a terrible accident that resulted in the loss of his left foot.⁷ Court records show that his explanation for repetitive criminality related to the desperation of unemployment.⁸ After his second armed robbery, in which he robbed a gas station clerk of \$17 and was immediately arrested, his wife of that same year began divorce proceedings.⁹ All of Skinner’s crimes were admitted by the defendant himself, and they all took place prior to the passage of the criminal sterilization statute.¹⁰

The state was a latecomer to criminal sterilization laws during this era, with most states preceding Oklahoma in passing some kind of criminal castration or sterilization statute, but this did not make the matter anodyne. When it became clear that the penitentiary rolls were being screened for possible sterilization candidates, the result at the Oklahoma State Penitentiary in McAlester was chaos, riot, escape and shootouts.¹¹ Prisoners commandeered a vehicle by force, took guards as hostages and negotiated the opening of

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the front gates in broad daylight, eventually leading to a manhunt all the way to the outskirts of Antlers, where a farmer was taken hostage.¹²

Raising funds for legal representation from their meager prison labor earnings for the manufacturing of bricks and assembling of pillowcases, inmates at McAlester financially prepared for a protracted legal battle entirely on their own.¹³ With advocates among the inmates hoisting signs that stated “Save Your Manhood,” prison canteen donations piled up to a reasonable sum over the preceding years.¹⁴ Solicitation for representation to the American Civil Liberties Union was declined, as was a request for representation to famed attorney Clarence Darrow.¹⁵ It fell to local

The law permitting criminal sterilization went into effect in 1935 while Skinner was serving time in the Oklahoma State Penitentiary in McAlester. Courtesy Oklahoma Historical Society.



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representation, first by McAlester attorney Claude Briggs, to make a stand for the first inmate selected for sterilization surgery under the new law. That inmate, Hubert Moore, having escaped from the prison shortly after his selection, was quickly replaced by Skinner.

Claud Briggs had been a blacksmith and a farmer before embarking on a career in the law. Having never attended a law school, he came to the profession in an old-fashioned manner, taking the bar exam after a course of home study and then brilliantly receiving the second-highest score in the state as a result.¹⁶

The difficulties in representing Skinner may have seemed insurmountable at the time. The U.S. Supreme Court had already ruled on the constitutional legality of eugenic sterilization laws in the case of *Buck v. Bell* as a legitimate police power of the states, and the state of Oklahoma had already passed multiple eugenic sterilization laws prior to the 1935 version that now included the “habitual” criminal as a subject.¹⁷ Prominent physicians and even criminologists lent some credibility to the prospect of sterilization for repeat offenders.¹⁸ The law itself had been proposed and authored by Dr. Louis Henry Ritzhaupt in the state Legislature, and the famed criminologist Edwin Sutherland lent academic credence to the idea of sterilization of repeat offenders.¹⁹

Adding to the challenge, the Oklahoma Supreme Court had neutralized some of the most logical challenges to sterilization laws already by ruling that sterilization was not a punishment but merely a civil law aimed at community health and welfare.²⁰ This made an Eighth Amendment argument



Claude Briggs, a McAlester attorney and Oklahoma senator, represented the defendant in Skinner v. Oklahoma. Courtesy Oklahoma Historical Society.

factually irrelevant. However, Claud Briggs was not merely a simple country lawyer; he was, by this point in his career, a member of the Oklahoma Senate and well-versed in the other possible rationales that could be used to challenge the statute.

In an era when individual rights were not nearly as sacrosanct in constitutional law as perhaps they are today, deference was often given by courts to legislatures when individual welfare was pitted against the purported community interest.²¹ The presumption of constitutionality was often mad-deningly difficult for opponents of new laws to overcome, but courts were still nonetheless skeptical of arbitrariness in the design of such laws.²² Briggs focused on the fact that the sterilization law was

arbitrarily carved out for exemption offenses that seemed to be selected on the basis of class. The exemptions included “offenses arising out of violations of prohibitory laws, revenue acts, embezzlement, or political offenses” – quite neatly carving out a slew of white-collar crimes generally committed by those with more wealth, influence and power.²³

Briggs, in a tour de force, made efforts to highlight other discrepancies at the initial civil hearing for Skinner’s selection for sterilization. When Dr. Ritzhaupt took the witness stand, Briggs was able to use his cross-examination as an opportunity for exposition: He entered into the record that despite the doctor’s insistence that criminal tendencies were inherited, of the 2,034 inmates at McAlester, only 12 had parents or grandparents who were offenders; for those 1,753 inmates who had served two or more terms in the corrections system, there was “not a single instance” when a parent had ever been convicted.²⁴ When Dr. D.W. Griffin (whose name later would adorn the Griffin Memorial Hospital in Norman) took the stand in favor of the law, Briggs was able to lure him to admit that criminality and Skinner’s own deviancy was “probably” more the result of poor socialization than a genetic inheritance.²⁵ Seeing the broader picture and the exploitability of a sterilization regime for even more malevolent purposes, Briggs’ closing argument in the hearing was a warning that if the Legislature has civil power to permanently and forcibly take procreative power from a convicted felon, the same such power could be used in a broader manner less palatable to the public.²⁶ He also warned that

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Jack Skinner's classification as a "habitual criminal" led to him being the second Oklahoma inmate selected for sterilization surgery. Courtesy of The Oklahoman.

the unforeseen consequences may simply be to enflame rather than quell criminality.²⁷ Almost in prophetic coincidence, on the same day of the hearing, another six inmates escaped an Oklahoma correctional facility for fear of the sterilization law.²⁸ Skinner lost the hearing, and the case moved on as an appeal to the Oklahoma Supreme Court.

Knowing that public sentiment was slowly changing on the matter of eugenics – largely because of news coverage from Europe, where the Third Reich was beginning to pursue sterilization procedures on a massive scale – Briggs used his

status as a legislator to stall further consideration and request a delay in the submittal of appellate briefs. When the matter could be stalled no further, his brief was a laundry list of potential rationales for reversal.²⁹ He argued the obvious: cruel and unusual punishment and inadequate due process. He also argued the less obvious but potentially grittier and interesting rationales, including that the sterilization statute was essentially an *ex post facto* law considering that Skinner had already been convicted prior to the law's passage. But one argument stood out in particular, even if the Oklahoma Supreme Court later dismissed its merits: the idea that Skinner's 14th Amendment entitlement to equal protection had been infringed.

In a stroke of luck, the Oklahoma Supreme Court took more than two years to rule against Skinner. The delay further permitted skepticism of eugenic intentions to permeate into American society as war consumed Europe and further details of Aryan purity campaigns came to light.³⁰ These intervening years permitted Americans to learn that Germany's 1933 eugenics law had been utilized far more broadly than anticipated, with more than 400,000 Europeans having been sterilized by force in a number of "hereditary health courts" with deprivation of due process.³¹

For the final appeal, it was now time for a new attorney, one with experience in the U.S. Supreme Court, to take up responsibility for the case and navigate it to a conclusion before the highest court in the land. Guy Andrews, like Claud Briggs, was also from McAlester, a prominent attorney in the state and came to the practice of law from hardscrabble roots. Formerly a schoolteacher in Texas and later

a coal mining superintendent in the small Pittsburg County town of Haileyville, he had never attended a law school but made his way to the halls of justice the old-fashioned way.³²

In his petition for a writ of certiorari, Andrews sunk his teeth into the equal protection argument wholesale and with a sense for rhetoric. In his words, "The terms of the Act exclude from its penalties the Capones, the Ponzis, and the Benedict Arnolds."³³ Andrews went further, arguing the law created an "aristocracy of crime" that relieved a favored class for their crimes but stripped the "less fortunate" of their procreation abilities for similar bad acts.³⁴ It is perhaps a disappointing note for history that because of the meager funds for Skinner's advocacy, Andrews had to agree for the case to be argued on the briefs instead of by personal appearance.³⁵ Despite this, the court determined to require the Oklahoma attorney general, Mac Q. Williamson, to appear to defend the law. In an argument before the court, Justice Frankfurter forcefully challenged Williamson to explain why "stealing chickens was included and embezzlement excluded."³⁶ It took the U.S. Supreme Court just a few weeks to render a unanimous opinion.³⁷

In discussing the inequalities of the Oklahoma law, Justice Douglas' opinion outlined that a clerk who appropriates from their employer has committed the felony of embezzlement, a crime of moral turpitude by any reasonable standard.³⁸ And yet, as written, individuals committing such a crime many times would nonetheless be exempted from any potential sterilization penalty.³⁹ Simultaneously, any individual committing grand

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larceny twice for the same amount of money as the embezzlement and the same unjust enrichment would face the specter of a vasectomy or salpingectomy (removal of a fallopian tube) from a physician's blade.⁴⁰

While the court did not specifically overturn *Buck v. Bell* and therefore left the prospect of sterilization a potentially constitutional act, the opinion by Justice Douglas was sweeping enough to wipe away much desire by legislatures to continue moving in the direction of criminal offender sterilization by ruling in *Skinner's* favor.

In an era when individual rights were not prioritized in the language of many judicial opinions, a new standard was articulated for the very first time: the concept of "strict scrutiny" for a statute that may unequally burden individual interests and potentially infringe upon a constitutional right. Previewed as a possibility in Justice Harlan Stone's famous footnote 4 in *United States v. Caroline Products Co.*, the idea of a "narrower scope" for judicial review had never been given the name "strict scrutiny" until *Skinner*.⁴¹ Perhaps Justice Douglas did not even know it, but he had opened the door to a progeny of case law that would lead all the way to *Brown v. Board of Education* and beyond.

Before his death in 1977, *Skinner* had six grandchildren and 10 great-grandchildren, and he had committed no further crimes.⁴²

ABOUT THE AUTHOR



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2. *Id.*
3. Transcript, *Oklahoma v. Skinner*, Okla. Pitts. Co. Dist. Ct. No. 15734 (1936) at 53.
4. *Id.* at 161.
5. *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535, 537 (1942).
6. "Eugenics Law Revisited," *The Daily Oklahoman* (May 16, 1935) at 12.
7. Transcript, *Oklahoma v. Skinner*, Okla. Pitts. Co. Dist. Ct. No. 15734 (1936) at 100.
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9. Victoria F. Nourse, *In Reckless Hands: Skinner v. Oklahoma and the Near Triumph of American Eugenics* 92 (2008).
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30. Lawrence A. Zeidman, *Brain Science Under the Swastika* (2020).
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37. *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535 (1942).
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39. *Id.* at 539.
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OBA HEALTH LAW SECTION

ANNUAL OKLAHOMA LEGISLATIVE UPDATE

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Ms. Harrison is the Vice President of Legal and Regulatory Affairs for the Oklahoma Hospital Association (OHA). She advocates for the OHA's 133 hospital members in legislative, regulatory environments and serves as in house counsel. Before joining the OHA in 2013, Ms.

Harrison served as the Chief Administrative Officer and Interim Chief Operating Officer for the OK Department of Human Services.

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The Rediscovery of Indian Country in Eastern Oklahoma

By *Conor P. Cleary*

THE EXISTENCE OF “INDIAN COUNTRY” – generally defined as all land within Indian reservations, dependent Indian communities and Indian allotments¹ – has legal significance because it is “the benchmark for approaching the allocation of federal, tribal and state authority with respect to Indians and Indian lands.”² Generally, the federal and tribal governments have primary authority over Indians within Indian country, while state jurisdiction is more limited.³ Outside of Indian country, on the other hand, states generally have jurisdiction over Indians and non-Indians alike.⁴

One might reasonably assume that the state of Oklahoma, home to 39 different Indian tribes, would have significant amounts of Indian country within its borders, particularly in the eastern part of the state, which, immediately prior to statehood, was the Indian Territory. Yet, as recently as 1979, the Oklahoma attorney general categorically concluded that “in Eastern Oklahoma, there is no ‘Indian Country’ as that term is used in federal law.”⁵ Indeed, the conventional wisdom of the federal and state courts, many historians and academics, and Oklahoma’s political leaders was that there was little to no Indian country left in eastern Oklahoma and, in any event, the state had obtained primary jurisdiction over it, including the exclusive authority to prosecute crimes committed there. In reaching this conclusion, many court

decisions misapprehended fundamental principles of federal Indian law, instead “substituting stories for statutes” by employing assimilationist suppositions about the “civilized” nature of tribes in eastern Oklahoma and distinguishing them from “Reservation Indians.”⁶

Of course, after *McGirt v. Oklahoma*, where the Supreme Court ruled that the Muscogee Reservation was never disestablished by Congress, we know this conclusion is erroneous.⁷ But while *McGirt* is the most recent and significant pronouncement on the existence of Indian country in eastern Oklahoma, it is the culmination of several earlier decisions by federal and Oklahoma state courts, issued only in the 1980s and 1990s, that began to “rediscover” categories of Indian country in eastern Oklahoma and repudiate the reasoning of earlier decisions.

This article summarizes the historical circumstances that led courts to draw a distinction between the western and eastern halves of the state, generally recognizing the existence of Indian country in the former while categorically denying its existence in the latter. It begins with a summary of tribal land tenure before Oklahoma’s statehood, the subsequent allotment of tribal lands and the admission of Oklahoma to the Union. It then surveys the court decisions from the first half of the 20th century that denied the continuing existence of Indian country in eastern Oklahoma.

The article then explains changes in federal Indian policy during the New Deal era of the 1930s and 1940s, Oklahoma’s decision in the 1950s not to assume jurisdiction over Indian country within the state pursuant to Public Law 280

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The federal building in Muskogee housed the U.S. district court offices, the post office and the headquarters of the Five Civilized Tribes. Courtesy Oklahoma Historical Society.

and the reinvigoration of tribes in Oklahoma during the self-determination era in the 1960s and 1970s. It demonstrates how these changes in federal policy prompted federal and Oklahoma state courts in the 1980s and 1990s to repudiate the earlier decisions denying the existence of Indian country in eastern Oklahoma.

THE INDIAN TERRITORY AND THE ROAD TO OKLAHOMA STATEHOOD

Before statehood, Oklahoma was part of the Indian Territory. In the 1830s, the Five Tribes

of Oklahoma – the Cherokee, Chickasaw, Choctaw, Muscogee (Creek) and Seminole nations – were forcibly relocated to Indian Territory from the southeastern United States.⁸ Treaties executed between the federal government and the tribes promised them lands in the Indian Territory for use as a permanent homeland.⁹ After the Civil War, each of the Five Tribes executed a treaty with the United States that reduced their territories but preserved reservations for them.¹⁰ The federal government used the western part of Indian Territory ceded by

the Five Tribes for the relocation of other Indian tribes, primarily those indigenous to parts of the western United States. In 1890, these lands were organized as the Oklahoma Territory.¹¹

There was an important difference in the land tenure of the reservations of the Five Tribes in the Indian Territory and those in the Oklahoma Territory. Pursuant to their treaties, the Five Tribes received a fee patent to their lands.¹² This meant the tribes themselves were the legal title owners of their reservation lands subject only to a restriction on

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Members of the Dawes Commission in 1902. The commission was charged with dividing tribal land into plots that were then divided among tribal members. Courtesy Oklahoma Historical Society.

alienation by the federal government. These lands are sometimes referred to as “restricted fee” lands. In Oklahoma Territory, however, reservation lands were held in trust by the federal government for the benefit of the tribes. These lands are commonly known as “trust lands” and are representative of most Indian country in the United States. Although today there is no material difference between restricted and trust lands for most purposes,¹³ at one time, both federal and state courts relied on this difference in the land tenure of reservations in the Indian and Oklahoma territories to conclude that the lands of the Five Tribes and their members were no longer Indian country.

In the 1880s, the federal government began a policy of breaking up tribal reservations by allotting parcels of land to individual tribal members.¹⁴ The General Allotment

Act (also known as the Dawes Act), the first comprehensive allotment legislation, gave tribal members allotments of either 80 or 160 acres.¹⁵ The law authorized the United States to dispose of any unallotted or “surplus” lands to non-Indian settlers, paving the way for non-Indian ownership of reservation lands. The allotments were held in trust by the federal government for the allottee and their heirs for a period of time (originally 25 years), during which the allottee could not alienate or encumber the land without federal approval.¹⁶ These allotments are commonly referred to as “trust allotments.” Upon expiration of the trust period, federal supervision ceased, and the Indian owners became subject to the civil and criminal laws of the state.¹⁷

The General Allotment Act expressly did not apply to the Five Tribes.¹⁸ However, Congress

later applied the allotment policy to their lands.¹⁹ Each tribe negotiated an allotment agreement with the Dawes Commission, which created rolls of tribal citizens²⁰ and gave each citizen an allotment of tribal lands pursuant to the terms of each tribe’s allotment agreement.²¹ Since the tribes possessed a fee patent to the underlying reservations, the allotments to tribal members were also in fee, subject to a restriction on alienation for a period of years.²² These are known as “restricted allotments.”²³

In 1906, Congress enacted the Five Tribes Act “[t]o provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory.”²⁴ Although the act contemplated the “dissolution of the tribal governments” upon the completion of the allotment process,²⁵ it nevertheless provided that “the tribal existence and present tribal governments of [the Five Tribes] are hereby continued in full force and effect for all purposes authorized by law[.]”²⁶ That same year, Congress also passed the Oklahoma Enabling Act providing for the admission of the state of Oklahoma.²⁷ “In passing the enabling act for the admission of the state of Oklahoma ... Congress was careful to preserve the authority of the government of the United States over the Indians, their lands and property, which it had prior to the passage of the act.”²⁸ Specifically, the Enabling Act required the state to disclaim “all right and title” to Indians and their lands²⁹ and provided that nothing in Oklahoma’s Constitution would be construed to “limit or impair the rights of person or property pertaining to the Indians ... or to limit or affect the authority of the Government

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of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law or otherwise, which it would have been competent to make if this Act had never been passed.”³⁰

EARLY DECISIONS DENYING THE EXISTENCE OF INDIAN COUNTRY IN EASTERN OKLAHOMA

Despite these provisions of the Enabling Act acknowledging the continuing existence of Indian lands in the state and preserving federal authority over the same, early federal and Oklahoma case law routinely concluded that there was little to no Indian country left in Oklahoma.

Reservations

Beginning with the broadest category of Indian country, Indian reservations, the early conclusion was that there were few, if any, reservations remaining in Oklahoma.³¹ For reservations in western Oklahoma, courts started from the premise that the tribes initially possessed reservations but concluded that the reservations had been disestablished by allotment.³² In eastern Oklahoma, however, particularly with respect to the Five Tribes, courts reasoned that Oklahoma tribes never had reservations to begin with due to the unique history of the Indian Territory. For example, in one case, the Oklahoma Court of Criminal Appeals concluded that Congress had “take[n] the Indians in the Indian Territory out of the category of Reservation Indians.”³³ The state of Oklahoma continued to make this argument as recently as *McGirt*.³⁴

Allotments

Since the assumption was that there were no longer Indian reservations in Oklahoma, most cases in the first half of the 20th century considered whether Indian allotments carved out of the prior reservations remained Indian country and free from state jurisdiction. While courts generally concluded that allotments located in the former Oklahoma Territory were Indian country,³⁵ they reached the opposite conclusion for allotments in the former Indian Territory.

In *Ex Parte Nowabbi*, the Oklahoma Court of Criminal Appeals held that the state had jurisdiction to prosecute a murder committed by one Choctaw Indian against another on a restricted Choctaw allotment.³⁶ The court based its conclusion on a dubious interpretation of an amendment to the General Allotment Act. The amendment, which extended the trust restrictions on most allotments and delayed subjecting allottees to state jurisdiction, contained a proviso that it did not apply to “any Indians in the former Indian Territory.”³⁷ The court concluded that the implication of excepting the Indians in the Indian Territory was that Congress had intended to subject them to state jurisdiction.³⁸ The problem with this reasoning was that Congress had exempted most of the tribes in the Indian Territory from the General Allotment Act to begin with, so their exception from an amendment to the General Allotment Act was unsurprising.

Similarly, others argued that statutory enactments paving the way for Oklahoma statehood had terminated the existence of Indian country in eastern Oklahoma. For example, in the 1950s, the

governor of Oklahoma declined to affirmatively assume jurisdiction over Indian country in Oklahoma based on the assumption that there was no longer any Indian country over which to assume jurisdiction.³⁹ Likewise, the Oklahoma attorney general reasoned in a 1979 opinion that as a result of statutes like the Curtis Act of 1898 and the Five Tribes Act of 1906, which abolished the tribal courts and contemplated the “dissolution of the tribal governments,” respectively, “[a]ll tribal government in the former Indian Territory merged with and became a part of the state government of the State of Oklahoma.” This gave the state exclusive jurisdiction in eastern Oklahoma, including the authority to prosecute crimes committed by or against Indians.⁴⁰

CHANGES IN FEDERAL INDIAN POLICY: 1934-1976

While courts in Oklahoma remained resistant to the existence of Indian country in eastern Oklahoma well into the second half of the 20th century, changes in federal Indian policy during the 1930s to 1960s foreshadowed reexamination of these rulings in later years.

First, during the New Deal Era, Congress enacted the Indian Reorganization Act, ending the allotment policy and allowing tribes to reorganize and reestablish their governments.⁴¹ Congress also established a process whereby the tribes could reestablish and expand their land base by acquiring land and having the federal government hold it in trust for their benefit. This created large amounts of tribal trust land within Oklahoma, notwithstanding the belief there were no longer formal reservations.

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Second, Congress codified a definition of Indian country in the U.S. Code. This definition overrode common law conceptions of Indian country and firmly established reservations, dependent Indian communities and allotments as discrete forms of Indian country.⁴² The statute made no exception for tribes in Oklahoma.

Third was the passage of Public Law 280, a statute allowing states to obtain jurisdiction over Indian country within their territories. During the late 1940s and 1950s, Congress pursued a policy of termination that would end federal supervision over Indians and tribes and subject them to state law.⁴³ Public Law 280 transferred criminal jurisdiction over Indian lands in five “mandatory

states” with an option for all other states to assume jurisdiction by affirmative legislation. Oklahoma, however, never acted to assume jurisdiction over Indian country pursuant to Public Law 280 because of the conventional wisdom of elected leaders that Oklahoma already had jurisdiction over all Indian country in the state.⁴⁴ Oklahoma’s overconfidence turned out to be a tactical error as courts later construed its failure to affirmatively assume jurisdiction as an admission that it did not have jurisdiction over Indian country within the state.

Finally, in the late 1960s and 1970s, federal Indian policy shifted decisively away from the termination of tribes to an era of tribal self-determination.⁴⁵ This

era saw a reinvigoration of tribes in Oklahoma, particularly the Five Tribes, which began to strengthen their tribal institutions, including their tribal councils and courts.⁴⁶ This rebirth of tribal sovereignty undermined the argument that the tribes of Oklahoma had merged into the state government. Further, in the Indian Civil Rights Act of 1968, Congress amended Public Law 280 to require tribal consent before a state could act to assume jurisdiction over Indian country. No Oklahoma tribes consented to state jurisdiction. This reinforced the conclusion that Oklahoma’s failure to assume jurisdiction pursuant to Public Law 280 meant it did not have jurisdiction within Indian country in the state.

THE REDISCOVERY OF INDIAN COUNTRY IN EASTERN OKLAHOMA

These changes in federal Indian policy began to be reflected in Oklahoma court decisions in the late 1970s and 1980s. In *State v. Littlechief*, the Oklahoma Court of Criminal Appeals, adopting a decision by the United States District Court for the Western District of Oklahoma, reaffirmed that an original Kiowa allotment in western Oklahoma was Indian country under 18 U.S.C. §1151(c).⁴⁷ Although the state of Oklahoma continued to argue for a different treatment in eastern Oklahoma, the Oklahoma Supreme Court blunted the reach of this position when it extended the *Littlechief* holding to Quapaw and Seneca-Cayuga trust allotments in *May v. Seneca-Cayuga Tribe of Oklahoma*.⁴⁸ Reasoning that the allotment of both tribes’ lands had been done pursuant to the provisions of the General Allotment Act, the same



Photographs of the members of the First Inter-Tribal Council of the Five Civilized Tribes in 1950. Courtesy Oklahoma Historical Society.

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legislation authorizing allotments to the western Oklahoma tribes, the Oklahoma Supreme Court found that the location of these tribes within the former Indian Territory in eastern Oklahoma did not remove the allotments from Indian country.⁴⁹

Once the Oklahoma Supreme Court recognized that certain allotments in eastern Oklahoma could qualify as Indian country, courts soon held that the restricted allotments of the Five Tribes' lands were also Indian country under 18 U.S.C. §1151(c). In 1989, in *State v. Klindt*, the Oklahoma Court of Criminal Appeals, following *Seneca-Cayuga*, overruled *Nowabbi* in holding that an original Cherokee allotment was Indian country.⁵⁰ Three years later, in *Crawatt v. State*, the court was even more explicit, firmly rejecting a "different judicial treatment for incidents involving members of the Five Civilized Tribes," noting there was "no foundation for this position."⁵¹ That same year, the 10th Circuit reached a similar result in *United States v. Sands*, where it held that a restricted Muscogee (Creek) allotment qualified as Indian country.⁵² In these cases, the courts cited both the express inclusion of allotments in the statutory definition of Indian country as well as Oklahoma's failure to assume criminal jurisdiction under Public Law 280 in support of its conclusion.

Finally, the courts began to undo their complete rejection of the existence of reservations in Oklahoma by finding that lands taken into trust for tribes pursuant to the Indian Reorganization Act and Oklahoma Indian Welfare Act qualified as Indian country under 18 U.S.C. §1151(a). Although tribal trust lands are not expressly

mentioned in the statutory definition of Indian country, a pair of federal court opinions emphasized the purpose for which the lands were acquired rather than any formal label. Since trust lands were acquired for use by Indians and were under federal supervision, that was sufficient to qualify them as Indian country.⁵³ These rulings were later affirmed by the U.S. Supreme Court in the early 1990s.⁵⁴

CONCLUSION

For most of Oklahoma's first century, state and federal courts denied the existence of Indian country in eastern Oklahoma based on a false dichotomy between the former Oklahoma and Indian territories, grounded more in legend than in law, that perversely punished the Five Tribes for their perceived assimilation. Only in the past generation have courts in Oklahoma, prompted by changes in federal Indian policy by Congress, rediscovered the existence of Indian country in the eastern half of the state, beginning with the recognition of Indian allotments, then tribal trust lands and finally the reaffirmation of reservations in *McGirt*.

ABOUT THE AUTHOR



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ENDNOTES

1. See 18 U.S.C. §1151(a)-(c). The definition provides in full:

Except as otherwise provided in sections 1154 and 1156 of this title, the term "Indian country", as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

2. *Indian Country, U.S.A., Inc. v. Okla. Tax Comm'n*, 829 F.2d 967, 973 (10th Cir. 1987).

3. *But see Oklahoma v. Castro-Huerta*, 142 S. Ct. 2486 (2022). More specifically, states generally lack jurisdiction to prosecute crimes committed by Indians within Indian country. *McGirt v. Oklahoma*, 140 S.Ct. 2452, 2459 (2020) (citing *Negonsott v. Samuels*, 507 U.S. 99, 102-03 (1993)). Either the federal or tribal government has jurisdiction to prosecute crimes committed by Indians in Indian country depending on the nature of the offense. The federal government prosecutes certain "major" crimes while the tribe prosecutes other offenses. See *Duro v. Reina*, 495 U.S. 676, 680 n.1 (1990), *superseded by statute as held in U.S. v. Lara*, 541 U.S. 193 (2004). In the civil context, states generally lack authority over Indians in Indian country, see *McClanahan v. Arizona Tax Comm'n*, 411 U.S. 164 (1973), while they retain greater authority over non-Indians unless such jurisdiction would infringe tribal self-government or is preempted by federal law. See *Williams v. Lee*, 358 U.S. 217 (1959); *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136 (1980). Tribes have civil jurisdiction over non-Indians in Indian country. However, if the non-Indian conduct at issue takes place on land within a reservation but held in fee by non-Indians, then tribal jurisdiction is generally only allowed where there is a consensual relationship between the non-Indian and the tribe or where the non-Indian conduct threatens or has a direct effect on the political integrity, economic security or health or welfare of the tribe. See *Montana v. U.S.*, 450 U.S. 544 (1981).

4. *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973).

5. 11 Okla. Op. Att'y. Gen. 345 (1979), available at 1979 WL 37653, at *8.

6. See, e.g., *Ex Parte Nowabbi*, 61 P.2d 1139, 1154 (Okla. Crim. App. 1936); see also *Okla. Tax Comm'n v. U.S.*, 319 U.S. 598, 603 (1943) (suggesting that the "underlying principles" of federal Indian law "do not fit the situation of the Oklahoma Indians").

7. The Oklahoma Court of Criminal Appeals subsequently extended *McGirt's* holding to the reservations of the Cherokee, Chickasaw, Choctaw, Seminole and Quapaw nations. See *Hogner v. State*, 500 P.3d 629 (Okla. Crim. App. 2021) (Cherokee Reservation); *Bosse v. State*, 499 P.3d 771 (Okla. Crim. App. 2021) (Chickasaw

Reservation); *Sizemore v. State*, 485 P.3d 867 (Okla. Crim. App. 2021) (Choctaw Reservation); *Grayson v. State*, 485 P.3d 250 (Okla. Crim. App. 2021) (Seminole Nation); *State v. Lawhorn*, 499 P.2d 777 (Okla. Crim. App. 2021).

8. See *McGirt v. Oklahoma*, 140 S. Ct. 2452, 2459 (2020).

9. See, e.g., Treaty With the Creeks, Art. XIV, March 24, 1832, 7 Stat. 366, 368; Treaty With the Creeks, preamble, Feb. 14, 1833, 7 Stat. 418.

10. See, e.g., Treaty with Choctaw and Chickasaw, Apr. 28, 1866, 14 Stat. 769; Treaty with the Creek Indians, June 14, 1866, 14 Stat. 785.

11. See Act of March 2, 1890, chap. 182, 26 Stat. 81.

12. *McGirt*, 140 S. Ct. at 2475.

13. See, e.g., *U.S. v. Ramsey*, 271 U.S. 467, 470 (1926).

14. *McGirt*, 140 S. Ct. at 2463.

15. See General Allotment Act, chap. 119, 24 Stat. 388 (1887). Heads of households received 160-acre allotments. Single individuals over the age of 18 and orphaned children received 80-acre allotments. *Id.*

16. *Id.*, §5, 24 Stat. at 389.

17. *Id.*, §6, 24 Stat. at 390.

18. See *id.*, §8, 24 Stat. at 391. It also did not apply to the Osage Nation, the Miami and Peoria Tribes nor the Sac and Fox Nation. The exception of the Five Tribes from the General Allotment Act stemmed from a belief that because the tribes owned their lands in fee, the federal government did not have the power to forcibly allot their lands. See *McGirt*, 140 S. Ct. at 2463.

19. Ch. 517, 30 Stat. 495 (June 28, 1898). The Curtis Act abolished the tribal courts and threatened the forcible allotment of tribal lands unless the tribes voluntarily agreed to allot their lands.

20. There were separate rolls for Indians by blood, intermarried white citizens and freedmen (descendants of African Americans enslaved by the tribes).

21. See, e.g., Cherokee Allotment Agreement, chap. 1375, 32 Stat. 716 (July 1, 1902); Seminole Allotment Agreement, ch. 542, 30 Stat. 567 (July 1, 1898).

22. The Supreme Court upheld Congress's authority to impose these allotments in *Tiger v. Western Investment Co.*, 221 U.S. 286, (1911).

23. The state of Oklahoma removed the restrictions on many of these allotments shortly after Oklahoma became a state. In 1908, Congress eliminated all restrictions on the allotments of Indians with less than one-half degree of Indian blood, intermarried white citizens and freedmen. Act of May 27, 1908, chap. 199, 35 Stat. 312. Land also lost its restricted status if inherited by any Indian heirs less than full blood. *Id.*, §9, 35 Stat. at 315. In 1947, Congress amended the law to provide that land lost its restricted status if inherited by anyone with less than one-half degree of Indian blood. See Act of Aug. 4, 1947, 61 Stat. 731. In 2018, Congress eliminated the minimum blood quantum requirement, and now, restricted land retains its status if inherited by anyone who is a lineal descendant of an original Five Tribes Indian allottee. See Stigler Act Amendments of 2018, 132 Stat. 5331 (Dec. 31, 2018); see also C. Cleary, "The Stigler Act Amendments of 2018," 91 *Okla. B. J.* 50 (2020).

24. Five Tribes Act, chap. 1876, 34 Stat. 137 (Apr. 26, 1906).

25. *Id.*, §11, 34 Stat. at 141.

26. *Id.*, §28, 34 Stat. at 148.

27. Oklahoma Enabling Act, chap. 3335, 34 Stat. 267 (June 16, 1906).

28. *Tiger*, 221 U.S. at 309.

29. Oklahoma Enabling Act, §3, 34 Stat. at 270.

30. *Id.*, §1, 34 Stat. at 267-68.

31. One exception was the Osage Reservation.

32. See, e.g., *Ellis v. Page*, 351 F.2d 250 (10th Cir. 1965) (Cheyenne and Arapaho Reservation); *Tooisgah v. United States*, 186 F.2d 93 (10th Cir. 1950) (Kiowa-Comanche-Apache Reservation).

Although not all allotment statutes result in disestablishment of the reservations, see *McGirt v. Oklahoma*, 140 S. Ct. 2452, 2465 (2020), the courts in *Ellis* and *Tooisgah* concluded that the respective allotment statutes contained unambiguous language whereby the tribes unequivocally surrendered all tribal interests in the reservation lands.

33. See *Nowabbi*, 61 P.2d at 1154 ("We think the obvious purpose of the final and explicit proviso of said act was to take the Indians in the Indian Territory out of the category of Reservation Indians. And it shows a clear and unmistakable intention on the part of Congress to limit the jurisdiction of the United States over allotments in the Indian Territory."). Even leading Indian law scholars concluded there were no reservations in Oklahoma. See, e.g., F. Prucha, *The Great Father* 262 (abridged ed., 1986) ("The Indians of Oklahoma were an anomaly in Indian-white relations ... There are no Indian reservations in Oklahoma ... [T]he reservation experience that was fundamental for most Indian groups in the twentieth century was not part of Oklahoma Indian history.").

34. See *McGirt*, 140 S. Ct. at 2474 ("Unable to show that Congress disestablished the Creek Reservation, Oklahoma next tries to turn the tables in a completely different way. Now, it contends, Congress never established a reservation in the first place.").

35. *U.S. v. Ramsey*, 271 U.S. 467 (1926) (restricted Osage allotment); *Ex Parte Nowabbi*, 61 P.2d 1139, 1154 (Okla. Crim. App. 1936) ("[A]ll Indian allottees and their allotments in that part of the state of Oklahoma that was formerly Oklahoma Territory, are lands in the Indian country within the meaning of [the General Crimes Act] and subject to the exclusive jurisdiction of the United States, until the issuance of fee-simple patents."). Subsequent court decisions confused the matter, however, after the 10th Circuit Court of Appeals concluded that the state of Oklahoma had jurisdiction to prosecute serious crimes committed on these allotments notwithstanding the Major Crimes Act, which generally gives the federal government exclusive jurisdiction. See *Tooisgah v. U.S.*, 186 F.2d 93 (10th Cir. 1950). In reality, the decision in *Tooisgah* was a narrow and limited one because, at the relevant time, the Major Crimes Act applied only "on and within an[] Indian reservation" as opposed to "Indian country," which would include allotments. This conclusion was immediately limited to its facts since, by the time the decision was issued, Congress had amended the Major Crimes Act to apply to "Indian country" rather than just reservations and had enacted a definition of Indian country that expressly included reservations and allotments as separate and distinct categories of Indian country. See 18 U.S.C. §1151(a), (c). Unfortunately, subsequent court decisions interpreted *Tooisgah* as generally concluding that trust allotments were not considered "Indian country" and failed to take account of the intervening statutory definition of Indian country Congress enacted in 1948. See, e.g., *Application of Yates*, 349 P.2d 45 (Okla. Crim. App. 1960); *Ellis v. State*, 386 P.2d 326 (Okla. Crim. App. 1963).

36. *Ex Parte Nowabbi*, 61 P.2d 1139 (Okla. Crim. App. 1936).

37. Act of May 8, 1906, chap. 2348, 34 Stat. 182.

38. *Nowabbi*, 61 P.2d at 1154 ("We think the obvious purpose of the final and explicit proviso of said act was to take the Indians in the Indian Territory out of the category of Reservation

Indians. And it shows a clear and unmistakable intention on the part of Congress to limit the jurisdiction of the United States over allotments in the Indian Territory.").

39. Letter from Johnston Murray, governor of Oklahoma, to Orme Lewis, assistant secretary of the Interior (Nov. 18, 1953).

40. 11 Okla. Op. Att'y. Gen. 345 (1979), available at 1979 WL 37653.

41. Indian Reorganization Act, ch. 576, 48 Stat. 984. Congress extended the provisions of the Indian Reorganization Act to Oklahoma tribes in the Oklahoma Indian Welfare Act, 49 Stat. 1967.

42. 18 U.S.C. §1151(a)-(c).

43. H.R. Con. Res. 108, 83d Cong. (Aug. 1, 1953) (Congress declared its intent "to make the Indians ... subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens" and "at the earliest possible time, all of the Indian tribes and the individual members ... should be freed from Federal supervision and control.").

44. In 1953, Gov. Murray issued a statement that "Public Law No. 280 will not in any way affect the Indian citizens of this State" because "[w]hen Oklahoma became a State, all tribal governments within its boundaries became merged in the State and ... came under State jurisdiction."

45. See, e.g., President Richard Nixon, Special Message to Congress, July 8, 1970.

46. See *Muscogee (Creek) Nation v. Hodel*, 851 F.2d 1439 (D.C. Cir. 1988) (upholding power of tribe to reestablish its tribal courts); *Harjo v. Kleppe*, 420 F.Supp. 1110 (D.D.C. 1976), *aff'd sub. nom. Harjo v. Andrus*, 581 F.2d 949 (D.C. Cir. 1978) (upholding the legitimacy and authority of the Creek National Council).

47. 573 P.2d 263 (Okla. Crim. App. 1978). The court clarified the confusion engendered by cases like *Tooisgah* and its progeny, see *supra* note 35, and definitively concluded that trust allotments in western Oklahoma remained Indian country. In support of its conclusion, it pointed to the failure of the state of Oklahoma to affirmatively assume jurisdiction over Indian country under Public Law 280. *Id.* at 265.

48. 711 P.2d 77 (Okla. 1985).

49. *Id.*

50. 782 P.2d 401 (Okla. Crim. App. 1989).

51. *Cravatt v. State*, 825 P.2d 277, 279 (Okla. Crim. App. 1992).

52. 968 F.2d 1058 (10th Cir. 1992).

53. See *Ross v. Neff*, 905 F.2d 1349 (10th Cir. 1990) (Cherokee trust land); *Cheyenne-Arapaho Tribes v. State of Oklahoma*, 618 F.2d 665 (10th Cir. 1980). The 10th Circuit reached the same conclusion with respect to unallotted lands held in trust for the Muscogee (Creek) Nation. See *Indian Country, U.S.A., Inc. v. Oklahoma Tax Commission*, 829 F.2d 967 (10th Cir. 1987). Pursuant to the Five Tribes Act of 1906, unallotted lands of the Five Tribes passed to the United States to be held in trust for their benefit. *Id.* (citing the Five Tribes Act of 1906, ch. 1876, §27, 34 Stat. 137, 148); *cf. Choctaw Nation v. Oklahoma*, 397 U.S. 620 (1970) (bed of the Arkansas River not allotted and therefore held in trust for the Cherokee, Choctaw and Chickasaw nations).

54. *Okla. Tax Comm'n v. Citizen Band Potawatomi Tribe*, 498 U.S. 505, 511 (1991).

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From the Ashes of Scandal Came Court Reform

By Bob Burke



This photograph accompanied a story about the scandal in The Daily Oklahoman newspaper. "Tense hearing before the Special House of Representatives Investigating Committee Wednesday saw Justice Earl Welch (in center wearing glasses and facing camera) before a battery of cameras and reporters at the capitol as he answered questions concerning allegations of bribery of members of the state supreme court." Courtesy Oklahoma Historical Society.

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OKLAHOMANS WERE EMBARRASSED AND HUMILIATED by a court scandal in the 1960s when three justices of the Supreme Court of Oklahoma were forced out of office and disgraced.

It was a dark day for the state on Jan. 21, 1965, when young state Rep. G.T. Blankenship, R-Oklahoma City, asked to speak to his fellow House members about “something of great concern.” Blankenship read a summary of a sworn statement given six weeks before by 80-year-old former Supreme Court Justice N.S. Corn, who was serving a federal prison term for income tax evasion.¹

An uneasy quietness settled over the House chamber as Blankenship described Corn’s admission that he, as a justice of the Supreme Court, and two other justices had taken bribes for 25 years to rig votes on cases on appeal. In a 1957 case, Corn took \$150,000, paid in \$100 bills, to influence the Supreme Court’s decision in *Selected Investments Corp. v. Oklahoma Tax Commission*.² Corn revealed he paid Justices Earl Welch and Napoleon Bonaparte Johnson \$7,500 each to help him form a majority. As Blankenship continued, House Speaker J.D. McCarty, a powerful Democratic leader, was visibly shaken. The conscience of

leaders in the state Capitol and the citizens was shocked.³

How Blankenship received the sworn statement of former Justice Corn is like a tangled TV mystery. In January 1965, U.S. District Judge Stephen S. Chandler made a surprise visit to the home of Supreme Court Justice William A. Berry and handed him a copy of Corn’s statement, calling it, “Corn’s confession.”⁴ Judge Chandler never told even his closest friends who gave him a copy of Corn’s statement, but as a federal judge, he was aware of the federal grand jury investigation of justices for income tax evasion. Chandler also worked in the federal courthouse with the court reporter who took the sworn statement.⁵

Justice Berry felt sick to his stomach as he read the confession of his former colleague. He said, “Described here were the actions of three justices, impugning the integrity of the whole court, and violating the very canons of truth and fairness.” Corn admitted there was

never a year in his 25 years on the court when he did not take a bribe.⁶

MAKING THE ALLEGATIONS PUBLIC

Justice Berry knew the bribery accusations must be made public, but his lawyer friends who would share his disgust with the situation would not want to make the charges public for fear that powerful attorneys implicated by Corn’s statement would immediately sue them. Berry had a brilliant idea. He was aware that members of the state Legislature were immune from slander lawsuits for statements made during a legislative session. He set up a secret meeting with Rep. Blankenship who copied excerpts from Corn’s statement onto a legal pad.

Even though Rep. Blankenship’s wife was opposed to the move, he later said, “One of the reasons you run for public office is to perform a service that needs to be accomplished. I can’t run from this.”⁷

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Oklahoma Supreme Court Justice N.B. Johnson speaks to reporters on May 13, 1965, immediately after the state Senate convicted him of bribery charges. He is the only Supreme Court justice in the history of Oklahoma to be impeached and convicted. Courtesy Oklahoma Historical Society.

There was a statewide uproar after Rep. Blankenship made former Justice Corn's confession public. Gov. Henry Bellmon was concerned about Rep. Blankenship's safety because the veracity of powerful people was questioned.⁸ The Oklahoma Bar Association created a special investigating committee that recommended filing charges against Justices Welch and Johnson. The committee cleared other sitting justices of any wrongdoing.⁹

The scandal had a depressing effect on the judiciary and the practice of law in Oklahoma. *Time*

magazine called the scandal one of the worst in American history and referred to the quality of justice in Oklahoma as "the best money can buy." Against the backdrop of corruption, Gov. Bellmon insisted that the Legislature pass sweeping justice reform measures. But Democratic leaders such as House Speaker J.D. McCarty killed any meaningful judicial reform bills.¹⁰

A federal grand jury in Oklahoma City indicted Justices Corn and Welch and prominent attorney and former Oklahoma City Mayor O.A. Cargill Sr. One

count accused Cargill of orchestrating the payment of at least \$1,000 to certain justices as a campaign contribution in exchange for the justices' agreement to vote in favor of cases in which Cargill was interested.

Ultimately, Cargill was convicted on three counts of perjury. Two counts were dismissed by the U.S. Court of Appeals for the 10th Circuit, but one conviction was affirmed.¹¹

Meanwhile, a special investigating committee of the Oklahoma House of Representatives filed articles of impeachment against

Justices Welch and Johnson on March 18, 1965. Justice Welch, the longest-serving justice, immediately resigned. Justice Johnson was defiant and would not resign. The full House approved the articles of impeachment. Young state Rep. Larry Derryberry, later the state's attorney general, said Johnson was a traitor to the judiciary, the profession and the people of Oklahoma.¹² Two days later, an Oklahoma County grand jury indicted Johnson on bribery charges.¹³

Otis Sullivan, a legendary reporter for *The Daily Oklahoman*, summarized the sentiment of most Oklahomans:

It has been a dark week for Oklahoma and its reputation nationally in government and politics. The state hasn't received so much bad publicity in such a short time since the swashbuckling politics of the 1920s when our state was looked upon as a raw young one, still in its growing pains.

It has been quite a shock for those observers who assumed we had matured politically and were becoming settled in our political ways.¹⁴

AN IMPEACHMENT TRIAL

The Oklahoma Constitution provides that the state Senate act as the trial court after the House brings charges by impeachment. Justice Johnson's trial captured the attention of newspapers across the country. *The New York Times* sent a reporter to cover the trial. The charge of racism was raised: Johnson was part Cherokee, and it was suggested that former Justice Corn implicated Johnson because he was a Native American. The *Times* reporter wrote, "Justice

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Napoleon Bonaparte Johnson suggested today that anti-Indian prejudice might account for bribery charges against him.”¹⁵

Johnson’s trial in the state Senate was intense as witnesses for and against the justice appeared. Former Justice Corn spent two days on the witness stand, vigorously questioned by Sen. Roy Grantham of Ponca City, designated as the prosecutor for the trial. Reporter Bob McMillan of the *Oklahoma City Times* wrote:

Stripped of all but his dignity and never wavering in his testimony, ... Corn looked downward on the senate court of impeachment like a judge from the bench ... One could almost visualize the former justice still in his office as he casually said he took a \$150,000 bribe and gave part to his colleagues but kept the lion’s share for himself.¹⁶

Justice Johnson took the stand in his own defense. He could not answer senators’ questions about why he deposited \$20,000 more than his Supreme Court salary in a four-year period. He admitted to having a safety deposit box where he kept cash and occasionally used the cash to buy a cashier’s check to deposit in his bank in Claremore.¹⁷

In the end, Johnson was convicted by a single vote. He was the first and only Supreme Court justice in the history of Oklahoma to be removed from office by impeachment. Justice Berry sat through the trial and observed, “There were no slaps on the back or victorious cheers. It was a sad day for Oklahoma.”¹⁸

An article in *Newsweek* magazine labeled Oklahoma’s judicial system “Cash-and-Carry Justice.” Other

articles in the *Wall Street Journal* and *Reader’s Digest* painted the picture of a state with a tainted appellate court that thrived on bribery.¹⁹

The admission by former Justice Corn could have created chaos by opening the floodgates to a torrent of appeals from disgruntled losers involving cases decided by Corn, Welch and Johnson. However, the U.S. Supreme Court refused to hear a case in which Justice Johnson wrote an opinion before he was impeached and removed from office. Instead, only a case-by-case analysis was allowed, and there must be evidence of corruption. Ultimately, only a handful of decisions in individual cases were vacated.²⁰

The Legislature continued to drag its feet while Gov. Bellmon appointed OU College of Law Dean Earl Sneed to head an 18-person committee to make recommendations for judicial reform. Sneed began to shape public opinion about abolishing the election of appellate judges. He said, “Money given either to an aspiring or incumbent judge can create an obligation, or, even worse, constitute a direct or indirect bribe.”²¹

State Rep. Ralph Thompson, R-Oklahoma City, was chosen to draft language for a constitutional amendment that would eliminate the scandal-ridden justice of the peace system. Thompson later reflected, “Legislators who opposed change not only saw the light but felt the heat.”²²

A FRESH INTEREST IN REFORM

The political landscape and likelihood of reforming the court system drastically changed after the general election in 1966. House Speaker J.D. McCarty was upset by funeral home operator Vondel L.

Smith. McCarty was convicted of income tax evasion and sentenced to prison. Newly elected Gov. Dewey Bartlett committed his full support to court reform. On May 3, 1966, voters approved the first part of a comprehensive reform of the judicial system, the creation of a Court on the Judiciary to handle complaints against judges.²³

Two state questions were approved by voters on July 11, 1967. The justice of the peace system was abolished. County and special courts were abolished. Trials would be handled by district courts; civil appeals would go to the Supreme Court and criminal law appeals would be heard by the Criminal Court of Appeals, now named the Court of Criminal Appeals. Politics was taken out of the state’s two highest appellate courts. Supreme Court justices and Court of Criminal Appeals judges would be appointed by the governor from names submitted by a Judicial Nominating Commission (JNC). Every six years, the justice or judge would run for retention without an opponent.²⁴

The Legislature took much of the 1968 session to institute a new judicial system. The changes took effect Jan. 13, 1969. The district courts were organized based on judicial districts rather than counties. The old superior court judges became district judges, and common pleas, county, children’s and juvenile court judges became associate district judges. A unified court system was created under the supervision of the Supreme Court. OU College of Law professor George B. Fraser, a consultant to the Legislature, said, “For the first time, the Supreme Court, rather than the Legislature, had the authority to prescribe any

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rule and take any action that will improve and facilitate the administration of justice in Oklahoma.”²⁵

To administer the court system, the constitutional amendments created the administrative director of the courts to serve at the pleasure of the chief justice. Future Justice Marian Opala was chosen by the chief justice as the first “state court administrator.” Opala likened his role as the executive director of a corporation’s Board of Directors, made up of the nine members of the state’s highest court.²⁶

applications for vacancies on any court of record. The governor was given three names from which to choose. If the governor fails to appoint a nominee to a position within 60 days, the chief justice makes the selection.²⁷

Court reform proposals approved by voters more than a half-century ago have worked well. No scandal has touched members of the state’s highest courts. The judges selected, from district judges to Supreme Court justices, have furthered the goal

WHERE ARE WE NOW?

Since 2013, the Legislature has challenged the JNC with an apparent goal of a governor being allowed to appoint judges without any formal prescreening, which is now accomplished by the JNC with an in-person interview and an Oklahoma State Bureau of Investigation background check of applicants for judicial positions.²⁹

One of the fiercest attacks against our time-tested system of judicial independence came in 2022 in the form of Senate Joint Resolution 43. The resolution was a menagerie of ideas. The governor could appoint judges without any vetting. In a return to the old guard Democratic system before court reform, district judges would run for office on a partisan basis and could actively ask for money. All appellate judges’ terms would end at the conclusion of their current term. The Legislature would control the practice of law and license lawyers in two categories: those who appear in court and those who work primarily in their office. Gone would be the active part the Oklahoma Bar Association plays in disciplining lawyers who violate the Code of Professional Conduct.³⁰

SJR 43 easily passed the state Senate but ran into opposition in the House of Representatives, where it failed by a single vote to be signed out of a committee to be considered by the full House.

Former District Judge Bland of Pittsburg County offered a stark perspective of the effects of SJR 43 or similar legislation. Judge Bland served 22 years on the district court bench before becoming chairman of the JNC. When the Oklahoma Council of Public



The Supreme Court historically convened in the courtroom at the Oklahoma State Capitol. Courtesy OSCN.

The new Judicial Article 7 of the state constitution authorized the Legislature to create intermediate appellate courts. The Oklahoma Court of Appeals, now the Oklahoma Court of Civil Appeals, was created Jan. 1, 1971. Other reforms included district court judges being elected on a nonpartisan ballot for a four-year term. The JNC would screen

of judicial independence. Since we converted to a nonpartisan, merit-selection Judicial Nominating Commission system, more than 300 trial and appellate judges have been appointed. The judiciary has proved it can manage its own house. Several judges have resigned when requested to do so, and one judge was removed from office because of mental issues.²⁸

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Affairs alleged that the JNC was a secret process in which politics reigned, Judge Bland said:

We don't discuss the vote after the interviews. It's in the rules that one commissioner does not lobby another commissioner on how to vote. It's just about everybody reviewing the information, studying the background checks, doing their research, listening to the interviews, and then voting.

A common criticism of the JNC process is that "lawyers control the JNC and therefore choose the judges." That is a myth. Lawyers are in a minority on the JNC. Nine of the 15 members of the JNC are nonlawyers. The governor appoints six members, and none can have a lawyer in their immediate family. Of the three remaining nonlawyer members, one is appointed by the House speaker, one is elected by the Senate president pro tempore, and one is selected by members of the JNC. Only six members are lawyers – one selected by other lawyers from each of the old six congressional districts.³¹

Retired Oklahoma Supreme Court Justice Steven Taylor is a champion of judicial independence, free from politics. He wrote:

Political winds from both the left and the right continue to attempt to weaken judicial independence. Political winds should never blow in a Courtroom. The Judge should never hold up a finger to test political winds. It is absolutely essential that every judge have the courage to follow the law even when it is unpopular to do so. ...

Every Patriot in Oklahoma should be championing this judicial process that has been our heritage from our founding and has been preserved with bloodshed on the battlefield countless times in our history.³²

An independent judiciary is vital to Oklahoma. Attempts to get rid of the Judicial Nominating Commission could arguably be viewed as a power grab to allow political leaders to appoint judges without any formal vetting of applicants. That is a sure way to return to the sordid history of the first half of our state history when politics determined what judges were appointed or elected. Merit had little to do with it.

All citizens involved in a dispute deserve an unbiased judge to hear the facts and apply the law without showing favoritism to any party. We all want a level playing field when involved in a lawsuit. We should learn from the mistakes of the past and allow the court reform of the 1960s to continue to guarantee judicial independence.

ABOUT THE AUTHOR



Bob Burke has been a workers' compensation and constitutional lawyer for 42 years. He is vice chair of the Oklahoma Supreme Court Committee on Judicial Elections and a Trustee of the Oklahoma Bar Foundation. Mr. Burke is a member of the Oklahoma Hall of Fame and has written more historical nonfiction books (154) than anyone in history.

ENDNOTES

1. Interview with G.T. Blankenship, Feb. 20, 2002, Heritage Archives, Oklahoma Hall of Fame, hereafter referred to as the G.T. Blankenship interview. The only known copy of the sworn statement was delivered to me in 1996 by OBA Executive Director Marvin Emerson. He told me, "You will need this someday to show future generations how bad the scandal was." Marvin died two years later. The sworn statement is hereafter referred to as Corn Statement.
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3. Corn Statement; In 2015, James Harrod, the county attorney of Oklahoma County who took the sworn statement in a Missouri prison where former Justice Corn was serving his sentence for income tax evasion, saw the sworn statement for the first time. He left office a few weeks after taking the sworn statement and never saw the transcript until I presented him a copy. He read the sworn statement and confirmed its authenticity.
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10. *Id.* p. 48-49; *Time* magazine, April 16, 1965.
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13. *Id.*
14. *Id.*, p. 45.
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22. Bob Burke and Eric Dabney, *Gentleman Jurist: The Life of Ralph G. Thompson*, (Oklahoma City: Oklahoma Heritage Association, 2011); *Recollections of Ralph Gordon Thompson* recorded during the winter and spring of 2010, Archives, Oklahoma Hall of Fame, formerly the Oklahoma Heritage Association, hereafter referred to as Ralph Thompson interview.
23. *The Daily Oklahoman*, May 4, 1966; *An Independent Judiciary*, p. 60-61.
24. State Questions 447 and 448 were approved by state voters. Court reform passed handily in Oklahoma and Tulsa counties, but voters in rural areas generally voted against reform; Ralph Thompson interview.
25. *An Independent Judiciary*, p. 66-67.
26. *Id.*, p. 67.
27. *Id.*, p. 68.
28. *Id.*, p. 89.
29. *Id.*
30. Senate Joint Resolution 43, Oklahoma Legislature, 2022.
31. *An Independent Judiciary*, p. 71.
32. *Id.*, p. 99.

The Evolution of Workers' Compensation in Oklahoma

By Bob Burke

IN THE EARLY YEARS OF THE 20TH CENTURY, injured workers in the United States exercised their common law rights to seek damages from a jury in a local court. As manufacturing jobs expanded, tort cases overburdened court dockets, and companies recognized the high cost of defending lawsuits – even if they prevailed. In addition, injured workers and their families often waited more than a year to receive any replacement wages or medical treatment.¹

State legislatures heard from workers and employers. Business leaders in Oklahoma looked to Wisconsin, which passed a no-fault system in 1911, providing workers with quick medical care and reasonable compensation for lost wages in exchange for the workers giving up their right to sue their employer for negligence. It was known as the “industrial bargain” or the most common name, the “Grand Bargain.”²

A dozen states passed similar laws before Oklahoma vigorously debated and enacted its first workers’ compensation law in 1915.³ When Gov. Robert L. Williams signed the bill, *The Daily Oklahoman* reported, “It compels the employer to protect his employees and at the same time relieves the employer of the burden of heavy and sometimes unreasonable damage suits in state courts.”⁴

The new law set up the State Industrial Commission to adjudicate claims of injured workers. However, the legislation did not provide benefits to spouses and children of workers killed on the job. That benefit would not be available for another 35 years. In 1950, voters amended the Oklahoma Constitution to allow the Legislature to provide for scheduled benefits to beneficiaries in work-related death cases.⁵

Before the ink was dry on the 1915 workers’ compensation law, there were cries of unconstitutionality. The Supreme Court of Oklahoma acted quickly and unanimously found the act constitutional within 16 months of its effective date.⁶ It was in the 1917 opinion that the term “exclusive remedy” was used. Recognizing that the badly burned, injured worker would receive far less

under the statutory scheme than in a tort suit with admitted negligence, the Supreme Court opined, “The compensation provided was intended to be exclusive, and a right of action in the courts therefore was abolished.”⁷

Six weeks after the Supreme Court of Oklahoma declared the Grand Bargain constitutional, the U. S. Supreme Court considered the issue in a case involving the New York workers’ compensation law. The high court upheld the legislative replacement of a common law tort with an exclusive remedy, no-fault statutory system with scheduled benefits for injured workers.⁸

New York Central Railroad held that state legislatures could provide a statutory system as an exclusive remedy for an injured worker’s claim against their employer. However, the justices mandated

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The first workers' compensation laws in Oklahoma were unclear and confusing, only covering those in what the Legislature considered "hazardous employment." Pictured above, workers posed with their wagons full of cotton in front of the Dulaney Cotton Gin in Cornish, Oklahoma. Courtesy Oklahoma Historical Society.

that the replacement of tort remedies must provide "significant" benefits. That term has been debated for a century.

THE HAZARDOUS EXPOSURE LIMITATION

Unfortunately for both employers and injured workers, the first Oklahoma workers' compensation law did not protect a majority of workers in the state. The law covered only workers in "hazardous employment." There was no clear definition of the term, resulting in hundreds of legal challenges and legislative changes for the next half-century.

It was confusing at best. It was obvious from the statute that the Legislature intended to give the Industrial Commission latitude to determine what constituted "hazardous employment." But the statute's list of hazardous occupations allowed the Supreme Court to limit the jurisdiction of the commission and thus send claims to the district court. An early example was the Supreme Court's denial of benefits to an employee of the Kingfisher County Highway Department who was injured in an automobile accident while driving to assist the county engineer with surveying a state highway. The

Supreme Court said the worker was not engaged in "hazardous employment" because the injury did not fit within the "engineering works" category in the statute.⁹

The 1919 Legislature limited the jurisdiction of the Industrial Commission to injuries sustained in two dozen occupations, such as cotton gins, factories, logging, streetcars and oil refineries.¹⁰ Still, the Supreme Court held that a single employer could have both hazardous and nonhazardous employees under the same roof. The Legislature occasionally tried to refine its definition of "hazardous employment," but

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Factory work was one of only two dozen occupations covered by the Industrial Commission's jurisdiction as determined by the 1919 Oklahoma Legislature. Pictured above, employees produce clothing at an Oklahoma City garment factory. Courtesy Oklahoma Historical Society.

the Supreme Court still struggled to determine what injury fit the definition. The uncertainty often resulted in decisions that denied benefits for serious injuries obviously sustained in the course and scope of employment. A traveling salesman lost sight in one eye when he was struck by an object flying off a passing vehicle. The Supreme Court denied benefits because being a traveling salesman was not "manual labor."¹¹

The Supreme Court of Oklahoma consistently used the narrowest of statutory interpretations to overturn the Industrial Commission's award of benefits to workers injured in what we today uniformly classify as

hazardous. The problem grew worse as more Oklahoma workers were employed in occupations not covered by workers' compensation. Thousands of workers were not provided benefits, even if they were clearly injured as a result of their employment.¹²

Occasionally, the Supreme Court ruled favorably for an injured worker in a case where the evidence was too close to call. In an early law, it was presumed that an injured worker should be awarded benefits as a matter of social policy if the evidence was equal. That presumption favoring the worker was eliminated from the law in 1999.¹³

Jurisdiction of workers' compensation claims remained with

the state Industrial Commission until 1959, when the Legislature created the State Industrial Court and made it a court of record in the judicial branch.

IN THE COURSE AND SCOPE OF EMPLOYMENT

The number one source of litigation in more than a century of interpreting Oklahoma's workers' compensation laws is the statutory requirement that an injury is compensable only if it arises out of the course of and in the scope of employment. The "in the course of" was generally interpreted to mean that a worker was covered by workers' compensation if they were injured during a normal work

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activity. The “scope of employment” meant the accident must be due to the employment and must result from a risk reasonably incident to the employment.¹⁴

In 2000, Justice Yvonne Kauger explained the concept of an injury arising out of employment in the case of *Turner v. B Sew Inn*.¹⁵

To meet the “arising out of” test, it must appear to the rational mind, upon considering all the circumstances, that a causal connection exists between the conditions under which the work is to be performed and the resulting injury. ...

A NEW DIRECTION

In the first 55 years of the Oklahoma workers’ compensation law, from 1915 to 1970, there were complaints that the “hazardous employment” doctrine was unfair because injuries to schoolteachers, retail workers and most government workers were not compensable. Legislators, employers and representatives of injured workers recognized the



After 55 years of the confusing “hazardous employment” requirement for workers’ compensation, 1975 Gov. David L. Boren, pictured above, put together a committee to reform the law. In 1977, the Workers’ Compensation Act was passed. Courtesy Oklahoma Historical Society.

need for a more comprehensive statutory scheme. When David L. Boren was elected governor in 1974, he created a committee of legislators, business leaders and worker advocates to survey other states’ recent reforms.¹⁶ After much debate and compromise, the Workers’ Compensation Act was passed by the 1977 Legislature.¹⁷ A veteran newspaper reporter said the act was passed “after some of the longest legislative studies and conflicts in recent years.”¹⁸

The new law reversed the troublesome “hazardous occupation” requirement and placed most workers in the state, except for agricultural and domestic workers, under coverage for benefits. A new Workers’ Compensation Court was created. Its members would be appointed by the governor from a list provided by the Judicial Nominating Commission. Gov. Boren appointed Marian Opala, administrative director of the state court system, as presiding judge of the Industrial Court to make smooth the transition to the new court.¹⁹

In the 1980s and 1990s, there was a period of relative calm and stability. There were predictable ups and downs in the size of awards, depending upon whom the sitting governor appointed as judges. There was still a continuous effort to close loopholes or add components such as mediation and providing counselors to assist injured workers. In the 33 years from 1977 to 2010, the Legislature passed 19 changes to the Workers’ Compensation Act. Countless unsuccessful bills were presented because someone was unhappy with the result of a single case or line of cases.²⁰

Employers’ immunity from tort claims was recognized for decades after the 1977 reform, except for an occasional deviation regarding an intentional tort. In 2005, the Supreme Court dealt a blow to the blanket exclusive remedy for employers in the case of *Parret v. UNICCO Service Company*.²¹ The court adopted the “substantial certainty” standard, which meant that the narrow intentional tort exception to workers’ compensation exclusivity was available to an injured worker if the accident or death was substantially certain to occur.²² Since *Parret*, the Legislature has attempted to eliminate most intentional torts. The appellate courts have weighed in on the subject, but it remains uncertain whether or not some intentional torts in a direct action in district court against the employer remain viable.

Another subject of reform in the early years of the current century regarded the rigid rule that allowed compensability of a mental injury only when accompanied by a physical injury. Occasionally, the rule resulted in a harsh decision. In *Fenwick v. Oklahoma State Penitentiary*,²³ benefits were denied to an employee of the state prison who was held hostage during a disturbance. He was released without physical injury but sustained a serious psychiatric injury. All agreed he was disabled, but the Supreme Court followed the statute. After other similar decisions, the Legislature eventually made an exception for mental-only injuries when an injury resulted from a rape or another crime of violence that arose out of and in the course of employment.²⁴

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DEMAND FOR DRASTIC CHANGE

Employers and the Oklahoma State Chamber of Commerce called for drastic changes in the workers' compensation system in 2010 because of the belief that judges of the Workers' Compensation Court made excessive awards for permanent partial disability (PPD). The state chamber cited statistics that showed the average PPD award rose from \$13,176 in 2001 to \$32,452 in 2010.²⁵

One of the first acts of Gov. Mary Fallin when she assumed office in January 2011 was to appoint a working group to rewrite Title 85 to codify decades of appellate court decisions and strictly limit perceived abuses. The result was Senate Bill 878, which passed the state Senate 48-0 and the House of Representatives 88-8.²⁶

Even though Gov. Fallin predicted the new Workers' Compensation Code would save employers \$30 million a year,²⁷ the law was never given a reasonable chance to succeed. A small group

of companies began lobbying for additional changes. Months before the 2013 legislative session, *The Oklahoman*, the state's largest newspaper, called for abolishing the Workers' Compensation Court and creating an administrative system. Two large Oklahoma companies were out front: Hobby Lobby, the nationwide arts and crafts chain headquartered in Oklahoma City, and Unit Drilling, an oil and gas firm based in Tulsa. They believed the current system was broken and was a huge impediment to economic growth in the state.²⁸

When the reform measure was introduced, I argued in an opinion piece published by *The Oklahoman* that the bill contained numerous unconstitutional provisions and that if the reform was enacted, Oklahoma would need two different systems for handling workers' compensation claims for many years to come.²⁹

Despite warnings, in the closing days of the 2013 legislative session, Senate Bill 1062 was passed and signed into law, effective Feb. 1,

2014. The Administrative Workers' Compensation Act (AWCA) created a Workers' Compensation Commission, an administrative agency in the executive branch, to handle claims for all injuries that occurred after the effective date of the AWCA.³⁰

The new law was destined to save employers money because its provisions unquestionably gave Oklahoma the lowest benefits for injured workers in the nation.³¹ Immediate challenges to the constitutionality of the AWCA were filed, especially the provisions that gave the commission ultimate appellate authority over cases decided previously by the Workers' Compensation Court.

The Legislature's attempt to have one agency handle all claims was shot down by a unanimous Supreme Court that held that "all aspects" of claims for injuries occurring prior to Feb. 1, 2014, must be adjudicated by the old court of record, renamed the Court of Existing Claims (CEC). As predicted, Oklahoma will have two workers' compensation systems well into the future. In 2022, it was estimated by the clerk of the CEC that about 12,000 old law cases remain open.³²

Since 2014, more than 120 challenges to the AWCA have been filed. To date, 68 provisions of the AWCA have been found to be unconstitutional, invalid or inoperable. One of the major opinions that resounded far beyond Oklahoma was the Supreme Court's finding that "opt out," the ability of an employer to withdraw from a statutory workers' compensation system and develop its own benefit plan, was unconstitutional.³³

Employers and the Oklahoma State Chamber of Commerce called for drastic changes in the workers' compensation system in 2010 because of the belief that judges of the Workers' Compensation Court made excessive awards for permanent partial disability (PPD).

The decision in *Vasquez v. Dillard's Inc.*³⁴ caught the attention of the nation, especially in conservative states in the South, where Walmart and other large companies pushed opt-out. National Public Radio reported, "A campaign by some of America's biggest companies to 'opt out' of state workers' compensation, and write their own plans for dealing with injured workers, was dealt a major blow."³⁵ David Torrey, a workers' compensation judge in Pennsylvania and a nationally recognized expert in workers' compensation, said, "Despite companies spending millions of dollars to promote the idea, opt out is dead because of the comprehensive opinion by the Supreme Court of Oklahoma."³⁶ Since the *Vasquez* decision in 2016, no state legislature in the nation has attempted to enact an opt-out law.

Other cases decided by the Oklahoma Supreme Court in challenges to the AWCA were recognized as major decisions in the field of workers' compensation in the United States. A unanimous decision in *Torres v. Seaboard Foods, LLC*,³⁷ was hailed by a national expert as the most important workers' compensation opinion released by a state supreme court in 25 years.³⁸ *Torres* established the principle that any provision of a workers' compensation statute that shifts the economic burden to the injured worker without a legitimate state interest is unconstitutional.³⁹

Another important decision was in the case of *Maxwell v. Sprint PCS*.⁴⁰ In finding a provision of the AWCA to be a forfeiture of benefits, the Supreme Court said the Legislature's attempt to further cut benefits "trampled" the due process rights

of the injured worker. The decision also held that if an injured worker received an order for permanent disability, it was a property right worthy of due process protection.⁴¹

We are now 10 years beyond the legislative passage of the AWCA. The 2019 Legislature granted a modest increase in injured worker benefits and struck from the act several unconstitutional provisions yet to be tested. The benefit increase moved Oklahoma from 50th to 46th among the states.⁴²

More legal challenges to provisions of the AWCA are pending in the Court of Civil Appeals and the Supreme Court. But the dual system of adjudicating claims of injured workers is running smoothly. Administrators, judges and staff of both the Workers' Compensation Commission and the Court of Existing Claims work together to carry out their respective functions.

ABOUT THE AUTHOR



Bob Burke has been a workers' compensation and constitutional lawyer for 42 years. He is vice chair of the Oklahoma

Supreme Court Committee on Judicial Elections and a Trustee of the Oklahoma Bar Foundation. Mr. Burke is a member of the Oklahoma Hall of Fame and has written more historical nonfiction books (154) than anyone in history.

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2. Gregory P. Guyton, "A Brief History of Workers' Compensation," *1 Iowa Orthopedic Journal*, p. 106-110 (1999).
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7. *Id.* ¶17.
8. See *New York Central Railroad Company v. White*, 243 U.S. 188 (1917).
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10. *Okla. Sess. Laws*, ch. 14, §2, p. 14 (1919).
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12. See *Neal v. Sears, Roebuck & Co.*, 1978 OK 47, 578 P.2d 1191.
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14. 1 Larson, *Workmen's Compensation Law* 41 (1952).
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19. *Id.*, June 8, 1977.
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35. www.npr.org, Feb. 27, 2016.
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The History and Impact of the Oklahoma Bar Foundation

By Renee DeMoss and Bob Burke

THE HISTORY OF THE OKLAHOMA BAR FOUNDATION will always be intertwined with the history of the Oklahoma Bar Association and the dynamic evolution of the legal profession in Oklahoma.

The predecessor of the OBA was formed in 1904 when associations of attorneys in the separate Oklahoma and Indian territories merged. Membership in the group was voluntary. Those working as attorneys were not required to have any formal legal education. Many “read the law” by learning and observing in a law office or simply started taking on clients in the territories.

On the horizon was Oklahoma statehood. Attorneys were beginning to flex their muscles as Oklahoma became a state in 1907. A struggle emerged over who would control the practice of law in the new state. The Legislature was generally in charge, but several governors battled for the power to make rules on who was qualified to be a lawyer and how they would be disciplined for any wrongdoing.

In 1929, the Oklahoma Legislature took a major step to gain control of the practice of law by enacting a statute that created a formal attorney organization called the “State Bar of Oklahoma.” This required

all attorneys to join as members to practice in the state. It established minimal educational requirements for licensed attorneys and created a “Board of Governors,” which had the authority to discipline attorneys, subject to the approval of the Oklahoma Supreme Court.

For the first two decades of statehood, constant public squabbling characterized the relationship between the bar and the judiciary. After the Legislature passed the 1929 law that created the State Bar of Oklahoma, Oklahoma Supreme Court Chief Justice Charles W. Mason seized the opportunity to take one final jab at the former voluntary bar for its behavior and criticism of judges:

The bar association of this state, prior to this time, has been a voluntary organization and while some good has been accomplished, the state conventions have been very largely social affairs. The lawyers have often come together, giving each other

the glad hand, renewing old comradeships ... and that is about all that has been accomplished, except to give some lawyer who had recently lost a case an opportunity to cuss the court while his opposing counsel sat by and enjoyed his vilification and vituperation without uttering a word and little realizing that such procedure was eating out the very foundation of government itself by shaking the confidence of the uninformed layman in the judiciary.

In the 1930s, the Legislature tried to exert further influence over the bar by dictating who could be a lawyer. The 1937 Legislature passed a bill that permitted anyone who had served three terms in the Oklahoma Legislature to practice law, without requiring them to have either obtained a law school education or passed a bar exam. In vetoing the bill, Gov. E. W. Marland told legislative leaders, “I would be willing to sign such a bill if you



The land where the Oklahoma Bar Center stands today. Photograph used for a story in The Daily Oklahoman newspaper. "Above is the farm of W. F. Harn, lying southwest of the state Capitol and State Historical Society building. The 100-acre farm is the site of an oil field being started in defiance of city zoning regulations." Courtesy Oklahoma Historical Society.

also submit one providing that anyone who has had a venereal disease three times will be allowed to practice medicine."

On Oct. 10, 1939, the Oklahoma Supreme Court finally took control. In the case of *In re Integration of the Oklahoma State Bar*, 185 Okla. 505, 506, 97 P.2d 113 (Okla. 1939), the court declared it, not the Legislature, had the inherent power to regulate Oklahoma lawyers. The court reasoned, "The very fact that the Supreme Court was created by the Constitution gives it the right to regulate the matter of who shall be admitted to practice law before the Supreme Court and inferior courts, and also gives it the right to regulate and control the practice of law within its jurisdiction."

Now firmly under Supreme Court control, the fledgling OBA faced many challenges. A big problem was that the OBA had no place to call home. It was forced to rent space in an old, cramped office

building in downtown Oklahoma City. It had no staff at all before the Supreme Court took control in 1939 and arranged for a small staff paid from bar association dues.

This all changed when Gerald B. Klein of Tulsa was elected OBA president at the Annual Meeting in December 1945. Mr. Klein was not fazed by any of the problems; he had a plan. He also had the vision and passion to look ahead, lend a helping hand to other lawyers and keep the legal profession strong and trustworthy for the people of Oklahoma.

A PLACE TO CALL HOME

Mr. Klein's first priority was finding a home for the association. His idea was to establish a separate organization that could fund and hold title to land for the OBA and construct a building on the land that would serve as a permanent home for Oklahoma lawyers. This entity would be the Oklahoma Bar Foundation.

Mr. Klein, however, did not limit his vision of what this separate entity could accomplish. He also wanted the foundation to engage in research and publication in fields of law important to Oklahoma and help provide access to justice for Oklahomans who could not afford attorneys.

Ultimately, leadership decided that a tax-exempt, nonprofit corporation should be formed to perform the work that lay ahead. On May 9, 1949, the Oklahoma Bar Foundation Inc. was formally incorporated. The OBF was granted tax-exempt status by the Internal Revenue Service under section 501(c)(3) of the tax code. The Articles of Incorporation made all members of the OBA also members of the OBF and declared the purpose of the corporation to be for "educational, charitable and scientific purposes to advance the science of jurisprudence and promote the administration of justice."

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Photograph used for a story in the Oklahoma Times newspaper. "Proposed Headquarters, which the Oklahoma Bar Association possibly may build at N.E. 18th and Lincoln is shown in model form here by Gerald B. Klein, Tulsa, and J. T. Bailey, Cordell." Courtesy Oklahoma Historical Society.

With the foundation up and running, the OBA and OBF moved forward with their plans to establish a permanent home for Oklahoma lawyers, known as the "Headquarters Project." A building fund was created to raise money to purchase property for the project. After considering several locations, bar leaders selected the northwest corner of Northeast 18th Street and Lincoln Boulevard, part of

the property known as the "Harn Tract," just southwest of the state Capitol. After much negotiation, the land was purchased for \$21,000.

The first fundraising committee meeting for the Headquarters Project was held Jan. 7, 1959, at the J & J Café in Bristow. A pilot campaign proved a success, and the committee received \$450,000 in donations for the project. On Sept. 21, 1962, the gleaming new

15,000-square-foot, \$300,000 facility was proclaimed to be a symbol of the legal profession's dedication to the public good.

A FIRM FINANCIAL FOOTING

Following the completion of the new building, the foundation continued supporting legal education projects and made sizeable awards to the University of Oklahoma, University of Tulsa and Oklahoma City University law schools. It provided financial assistance to establish the OBA's Continuing Legal Education program, provided updates of bench materials for Oklahoma judges and funded other projects through donations it received from lawyers across the state.

The funding for legal education was strengthened in 1969 by two scholarships created by the OBF to honor renowned Oklahoma attorneys OBF founder Gerald A. Klein and Maurice Merrill, a beloved law professor who had a long and glorious career at the OU College of Law.

As OBF Trustees set up these scholarships, accepted more donations and considered the future, they recognized the need to make sure the funds they received were adequately preserved, stating humorously:

The funds of the foundation are approaching the size when the services of volunteer money-managers, such as we who are trustees, will cost the foundation money because of our delay in investing, lack of knowledge of all available types of investment needed and lack of sophistication in what is a highly specialized business. Lawyers are notorious for looking after everyone's money but their own.

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Left: Photograph used for a story in the Oklahoma Times newspaper. “Putting shrubs in place Thursday for the Friday dedication of the Oklahoma Bar Center, south of the state Capitol, is Robert G. Burrows, left, landscape architect.” Courtesy Oklahoma Historical Society.

Right: Photograph used for a story in The Daily Oklahoman newspaper. “Hundreds of lawyers from all over the state were on hand for the official opening of the Oklahoma Bar Association’s new \$300,000 Bar Center on Lincoln Boulevard south of the state Capitol building.” Courtesy Oklahoma Historical Society.

An investment account was opened at Liberty Bank in Oklahoma City on Dec. 3, 1969. The Trustees also realized they could not rely solely on irregular donations to pay for projects. Thankfully, a new infusion of funds came in the form of a charitable trust established by Tulsa philanthropist Leta McFarlin Chapman in 1969 and a later bequest to the OBF in her will. Through Ms. Chapman’s generous gifts, the OBF received \$126,000 from payments made from the trust during her lifetime and \$100,000 from her estate after she died in 1974.

Individual planned gifts like those of Ms. Chapman have proven to be a crucial factor in the foundation’s growth. The Chapman gift enabled the OBF to

support legal education projects, such as its initial funding of the OBA Young Lawyers High School Mock Trial Program and its establishment of the Chapman-Rogers Education Fund, which, through interest earned from the careful investment of the \$226,000 principal, currently provides a \$2,500 scholarship every year to one student from each of Oklahoma’s three law schools.

Soon after this, OBF Trustees produced an idea to raise awareness of the foundation among Oklahoma attorneys and raise funds at the same time. In 1978, the OBF created the Fellows Program, now called the Partners for Justice Program, where an individual Oklahoma attorney

makes a voluntary and sustained commitment to supporting the OBF in a specified dollar amount. The program was launched with 91 attorneys as founding Fellows.

When the OBF announced the program, OBF President Joe Stamper of Antlers recognized it would not only provide funds for legal charitable projects in Oklahoma but would also give attorneys a way to fulfill their professional responsibilities under the Oklahoma Rules of Professional Conduct. He said, “Many believe that lawyers have an inherent responsibility to give back to the community, and especially to provide legal services to the poor.” Being an OBF Partner was a way to do just that. Attorneys could

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fulfill their professional responsibilities knowing they would be making beneficial impacts on their communities.

The year 1982 was pivotal for the foundation when the most imaginative idea for a new funding source arose, providing a new direction for OBF impact. OBA President John L. Boyd had attended a meeting of the Southern Conference of Bar Presidents and, while there, learned of a charitable funding program underway in Australia, Canada and Florida. It involved the money attorneys hold in trust for their clients called "IOLTA" for "Interest on Lawyer's Trust Accounts." IOLTA programs had generated extraordinary revenues for states such as Florida.

In April 1983, effective 1984, the Oklahoma Supreme Court authorized the OBF to establish the IOLTA program. Today, all 50 states, Washington, D.C., Puerto Rico and the U.S. Virgin Islands operate charitable IOLTA programs.

Another new revenue source that had a significant impact presented itself through a substantial gift in 1982 from Mary Huntsman Howell. Ms. Howell was the widow of prominent Oklahoma City attorney Edward Howell, who died in 1966 after practicing law for 61 years. Ms. Howell included the OBF as a beneficiary in her estate, planning to honor her husband. She had developed an active interest in the OBF and its projects through her nephew, attorney Thomas C. Smith Jr., a well-respected lawyer and OBF Trustee, who often talked to her about the work Oklahoma lawyers were doing through the OBF. Ms. Howell left \$500,000 to the foundation, specifying in her will

that the funds should be invested and the income used to further the purposes of the foundation.

It was through receipt of this gift, designated the "Edward and Mary Howell Memorial Fund," that the OBF Board of Trustees could really look to the future with renewed enthusiasm and resolve. James L. Sneed, Tulsa attorney and OBF president, said:

A gift of this magnitude is of immense importance to the Bar Foundation as it will enable the foundation to broaden the scope of its services to members of the legal profession, members of the judiciary and the public.

In January 1983, OBF President Winfrey Houston appointed a subcommittee to consider how to use the income from the Howell gift. They performed their work



Nancy L. Coats became the first woman to serve as president of the Oklahoma Bar Foundation in 1981.

quickly, and on Feb. 21, 1983, they produced a report that contained an extensive list of potential projects for the foundation to undertake. In its report, the subcommittee reminded the board of the need to develop an ongoing fundraising program to accomplish its charitable goals:

There is a continual need for funds if we are going to have a viable, progressive program of the foundation ... Each of us needs to be conscious of the opportunities to help in funding the objectives and purposes that are available through the foundation. Such an effort must be a continuous effort, that needs to be well-coordinated and publicized.

OBF President Houston also appointed an investment subcommittee to ensure that the principle of the Howell gift was handled appropriately, and the foundation continued to carefully build and maintain its portfolio.

A huge moment for the foundation came in 1986 when the first IOLTA grants for nonprofit legal services were made. Up to that point, the OBF had supported a wide range of projects, but now, the foundation had a new direction. That first year, the OBF awarded IOLTA grants totaling \$105,000 – including \$32,874 to Legal Aid of Western Oklahoma Inc., \$27,188 to Legal Services of Eastern Oklahoma Inc. and \$15,000 to Oklahoma Indian Legal Services – to provide legal representation to Oklahomans in need. As OBF President John Boyd told the OBF board, "Until recently, the organization was in a state of metamorphosis. The foundation now has a

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purpose and should continue to grow.” Funds from the IOLTA program dedicated to providing legal representation to the poor gave the foundation a new and important way to make an impact.

GROWING NEEDS

The need for legal help in Oklahoma communities began to mount during the 1990s, with 1991 OBF President Terry Kern of Ardmore sounding the warning that “agencies serving the public in the legal arena are struggling to keep up with the ever-increasing caseloads of poverty level individuals.” The need for IOLTA grants was growing.

As the 1990s ended, it became clear that IOLTA remittals had been dwindling for years. An OBF financial report from 2000 noted that in the future, awards would have to be limited “due to the decline in income reflective of the current state of the economy and lower interest rates.” In 2002, \$216,225 remittals were about one-third less than the 1998 \$351,900 remittals, and 2003 remittals were predicted to be less than \$200,000.

Other events converged to create concern, including the collapse of the dot-com bubble and the September 2001 attacks on the World Trade Center. Also, a series of accounting scandals at major U.S. corporations caused the economy to swing sharply downward. The OBF also had to face the fact that Oklahoma’s voluntary IOLTA program was underperforming. Oklahoma lagged far behind most other states in the number of accounts opened by attorneys and in the amount of interest financial institutions paid on those accounts.



Sculptor Jo Saylor, OBA Executive Director Marvin C. Emerson and 1990 OBF President Jon H. Trudgeon discuss the “Lady of Justice” statue unveiled in the atrium of the Oklahoma Bar Center in June 1991. Courtesy Oklahoma Historical Society.

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The OBF's fortunes began to change, however, when a 2003 U.S. Supreme Court decision put a halt to ongoing legal challenges that were preventing some attorneys from joining IOLTA. The court ruled in *Brown v. Legal Foundation of Washington*, 538 U.S. 216 (2003), that Washington state's mandatory IOLTA program did not violate the Fifth Amendment by taking interest from IOLTA trust accounts. In the wake of this decision, the OBF petitioned the Oklahoma Supreme Court to make the program mandatory for all Oklahoma attorneys. The differences between voluntary and mandatory IOLTA programs were staggering. With only a voluntary program, Oklahoma fell to the bottom – 49th in the nation – in the amount of IOLTA funds the program generated per person in need in the state.

In June 2003, the Oklahoma Supreme Court approved changes to Rule 1.15 of the Oklahoma Rules of Professional Conduct to convert the IOLTA program from voluntary to mandatory for all attorneys, effective July 1, 2004.

For the first several years following the adoption of the mandatory program, the OBF saw IOLTA revenues soar, beginning with \$476,287 in 2005, \$770,557 in 2006 and a high of \$1,003,634 in 2007. The 2007 remittal amount remains the most IOLTA income the OBF has ever received in a single year. Now, with the mandatory program in place, the OBF has been able to expand the number of programs supported and increase funding for nonprofits that provide legal representation to specific populations, such as abused children, elderly citizens and refugees. Both urban and rural Oklahoma areas received support from OBF grants.

In the mid-2000s, a new source of significant funding began to strengthen the OBF's endowment and stretch its reach. This welcome development came in the form of cy pres awards. Cy pres awards are often made in class action cases when a suit is brought on behalf of a "class" of people who may have been harmed but who have not been specifically identified as plaintiffs in the lawsuit and would otherwise be unrepresented. Often, when a judgment is rendered or a settlement reached in such a case, many of the class members who were intended recipients cannot be paid because, for example, they cannot be located, so final surplus funds will remain from the action. Based on a court's broad equitable powers and the cy pres doctrine, these surplus funds can be distributed to benefit others.

The first cy pres funds the OBF received were awarded in December 2006, stemming from the settlement of a class action case in Beaver County, *Lobo Exploration Company v. BP American Production Company*. The case was filed in 1997 and settled in 2006 for \$150 million. The search for all class members entitled to recover funds began, but many had passed away during the years or could not be found.

Four days before Christmas in 2006, plaintiff's attorney informed the Beaver County associate district judge of the parties' agreement regarding the final \$2 million in surplus funds that could not be awarded to the rightful owners. They agreed on a cy pres use. The funds would go to the Oklahoma Bar Foundation with "a portion of the proceeds earmarked and used to fund a grant program for the appellate and district courts."

Courts could submit applications for grants to pay for courthouse technology improvements, computer equipment and related items.

The cy pres court grant awards were a boon for the many ill-equipped county courthouses across the state that did not have the funds to address all of their basic technology needs. In the first four years of the new program, 25 courts throughout the state were awarded grants for various projects, including digital court reporting systems, sound equipment, audiovisual equipment for courtrooms and Wi-Fi capabilities.

Not long after the new court grant program was put in place, the effects of the 2008 Great Recession began to significantly harm the OBF's ability to make grants. As 2009 progressed, the effects became more pronounced. Total IOLTA remittals plunged from a healthy \$867,620 in 2008 to \$377,251 in 2009. IOLTA receipts in 2010 and 2011 did not exceed \$350,000 in either year. The year 2012 was especially difficult, with an 87% decline in IOLTA remittals since 2009 at \$241,254. Drastic cuts were required, and legal service programs and communities across the state were reeling from the negative impact.

CHALLENGES OF A CHANGING WORLD

As the OBF struggled with the financial challenges, additional new challenges emerged – the need to keep up with technology was rapidly increasing along with the need for more funds for legal services. The number of people living in poverty by 2014 was at an all-time high. Once again, Oklahoma lawyers stepped up to the plate for the foundation and ushered in a new beginning designed to increase the

ability to meet the funding demand. A new strategic plan was put in place, new foundation staff were hired, and updates were made in fundraising, technology and communications, with an eye toward making a bigger impact.

In 2015 and 2016, the OBF learned it would be receiving funds from class actions that had their genesis in the 2008 housing crisis and stock market crash. A settlement agreement in a lawsuit brought by the U.S. Department of Justice against Bank of America and its subsidiaries provided for an award of funds to organizations like IOLTA programs that make grants to provide civil legal services. The amount received by each IOLTA program was based on the individual state's poverty level, and for Oklahoma, the amount was \$4.1 million. These funds were earmarked for foreclosure defense work and community redevelopment programs designed to aid individuals in communities damaged by the housing market collapse.

Ultimately, the OBF made grants from the settlement funds in the program's first year to more than 30 different programs in the amount of \$1,366,600. These funds helped Oklahomans faced with many legal problems caused by the crisis, such as foreclosure, job loss, the inability to obtain employment and overcoming education barriers. To maximize and continue the impact, the remaining \$3 million was invested to use as an ongoing source of annual OBF grants for mortgage foreclosure defense and community redevelopment projects.

The foundation continued to grow and make big strides until March 2020, when the COVID-19 pandemic hit. Normal activities ceased, and the foundation focused on helping

its Grantee partners and their clients survive. One bright spot during the pandemic did appear in the form of another class action cy pres award to the foundation. The OBF received \$500,000 from a Texas County case. The funds were to support grants that addressed the shortage of qualified court reporters working in Oklahoma, particularly in rural counties. Older reporters were retiring, and few new ones were graduating to take their places. Enrollment in court reporting schools was down, and those students who did attend, graduate and pass the certification exam were often lured by higher salaries in neighboring states like Texas and Kansas.

Two new types of grants were established. The first was educational block grants for qualified schools in the state to use for instruction. The second, court reporter employment grants, was designed to provide stipends for certain certified court reporters who agreed to work in rural courthouses. By the end of 2020, the OBF awarded \$135,000 in grants to the three schools offering court reporting classes, and six educational grants have been awarded. Cy pres awards were continuing to expand the vision and impact of the OBF.

LOOKING FORWARD

The OBF belatedly celebrated its 75th year of existence in 2021, delayed due to the COVID pandemic. The goal of the celebration was to highlight how OBF donors and Grantees have made a difference in the lives of Oklahomans for more than 75 years through the provision of almost \$19 million in grants and scholarships. The foundation is proud of the real-life stories explaining how OBF grants have been used to help solve the many different legal

problems Oklahomans have faced through the years.

The OBF looks forward to continuing its work into 2023 and beyond. In October 2022, the Oklahoma Supreme Court approved amendments to ORPC 1.15, Safekeeping Property, to provide a process for implementing the rate comparability provision in the rule regarding the interest rates financial institutions pay on IOLTA accounts. It is anticipated that these procedural changes will increase the IOLTA remittals received on an annual basis and consequently increase the foundation's ability to serve the people of Oklahoma through its mission to support legal services for the poor and vulnerable, law-related education and access to justice for all. The foundation's essential purpose continues to advance the ongoing dynamic evolution of the legal profession in Oklahoma.

ABOUT THE AUTHORS



Renee DeMoss is the executive director of the Oklahoma Bar Foundation. She served as president of the OBF in 2008 and president of the OBA in 2014. Ms. DeMoss maintained a business litigation practice at GableGotwals in Tulsa for 35 years.



Bob Burke has been a workers' compensation and constitutional lawyer for 42 years. He is vice chair of the Oklahoma Supreme Court Committee on Judicial Elections and a Trustee of the Oklahoma Bar Foundation. Mr. Burke is a member of the Oklahoma Hall of Fame and has written more historical nonfiction books (154) than anyone in history.

2023
Patrick A. Williams
CRIMINAL DEFENSE INSTITUTE
&
OCDLA ANNUAL MEETING
JUNE 15 & 16, 2023
RIVER SPIRIT HOTEL & CASINO
TULSA, OK



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

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

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

Cutoff date for nominations is May 19, 2023 @ 5:00pm.

For OCDLA information, awards criteria & past award winners, please visit
www.ocdlaoklahoma.com

Please send nominations to:

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

Email: bdp@for-the-defense.com

Fax: 405-212-5024

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

2023 CRIMINAL DEFENSE INSTITUTE
(FULL AGENDA AVAILABLE AT WWW.OCDLAOKLAHOMA.COM)

THURSDAY, JUNE 15, 2023

- Emily Virgin *Director of Advocacy & Government Relations at Human Rights for Kids*
- Amenability to Treatment & Mitigation of Punishment – *Jacqui Ford, Oklahoma City*
- Crime Scene Reconstruction & Analysis – *Everett Baxter, Baxter Forensics*

TRACK 1 – DNA Fundamentals & Forensic Genealogy, Brief Writing, SFST & DUI Update

TRACK 2 – Litigating Stand Your Ground, Litigating McGirt Cases & McGirt Update

TRACK 3 – Forensic Evaluations, NGMI & Competency Trials, Treating NGMI at The OK Forensic Center

FRIDAY, JUNE 16, 2023

- Fines & Costs - Financial Burdens on Your Client – *Tim Laughlin, OIDS Executive Director*
- Anticipating and Dealing With Prosecutorial Misconduct – *Gary James, Oklahoma City*
- Understanding Brady, Gigilo & Spoilation – *Andrea Miller, Oklahoma Innocence Project/ Bob Wyatt, Oklahoma City*
- Role of Forensic Pathologist in Death Investigations – *Dr. Andrea Wiens, Florence, AZ Medical Examiner's Office*

Registration Fees (Awards Dinner Included)

- OCDLA Member _____ \$ 300.00
- Non-Member _____ \$ 350.00
- Registration after June 8th _____ \$ 325.00 (OCDLA Member)
- _____ \$ 375.00 (Non-Member)
- Printed Materials _____ \$ 45.00 Dinner Guest _____ \$ 35.00

TOTAL: _____

Name: _____ Bar #: _____

Address: _____ City/State/Zip: _____

Phone: _____ Email: _____

Credit Card Info: # _____ Exp. Date _____

Location

The River Spirit Resort has a room rate of \$119.00 for the CDI. This rate is good until June 1st. For room reservations please call 1-888-748-3731 or online @ www.riverspirittulsa.com. If calling, reference the Oklahoma Criminal Defense Lawyers Association or visit OCDLA website for direct link.

Visit WWW.OCDLAOKLAHOMA.COM to register or mail this ad with payment to:

OCDLA, PO BOX 2272, OKC, OK 73101

Oklahoma Bar Association Expands Member Benefits with Three New Practice Management Software Solutions

By Julie Bays

THE OKLAHOMA BAR Association has expanded its member benefits with the addition of three new practice management software solutions: Smokeball, Tabs3 and TimeSolv. OBA members who subscribe to these practice management services will receive discounts.

The OBA's commitment to supporting members is evident in its lineup of valuable resources at a discount, such as Smokeball, Tabs3 and TimeSolv. These new member benefits allow attorneys to enhance their practices, better serve their clients and stay organized in an increasingly competitive legal landscape. Practice management software plays a crucial role in helping attorneys streamline their practices, increase productivity and enhance client satisfaction. By providing tools for time management, organization and communication, the right software can enable law firms to operate more effectively and stay competitive.

OBA members are encouraged to explore practice management software solutions and consider the advantages they can bring to their own practices. Different solutions

focus on various aspects of law practice, which is why the OBA provides free consulting for Oklahoma lawyers who are shopping for a practice management tool.

Smokeball, Tabs3 and TimeSolv each offer unique features and benefits to support law firms of all sizes:



Smokeball is a cloud-based case management software that offers robust automation and document management features, including automatic time tracking and invoicing. Smokeball has an extensive library of more than 20,000 standard legal forms and documents and will work with customers to add state-specific forms to their software.



It includes a comprehensive trust accounting system, which helps lawyers manage client funds and ensures compliance with trust accounting rules. The software offers a range of reports and

analytics to help law firms track their financial performance and make informed business decisions.

TimeSolv is a web-based time tracking and billing software designed for attorneys to efficiently manage their work and maximize revenue. TimeSolv enables attorneys to accurately track time, create detailed invoices and monitor their firm's financial health.

Brief descriptions of the practice management solutions, along with the discounts and features they provide, landing pages and promo codes are available at www.okbar.org (OBA members must sign in to MyOKBar using their bar number and password to access links to the landing pages and promo codes).

ABOUT THE AUTHOR



Julie Bays is the OBA practice management advisor, aiding attorneys in using technology and other tools to efficiently manage their offices.

WHAT'S THE **VALUE** OF YOUR OBA MEMBERSHIP?

WORTH OVER
\$2,000



FASTCASE

Online legal research software with unlimited usage, customer service and printing

\$995/YR



OKLAHOMA BAR JOURNAL

Printed magazine of practice area articles, member news and bar updates

\$75/YR



FIND A LAWYER

Free public directory sorting lawyers by practice and location

\$100/YR



ETHICS COUNSEL

Confidential assistance with ethical questions and inquiries

\$150/HR



MANAGEMENT ASSISTANCE PROGRAM

Business and management help through organization and operation assistance

\$150/HR



LAWYERS HELPING LAWYERS

Monthly discussion groups and up to six hours of counseling

\$150/HR



LEXOLOGY

Personalized daily newsfeed of legal updates with research tools

\$500/YR



COURTS & MORE

Weekly news digest highlighting appellate court information and legal news

\$100/YEAR

PLUS...

NETWORKING OPPORTUNITIES

Leadership and volunteering –

Opportunities to serve in committees, sections, boards and commissions.

Events – Network and earn CLE at Annual Meeting and Solo & Small Firm.

Young Lawyers Division – Professional service network for lawyers who have been practicing for less than 10 years

PROFESSIONALISM SERVICES

Continuing Legal Education –

Hundreds of seminars, webcasts and audio programs

Sections – Professional development tailored to your practice area and new contacts across the state

LawPay – Credit card processing service specially designed for attorneys

MEMBERSHIP DISCOUNTS

Discounts are available on services like Clio, Ruby, Smokeball, CaseText, Tabs3, TimeSolv and more! Just log into MyOKBar and select Practice Management Software Benefits.

FIND MORE AT **OKBAR.ORG/MEMBERBENEFITS**

Make History With an OBA Award Nomination

By *LeAnne McGill*

FOR SEVERAL DECADES, THE Oklahoma Bar Association has proudly recognized those lawyers who represent the best of the best in our profession, as well as those law-related organizations that support our members while we go about our work. Looking over the historical list of OBA Award winners, <https://bit.ly/3zYOkFc>, you will see the names of some of the giants on whose shoulders we now stand. But history doesn't stand still; the legends of tomorrow are the leaders of today. It's now your turn to honor those who are making a difference right now. Help our association continue its legacy of recognition by nominating one of your worthy colleagues for a 2023 OBA Award.

Deserving individuals and entities stand out for their hard work in public service, leadership and service to our profession. Look among your peers, search your legal associations and contact local bar members to seek out those who should be recognized for their efforts. The nomination process is very simple. It only takes a few minutes for you to fill out a nomination form for one of these awards.

The designated awards are listed below, along with a short summary of the original award honoree. Anyone can submit a nomination, and anyone can be nominated. No specific form is required, and the nominations can be as short as a one-page letter but cannot exceed five single-sided 8 ½ x 11 pages. You can email, fax or mail the nominations

to the Awards Committee at the information below. The deadline for the nominations is Friday, June 30, at 5 p.m. Visit www.okbar.org/awards for more information.

Please spread the word to your colleagues and friends about the awards process and encourage them to submit a nomination, and I can tell you firsthand how meaningful the awards are to the chosen recipients. Don't forget – nominating an OBA Award winner is your chance to make history!

ABOUT THE AUTHOR



LeAnne McGill is an attorney in private practice in Edmond. She serves as the Awards Committee chairperson.

NOMINATION RULES AND TIPS

The **deadline is 5 p.m. Friday, June 30**, but get your nomination in EARLY! Nominations, complete with all supporting material, **MUST** be received by the deadline. Submissions or supporting material received after the deadline will not be considered.

Length of nomination is a maximum of five 8 ½ x 11-inch, one-sided pages, including supporting materials and the form, if used. No exceptions.

Make sure the name of the person being nominated and the person (or organization) making the nomination is on the nomination.

If you think someone qualifies for awards in several categories, pick one award and only do one nomination. The OBA Awards Committee may consider the nominee for an award in a category other than one in which you nominate that person.

Submission options (pick one):

- 1) email: awards@okbar.org (you will receive a confirmation reply);
- 2) fax: 405-416-7089;
- 3) mail: OBA Awards Committee, P.O. Box 53036, Oklahoma City, OK 73152.

Visit www.okbar.org/awards for the nomination form if you want to use one (not required), history of previous winners and tips for writing nominations.

AWARDS

OUTSTANDING COUNTY BAR ASSOCIATION AWARD – for meritorious efforts and activities

2022 Winner: Woods County Bar Association

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

2022 Winner: Daniel Crawford, Tulsa

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

2022 Winner: OBA Law Day Committee

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

2022 Winner: Allison Hall, Tulsa

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

2022 Winner: April Jenee Moaning, Oklahoma City

EARL SNEED AWARD – for outstanding continuing legal education contributions

2022 Winner: Robert G. Spector, Norman

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

2022 Winner: Judge Jennifer Brock, Newkirk

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

Not awarded in 2022

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

2022 Winner: Lauren Barghols Hanna, Oklahoma City

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

2022 Winner: Rachel Morris, Edmond

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

2022 Winner: Jimmy K. Goodman, Oklahoma City

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

2022 Winner: James T. Stuart, Shawnee

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

2022 Winner: Charles E. Geister III, Oklahoma City

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

2022 Winner: Sarah Brune Edwards, Oklahoma City

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

2022 Winner: Michael J. Knopp, Oklahoma City

INDIVIDUALS FOR WHOM AWARDS ARE NAMED

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

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

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

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

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

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

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

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



ADA LOIS SIPUEL FISHER

DIVERSITY AWARDS

Nominations due Aug. 1

Send to diversityawards@okbar.org



The Ada Lois Sipuel Fisher Diversity Awards categories are members of the judiciary, licensed attorneys and entities that have championed the cause of diversity. All nominations must be received by Aug. 1.

For more details, visit www.okbar.org/diversityawards.

Celebrate Diversity With an Award Nomination

THE DIVERSITY COMMITTEE is now accepting nominations for the annual Ada Lois Sipuel Fisher Diversity Awards to be presented in November. The three award categories are members of the judiciary, licensed attorneys and organizations that have championed the cause of diversity. All nominations must be received by Tuesday, Aug. 1.

For additional information, please contact Diversity Committee Chair Devin Frost at 405-239-6040 or visit www.okbar.org/diversityawards.

SELECTION CRITERIA

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

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

- Demonstrated continued corporate responsibility by devoting resources for the improvement of the community at large; and
- Exhibited insightful leadership to confront and resolve inequities through strategic decision-making, allocation of resources and establishment of priorities.
- Led the development of innovative or contemporary measures to fight discrimination and its effects;
- Fostered positive communication and actively promoted inter-group relations among populations of different backgrounds;
- Participated in a variety of corporate and community events that promoted mutual respect, acceptance, cooperation or tolerance and contributed to diversity awareness in the community and workplace; and
- Reached out to a diverse array of attorneys to understand firsthand the experiences of someone from a different background.

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

- Demonstrated dedication to raising issues of diversity and protecting civil and human rights;

NOMINATIONS AND SUBMISSIONS

- Include name, address and contact number of the nominee.
- Describe the nominee's contributions and accomplishments in the area of diversity.
- Identify the diversity award category (organization, licensed attorney or member of the judiciary) in which the nominee is being nominated.
- The submission deadline is Tuesday, Aug. 1.
- Submissions should not exceed five pages in length.
- Submit nominations to diversityawards@okbar.org.
- Information on past award winners can be found at www.okbar.org/diversityawards.



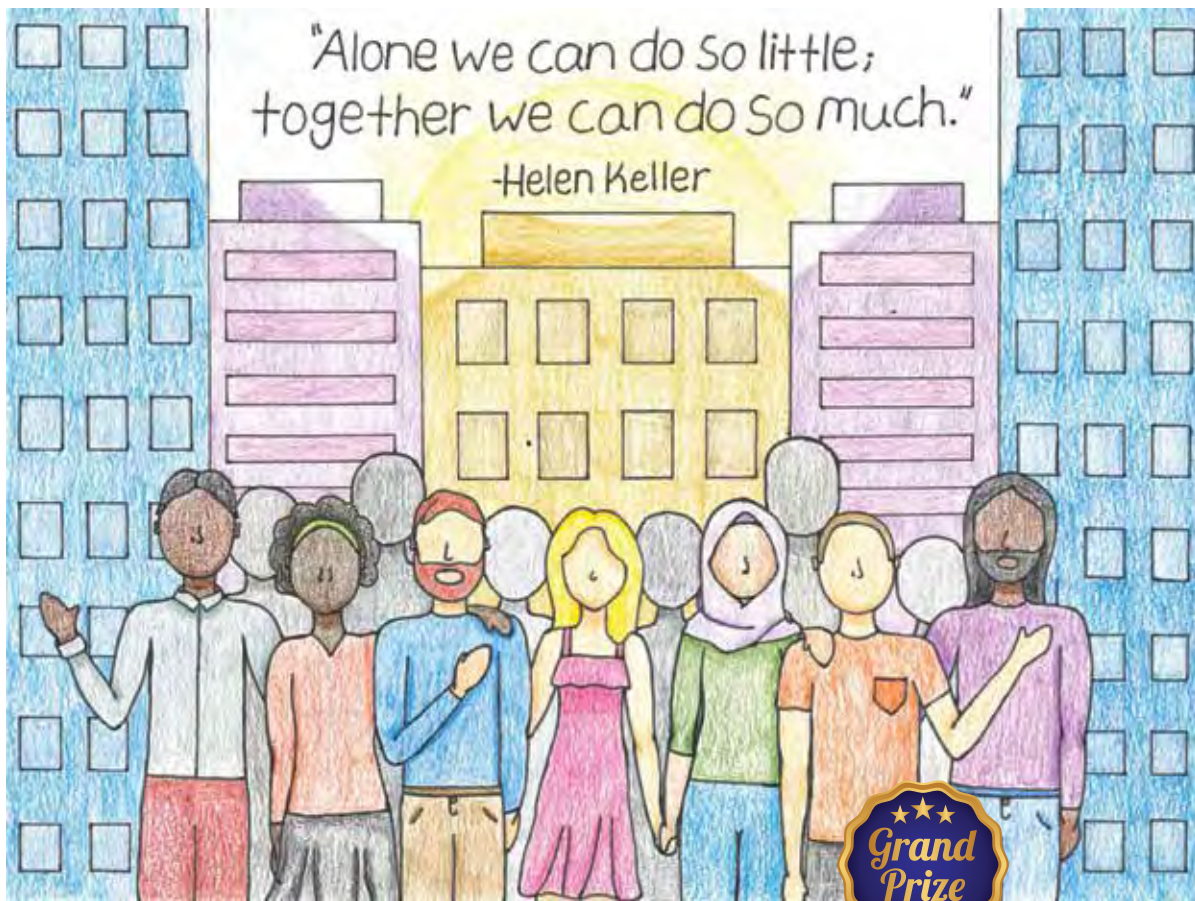
Ada Lois Sipuel Fisher, Photo Credit: Courtesy Western History Collections, University of Oklahoma Libraries, Ada Lois Sipuel Fisher 3

ADA LOIS SPUDEL FISHER leaves a legacy that impacted the legal profession and the Civil Rights Movement. Born in Chickasha, she graduated in 1945 with honors from Langston University, which did not have a law school. Segregation existed, and Black people were prohibited from attending white state universities. Ms. Fisher decided to apply for admission to the OU College of Law to challenge the state's segregation laws and to accomplish her lifelong goal of becoming a lawyer. State statutes prohibited the college from accepting her. A lawsuit was filed that resulted in a three-year legal battle. After an unfavorable ruling by the Oklahoma Supreme Court, an appeal was filed with the U.S. Supreme Court. Another barrier was erected with the creation of a separate law school thrown together in five days exclusively for her to attend. She refused to attend on the grounds the new school could not provide a legal education equal to OU's law school. A state court ruled against her, and the state Supreme Court upheld the decision. Ms. Fisher's lawyers planned to again appeal to the U.S. Supreme Court, but Oklahoma's attorney general declined to return to Washington, D.C., to argue the case. She was admitted to the OU College of Law on June 18, 1949, and graduated in August 1951.

Contest Winners Highlights

THE OBA LAW DAY COMMITTEE would like to thank Oklahoma educators, students and their families for participating in the 2023 Law Day Contest. This year, 1,420 students from 58 towns and more than 80 schools and homeschool groups 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, by engaging in civics and working together, we can strengthen our democracy.



Angela Nava
Grand Prize
Covington-Douglas High School,
Covington



THE MOTHER

When talking about the Civil Rights Movement, names like Martin Luther King Jr., Malcolm X, and Rosa Parks come to mind. While these three leaders are some of the most notable leaders of the Civil Rights Movement, we know that thousands of others contributed to the movement that we haven't heard of in our textbooks. Clara Luper, for example, was a strong activist in Oklahoma that spread awareness of the fight for civil rights nationwide. *Read the full essay at www.okbar.org/lawday.*

2



3

THE SUCCESSFUL CAREER AND LIFE OF MYRLIE EVERS-WILLIAMS

From the start of her career to the end, Myrlie Evers-Williams was a brilliant woman who fought for racial equality. As soon as she graduated from college, she wanted to help in the world of social work. Myrlie and her husband worked with the NAACP to investigate racial attacks on African-Americans. Together they took a risky job most people would not take. This job led them to death threats from white supremacists. This is just a prime example of Myrlie making sacrifices of her life for everyone's equality. Myrlie Evers-Williams was a powerful woman during the civil rights movement, using civics, civility and collaboration to help others. *Read the full essay at www.okbar.org/lawday.*

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1. Gabriella Clark
First Place
Twelfth Grade Art
Stillwater High School,
Stillwater

2. Heidi Huseman
First Place
Twelfth Grade Writing
Cushing High School,
Cushing

3. Noah Haley
First Place
Eleventh Grade Art
Tonkawa Mid High School,
Tonkawa

4. Avianna Soto
First Place
Eleventh Grade Writing
Cache High School,
Cache

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Mock Trial Competition

Volunteers: Come One, Come All

By Jennifer Bruner Soltani

THE OKLAHOMA HIGH School Mock Trial Program has its own unique place in our association's history. The program was started by the OBA Young Lawyers Division, with the first competition held during the 1980-1981 school year. When it first began, only eight schools participated in the state competition. It was 1984 when Oklahoma sent a state competition winner on to compete at the National High School Mock Trial Competition. Over the course of our state's competition, Oklahoma high school students have had the opportunity to compete as lawyers and witnesses in simulated courtroom experiences utilizing fictional cases. In recent years, the competition has expanded to include courtroom artist and courtroom journalist components. It is my hope that this Oklahoma tradition will continue for another 40 years.

I want to focus on recognizing the many volunteers who make this competition possible, not only those on the committee but also the trial site coordinators, scoring panelists and judges. This year, the competition was challenged by weather and other events that required the committee to reschedule eight trial site locations. This involved finding alternate venues, trial site coordinators and/or judges and scoring panelists. I want to specifically

recognize Carolyn Thompson for her miraculous efforts in finding volunteers and getting them scheduled, rescheduled and, in some instances, rescheduled again.

While recognizing the efforts of the many who are listed below, I also want to appeal to OBA members across the state to participate and volunteer for Mock Trial. The Mock Trial Committee is in need of new committee members to keep this competition moving forward for many years to come. Involvement on the committee usually includes about five to 10 in-person or Zoom meetings per year, participation during the competition season and at the final round of the competition. Further, the committee's leadership also has the opportunity to attend the national competition, which is held at a different location every year. The committee's meetings are typically held at lunch or at the end of the workday to enable members to participate around their work schedules.

The committee also needs to recruit trial site coordinator volunteers. This typically involves being at the trial site for a full day of competition and guiding the teams, teachers, students, presiding judge and scoring panelists through the competition rounds, while completing the paperwork to record the outcomes of each round. Trial site coordinators are needed across

the state – Oklahoma City, Tulsa, Lawton, El Reno, Ada, McAlester, Okmulgee, Norman, Stillwater, Arapaho, Tahlequah and Shawnee. The committee always needs new volunteers for judging and scoring panelists every year. Finally, many schools enlist the assistance of attorney coaches to help their teams prepare for the competition. There are many ways for attorneys and judges, actively practicing or retired, to participate in Mock Trial.

Being involved on the Mock Trial committee provides a unique opportunity to see the talents of young people develop and grow as they participate over the years, to guide and provide support to those students and their teachers, and to give back to the legal community and Oklahoma communities. I invite all Oklahoma lawyers to participate. If you participated this year or have in the past, we have a need for your ongoing participation. If you participated for the first time and found it interesting or enjoyable, please volunteer. Email mocktrial@okbar.org to volunteer for the committee or any of the roles outlined above.

Thank you to the Oklahoma Bar Foundation, which has enabled this competition to be held for so many years with their financial support. Thank you to the high schools, administrators, teachers and students for their



(From left) Orion Strand, Nicole Longwell, Andrea Medley, Judy Spencer, Jennifer Bruner Soltani and Todd Murray wrap up a successful year on the Mock Trial Executive Committee.

participation in this program. And a sincere thank you to the many volunteers listed below for their donations of time and effort.

ABOUT THE AUTHOR



Jennifer Bruner Soltani practices in Oklahoma City.

MOCK TRIAL COMMITTEE

Chairperson Jennifer A. Bruner Soltani
 Immediate Past Chairperson Todd A. Murray
 Chair-Elect Orion Strand
 Carolyn Thompson, coordinator for trial sites in Oklahoma City and Tulsa
 Weston Watts, Oklahoma City and Tulsa volunteer coordinator
 Andrea Medley
 Shea Bracken
 Andrew Casey
 Christine Cave
 Michael Nesser
 Nathan Richter
 Gessica Sewell McLanahan

TRIAL SITE COORDINATORS

Jennifer Bruner Soltani
 Carrie Hulett

Patrick Layden
 Renee Little
 Dana Mackey
 Andrea Medley
 Todd Murray
 April McClure
 Michael Nesser
 Anthony Purinton
 Maxey Reilly
 Jacob Rowe
 Mark Schwebke
 Orion Strand
 Julie Strong
 Leah Terrill-Nessmith
 Carolyn Thompson
 Kathryn Walker
 Jennifer White

ATTORNEY COACHES

Luke Adams
 Clifton Baker
 Jennifer Stall
 Chris Ross
 Andrew Hofland
 Desmond Sides
 Judge Douglas Kirkley
 Tim McCoy
 Dean Lott
 Aimee Majoue
 Alyssa Gillette
 Justin Rinck
 Kendra Dorsin
 Madison Botizan
 Jeff Fischer
 Michael Horn

Morgan Medders
 Stacy Acord
 Jenny Proehl-Day
 Jacob Downs
 Lacie Lawson
 Matt Sheets
 Tim Maxcey
 Allison Furlong
 Cliff Heckert
 Judge Daman Cantrell
 Ken Underwood
 Kaylind Baker
 John Andrew
 Jonathan Udoka
 Misty Montgomery

PRESIDING JUDGES AND SCORING PANELISTS VOLUNTEERS

(* denotes volunteered four or more times)
 Dacia Abel
 Glenn Adams
 Maryam Adamu
 Curtis Allen
 Michael Ashworth
 Judge Jerry Bass*
 Mindy Beare
 Howard Berkson*
 Kelly Bishop*
 Kendra Blocker
 Chelsi Chaffin Bonano
 Angela Bonilla
 Judge Anthony Bonner
 Madison Botizan
 Jack Bowyer

John Branum
 Jerry Breathwit
 Aaron Bruner
 Shena Burgess
 Dan Byrd
 Christine Cave
 David Cheek*
 Wes Cherry
 Kaushiki Chowdhury
 Mary Clement
 Heather Cline
 Bruce Coker
 Dustin Compton
 John Cramer
 Judge Dan Crawford*
 Debra Davis
 Judge Melissa DeLacerda
 John Denney
 Judge Deidre Dexter*
 Kara Didier
 Monica Dionisio
 Allyson Dow
 Harold Drain
 Ryan Eitzmann
 Tom Q. Ferguson
 Quinn Fields
 Mark Fields
 Craig Fitzgerald
 Jacquelyn Ford
 Eddie Foraker
 Judge Charles Gass
 Charlie Geister
 Aaron Goodman
 Jessica Goodwin
 Eric Grantham
 Stephen Gray
 Elaine Green
 Judge Jeremiah Gregory
 Judge Brad Gungoll
 Deborah Hackler
 Cara Hair
 Judge Sarah Hall
 Judge David Halley
 David Hamel
 Austin Hamm
 Judge Howard Haralson*
 Kari Hawthorne
 Shane Henry
 Eric Hermansen
 Craig Hoster
 Michon Hughes
 Trevor Hughes
 Thomas Hull Jr.

Kelly Hunt
 Mozella Irwin-Smith
 Judge Lori Jackson
 Annette Jacobi
 Brenda Johnson
 Erin Jones-Slatev
 Kelly Kavalier
 David Keglovits
 Chad Kelliher
 Jessica Ladd
 Joseph Lang
 Kent Larason*
 Anne Lawrence
 Lacie Lawson
 Danielle Layden
 Maren Lively
 Robert Margo
 Judge Kevyn Mattax
 Erika Mattingly
 Mary McCann
 Judge Jack McCurdy
 Don McFarland
 Caleb McKee
 Aisha McWeay
 Jonathan Miller
 James Moore
 Bryan Morris
 Tom Mullen
 Judge Jequita Napoli
 Earl Ogletree
 Nora O'Neill
 Judge Patricia Parrish
 Matt Patterson
 Alison Petrone
 Mariana Pitts

Linda Pizzini
 Heather Poole
 Austin Rabon
 Robert Redemann
 Judge Maxey Reilly
 Trevor Riddle
 Thomas Robertson
 Robin Rollins
 Dana Roosa
 Andrea Rust
 Judge Kathryn Savage
 Judge Mark Schwebke*
 Lacey Shirley
 Roe Simmons
 Kelly Smakal
 Libby Smith
 Travis Smith
 Angela Smith
 Nicole Snapp-Holloway*
 Jeanne Snider
 Chuck Sullivan
 Joe Tate
 Kyle Trice
 Mark Van Paasschen
 Georgenia Van Tuyl*
 Jason Waddell
 Ana B. Walker
 Sharon Weaver
 Lucas West
 Ashley Weyland
 Alysa White
 Teresa Williams
 Lauren Willoughby
 Kensey Wright
 Melissa York



Judging the final championship round were, from left, Judge Jane Wiseman, Mark Schwebke, Judge Shon T. Erwin, Dan Crawford and Judge Stacie Hixon.

A black and white portrait of a middle-aged man with short hair, wearing a suit, white shirt, and patterned tie. He is smiling slightly and looking directly at the camera. The background is a plain, light color.

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- Scott B. Goode, Oklahoma Bar Association Member

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Both days | \$325.00
June 14 only | \$225.00

16.5 hours of CLE credit for lawyers will be awarded, including 2.0 hours of ethics.

NOTE: Please be aware that each state has its own rules and regulations, including the definition of "CLE." Therefore, certain portions of the program may not receive credit in some states.

The Sovereignty Symposium was established to provide a forum in which ideas concerning common legal issues could be exchanged in a scholarly, non-adversarial environment.

Artwork: The Ambassadors by Eric Tippeconnic

Tuesday Morning | June 13, 2023

4.0 CLE/CJE credits / 0 ethics included

7:30 - 4:30 Registration (Honors Lounge)

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

8:00 - 8:30 Complimentary Continental Breakfast

12:00 - 1:15 Lunch on your own

8:30 - 11:45 PANEL A: SYMBIOTIC ECONOMICS | CRYSTAL ROOM

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

MODERATOR:

JAMES C. COLLARD, Director of Planning and Economic Development, Citizen Potawatomi Nation Industrial Development Authority

JOHN "ROCKY" BARRETT, Tribal Chairman, Citizen Potawatomi Nation

REGGIE WASSANA, Governor, Cheyenne and Arapaho Tribes

MELOYDE BLANCETT, Executive Director of Creative Oklahoma, Oklahoma House of Representatives, District 78

STEVEN C. AGEE, Dean Emeritus and Professor of Economics, Meinders School of Business, Oklahoma City University

DEBORAH DOTSON, President, Delaware Nation

GEOFFREY STANDING BEAR, Principal Chief, Osage Nation

BILL G. LANCE, JR., Secretary of State, Chickasaw Nation

LESLIE OSBORN, Oklahoma State Labor Commissioner

CHAD MARISKA, Oklahoma Secretary of Commerce and Workforce Development

SEBASTIEN GRAMMOND, Judge, Federal Court, Canada

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

8:30 - 11:45 PANEL B: SIGNS, SYMBOLS AND SOUNDS | CENTENNIAL ROOMS 1-3

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

CO-MODERATORS:

JAMES PEPPER HENRY, (*Kaw/Muscogee (Creek)*) Executive Director/Chief Operating Officer, American Indian Cultural Center and Museum

WINSTON SCAMBLER, Founder of Panel

JAY SCAMBLER, Managing Director, Kapstone Bridge

JAY SHANKER, Attorney, Crowe and Dunlevy

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

JERI REDCORN, (*Caddo*), Artist

KENNETH JOHNSON, (*Muscogee/Seminole*), Contemporary Jewelry Designer, and Metalsmith

JO ROWAN, Chairman of the Dance Department, (Ret.) Oklahoma City University, Founder and Director of the American Spirit Dance Company

8:30 - 11:45 PANEL C: JUVENILE LAW AND CHILDREN'S ISSUES | GRAND BALLROOM

MODERATOR:

NOMA GURICH, Justice, Oklahoma Supreme Court

DEANNA HARTLEY-KELSO, Judge, Chickasaw Nation District Court

BILL THORNE, (*Pomo & Coast Miwok*), Judge, (Ret.), Utah Court of Appeals

MIKE WARREN, Associate District Judge, Harmon County, Oklahoma

LAUREN VAN SCHILFGAARDE, (*San Manuel Band of Mission Indians*), Tribal Legal Development Clinic Director, UCLA Law School

ELIZABETH BROWN, Associate District Judge, Adair County, Oklahoma

JENNIFER MCBEE, Special Judge, LeFlore County, Oklahoma

CHRIS SINIMMO, (*Cherokee*), Deputy General Counsel, Cherokee Nation

KATIE E. KLASS, (*Wyandotte Nation*), Hobbs, Straus, Dean & Walker, Washington, D.C.

11:45 TRIBAL LEADERS AND FACULTY LUNCHEON | VENETIAN ROOM

(THIS EVENT IS BY INVITATION ONLY)

MASTER OF CEREMONIES: DR. KENNETH R. EVANS, President of Oklahoma City University

PRAYER: WILLIAM WANTLAND, (*Seminole, Chickasaw, and Choctaw*), Bishop of the Episcopal Church, (Ret.)

WELCOME: BRIAN T. HERMANSON, President of the Oklahoma Bar Association

Tuesday Afternoon

4.0 CLE/CJE credits / 0 ethics included

7:30 - 4:30 Registration (Honors Lounge)

2:45 - 3:00 Afternoon Coffee/Tea Break

1:15 - 2:45 OPENING CEREMONY | GRAND BALLROOMS A-F

CAMP CALL: GORDON YELLOWMAN, (*Cheyenne*),

Peace Chief, Cheyenne and Arapaho Tribes

MASTER OF CEREMONIES: JIM ROTH, Dean, Oklahoma

City University School of Law

PRESENTATION OF FLAGS

HONOR GUARD: KIOWA BLACK LEGGINGS SOCIETY

SINGERS: SOUTHERN NATION

INVOCATION: KRIS LADUSAU, Reverend, RKINA, Oklahoma

INTRODUCTION OF KEYNOTE SPEAKER: ROBERT HENRY,

Former President and Law School Dean, Oklahoma City
University, Former Chief Judge 10th Circuit Court of Appeals

KEYNOTE SPEAKER: BARONESS (EMMA) NICHOLSON

OF WINTERBOURNE, House of Lords, UK

WELCOME: M. JOHN KANE IV, Chief Justice,

Oklahoma Supreme Court

WELCOME: KEVIN STITT, Governor of Oklahoma (Invited)

WELCOME: DR. KENNETH R. EVANS, President of

Oklahoma City University

WELCOME: DAVID HOLT, Mayor, Oklahoma City

PRESENTATION OF AWARDS: YVONNE KAUGER, Justice,

Oklahoma Supreme Court

HONOR AND MEMORIAL SONGS: SOUTHERN NATION SINGERS

CLOSING PRAYER: GORDON YELLOWMAN, (*Cheyenne*),

Peace Chief, Cheyenne and Arapaho Tribes

BRAD MORSE, Professor of Law, Emeritus, Thompson

Rivers University, Canada

VICTOR FLORES, President, Oklahoma Tribal Finance Consortium

PAUL FAVEL, Judge, Federal Court, Canada

3:00 - 6:00 PANEL B: SIGNS, SYMBOLS AND SOUNDS | CENTENNIAL ROOMS 1-3 (A CONTINUATION OF THE MORNING PANEL)

CO-MODERATORS:

JAMES PEPPER HENRY, (*Kaw/Muscogee Creek*), Director and Chief

Operating Officer, American Indian Cultural Center and Museum

WINSTON SCAMBLER, Founder of Panel

JAY SCAMBLER, Managing Director, Kapstone Bridge

HARVEY PRATT, (*Cheyenne/Arapaho*), Peace Chief, Designer of the

Smithsonian's National Native American Veterans Memorial

MARK PARKER, Dean, Schools of Music & Theatre,

Oklahoma City University

TIM TATE NEVAQUAYA, (*Commanche/Chickasaw/Choctaw*)

Artist and Flute Musician

SCOTT HENDRICKS, Country Music Record Producer,

Warner Music Nashville

JEROD IMPICHCHAACHAAHA' TATE, (*Chickasaw*), Artist,

Composer, and Musician

3:00 - 6:00 PANEL C: JUVENILE LAW AND CHILDREN'S ISSUES | GRAND BALLROOM (A CONTINUATION OF THE MORNING PANEL)

MODERATOR:

DUSTIN ROWE, Justice, Oklahoma Supreme Court

DEANNA HARTLEY-KELSO, Judge, Chickasaw Nation District Court

BILL THORNE, (*Pomo & Coast Miwok*), Judge, (Ret.),

Utah Court of Appeals

MIKE WARREN, Associate District Judge, Harmon County, Oklahoma

LAUREN VAN SCHILFGAARDE, (*San Manuel Band of*

Mission Indians), Tribal Legal Development Clinic Director,

UCLA Law School

ELIZABETH BROWN, Associate District Judge, Adair

County, Oklahoma

JENNIFER MCBEE, Special Judge, LeFlore County,

Oklahoma

SEBASTIEN GRAMMOND, Judge, Federal Court, Canada

3:00 - 6:00 PANEL A: SYMBIOTIC ECONOMICS | CRYSTAL ROOM

(A CONTINUATION OF THE MORNING PANEL)

MODERATOR:

JAMES C. COLLARD, Director of Planning and Economic

Development, Citizen Potawatomi Nation

KIM DAVID, Commissioner, Oklahoma Corporation Commission

TIM GATZ, Oklahoma Secretary of Transportation

DAN BOREN, Secretary of Commerce, Chickasaw Nation

SUSAN HARPER, Counsel General of Canada, Dallas, TX

TANA FITZPATRICK, Associate Vice President of Tribal

Relations University of Oklahoma

VALORIE DEVOL, Attorney, Devol and Associates

WAYNE GARNONS-WILLIAMS, Principal Director at

Indigenous Sovereign Trade Consultancy Ltd., Canada

THE SIGHTS, SOUNDS, AND SYMBOLS PANEL CONTINUES FROM 6:00P.M. TO 7:00P.M. WITH A FLUTE CIRCLE LED BY TIMOTHY TATE NEVAQUAYA (BRING YOUR FLUTE TO PARTICIPATE IN THIS EVENT), AND A SPECIAL ART SHOWING OF THE WORKS OF: LES BERRY HILL, BRENT GREENWOOD, NATHAN HART, VANESSA JENNINGS, KENNETH JOHNSON, MIKE LARSEN, TIMOTHY TATE NEVAQUAYA, HARVEY PRATT, JERI REDCORN, PATRICK RILEY, JAY SCAMBLER, D.G. SMALLING, JIM VANDEMAN, GORDON YELLOWMAN, AND TERRY ZINN.

THE ARTISTS WILL BE HANDLING ANY SALES.

Wednesday Morning | June 14, 2023

4.0 CLE/CJE credits / 2 ethics included

7:30 - 4:30 Registration (Honors Lounge)

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

8:00 - 8:30 Complimentary Continental Breakfast

12:00 - 1:30 Lunch on your own

8:30 - 12:00 PANEL A: TREATIES, INTERGOVERNMENTAL AGREEMENTS AND COMPACTS | CRYSTAL ROOM

CO-MODERATORS:

CHUCK HOSKIN, JR., (*Cherokee*), Principal Chief
Cherokee Nation

GARY BATTON, (*Choctaw*), Chief Choctaw Nation

BARONESS (EMMA) NICHOLSON OF WINTERBOURNE,
House of Lords, UK

D.G. SMALLING, (*Choctaw*), Artist

BLUE CLARK, Professor of Law, Oklahoma City University
School of Law

JERRY MCPEAK, Former Oklahoma Legislator

GENTNER DRUMMOND, Attorney General of Oklahoma

8:30 - 12:00 PANEL B: WATER LAW | CENTENNIAL ROOMS 1-3

MODERATOR:

JOHN HARGRAVE, Chief Executive Officer, East Central
University Foundation

LEWIS JOHNSON, Principal Chief of the Seminole Nation

KENNETH WAGNER, Director of Hamm Institute for
American Energy at OSU, Former, Secretary of Energy &
Environment, State of Oklahoma

DUANE SMITH, Executive Director, Oka', The Water Institute
at East Central University

SARA HILL, Attorney General of the Cherokee Nation

STEPHEN GREETHAM, Attorney, Greetham Law P.L.L.C.,
Former Senior Counsel of the Chickasaw Nation

GREG MCCORTNEY, Majority Floor Leader,
Oklahoma State Senate

BARNEY AUSTIN, President and CEO, AquaStrategies
SUSAN PADDACK, Former Oklahoma State Senator for
District 13, M and P Strategic Solutions

JULIE CUNNINGHAM, Executive Director, Oklahoma Water
Resource Board

MITHUN MANSINGHANI, Attorney, Lehotsky Keller LLP

BRIAN DANKER, Senior Executive Officer for Legal and
Compliance, Choctaw Nation

BRIAN CANDELARIA, Oklahoma Indian Legal Services

KEN MCQUEEN, Oklahoma Secretary of Energy &
Environment

10:00 - 12:00 PANEL C: ETHICS AND A DISCUSSION OF THE CONCERNS OF STATE, FEDERAL, AND TRIBAL JUDGES | GRAND BALLROOMS A-C

MODERATOR:

JULIE RORIE, Staff Attorney, Oklahoma Supreme Court

JOHN REIF, Justice, (Ret.), Oklahoma Supreme Court

Wednesday Afternoon

4.5 CLE/CJE credits / 0 ethics included

3:30 - 3:45 Afternoon Coffee/Tea Break

1:30 - 5:30 PANEL A: GAMING | CENTENNIAL ROOMS 1-3

CO-MODERATORS:

NANCY GREEN, (*Choctaw*), Attorney, Green Law Firm, Ada, Oklahoma

MATTHEW MORGAN, (*Chickasaw*), Director of Gaming Affairs, Division of Commerce, Chickasaw Nation

SEQUOYAH SIMERMEYER, (*Coharie*), Chairman, National Indian Gaming Commission

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

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

ELIZABETH HOMER, (*Osage*), Homer Law

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

MIKE MCBRIDE, III, Attorney, Crowe and Dunlevy

JONODEV CHAUDHURI, (*Muscogee (Creek)*), Attorney, Ambassador of the Muscogee (Creek) Nation

G. DEAN LUTHEY, Attorney, GableGotwals

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

MODERATOR:

ARVO MIKKANEN, (*Kiowa/Comanche*), Assistant United States Attorney and Tribal Liaison, Western District of Oklahoma

CASEY ROSS, (*Cherokee*), Director, American Indian Law & Sovereignty Center, Clinic Professor of Law, University General Counsel, Oklahoma City University

JONODEV CHAUDHURI, (*Muscogee*), Ambassador, Muscogee Nation

BOB RAVITZ, Chief Public Defender, Oklahoma County

TRENT SHORES, Attorney, GableGotwals

JARI ASKINS, Administrative Director of the Courts

LINDSAY ROBERTSON, Professor Emeritus, University of Oklahoma College of Law

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

1:30 - 5:30 PANEL C: EDUCATION | GRAND BALLROOMS A-C

MODERATOR:

ALLISON D. GARRETT, Chancellor, Oklahoma State Regents for Higher Education

RYAN WALTERS, Oklahoma State Superintendent of Public Instruction (Invited)

JAN BARRICK, Chief Executive Officer, Alpha Plus

FRED ADESKIN, Founder and CEO, Astec Charter Schools

PATRICK RILEY, Artist and Educator

TREY HAYS, Teacher of Mathematics and Art, Tishomingo Elementary School

JEFF HARGRAVE, Attorney, and Executive Director Native Explorers

DUAYNE SMITH, Executive Director, Oka' Institute East Central University

GREGORY D. SMITH, Chief Judge, U.S. Court of Indian Appeals, Miami Agency, Justice, Pawnee Nation Supreme Court

DAN LITTLE, Attorney, Little Law Firm

FRANK WANG, Former President, Oklahoma School of Science and Mathematics

ERIC TIPPECONNIC, (*Comanche*), Artist and Professor of American Indian Studies

CORNEL PEWEWARDY, (*Comanche-Kiowa*), Vice Chairman of the Comanche Nation, Professor Emeritus of Indigenous Studies at Portland State University

This agenda is subject to revision.



SOLO & SMALL FIRM CONFERENCE

JUNE 22-24, 2023 | OSAGE CASINO HOTEL | TULSA

It's that time of the year again! Mark your calendars now for June 22-24 when the OBA Solo & Small Firm Conference comes to the Osage Casino Hotel in Tulsa. Get all your MCLE (including 2 hours of ethics) for the year during this three-day event in a fun, relaxed and informal setting.

This year's CLE offerings will include something for all solo and small firm practitioners, including more selections for younger lawyers. Plus, celebrate the summer! Satisfy your appetite at one of the restaurants, test your luck at the casino and relax by the pool, all without having to leave the comfort of the hotel.

Registration is now open. Visit the conference website at www.okbar.org/solo for the complete schedule plus online conference and hotel registration. Be sure to register using the OBA hotel room block to receive the discounted room rate, which is available through May 21.

You won't want to miss out on this year's great programs and events, so register today! The early-bird registration deadline ends June 5.



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2023 SOLO

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JUNE 22-24 | OSAGE CASINO HOTEL | TULSA

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Oklahoma City, OK 73152



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Full Name: _____ OBA #: _____

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Name and city as it should appear on badge if different from above:

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Guest name: _____

Guest name: _____

Guest name: _____

Guest name: _____

Guest name: _____

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admitted before Jan. 1, 2021

| | NUMBER OF GUESTS | CIRCLE ONE |
|--|------------------|------------|
| Early Attorney Only Registration (on or before June 5) | | \$300 |
| Late Attorney Only Registration (on or after June 6) | | \$350 |
| Guest Registration (on or before June 5) | _____ | \$200 each |
| Late Guest Registration (on or after June 6) | _____ | \$250 each |
| Guest Registration (for children 12 and under) | _____ | \$125 each |

SPECIAL RATES FOR OBA MEMBERS OF TWO YEARS OR LESS

admitted on or after Jan. 1, 2021

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|--|------------------|------------|
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| Late Attorney Only Registration (on or after June 6) | | \$225 |
| Guest Registration (on or before June 5) | _____ | \$200 each |
| Late Guest Registration (on or after June 6) | _____ | \$225 each |
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PAYMENT INFORMATION

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

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REGISTRATION AND POLICIES

CANCELLATION POLICY

Cancellations will be accepted at any time on or before June 6 for a full refund; a \$50 fee will be charged for cancellations made on or after June 6.

No refunds after June 12.

REGISTRATION, ETC.

Registration fee includes 12 hours of CLE credit, including up to two hours of ethics. Includes all meals: dinner Thursday and Friday, breakfast Friday and Saturday and lunch Friday and Saturday.

HOTEL RESERVATIONS

Call 877-246-8777 or visit www.osagecasino.com, select the Tulsa location, then click on Group Sign In and use booking ID OBA23 to get the group rate. The group rate is available through May 21.



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Learn From the Past, Prepare for the Future

By Janet Johnson

I REALIZED FROM A VERY early age that I was a fan of history. Not even true history all the time, but anything with a historical perspective. It began with a love of watching the History Channel with my dad and developed into reading historical works and historical fiction.

This passion caught the attention of my high school guidance counselor, who happened to really consider my college major opportunities. After much discussion, I decided to become a letters major with a minor in history and classics at OU. During this course of study, I focused on and sought out many ancient and medieval history courses, but one of my most impactful courses was on Oklahoma history. The course I took was taught by Dr. William Savage. I will never forget our first assignment: We read *The Grapes of Wrath* and his notebook, which was, in fact, an old photo album with handwritten lecture notes for his own point of reference. A textbook was provided, but the stories were where the learning was.

This college-level course on Oklahoma history was nothing like my high school version. It truly was a class for adults. We discussed the good, the bad and the ugly. From westward expansion and Andrew Jackson's removal



An Oklahoma woman and her children in front of a dwelling during the Depression. Courtesy Oklahoma Historical Society.

policies to a humorous telling of the history of “Boomer Sooner,” Professor Savage had me hooked and hanging on his every word to learn more about our young state. Perhaps that is what also heightened my interest in law school – so I could expand my learning more into Oklahoma’s legal history.

In exploring Oklahoma’s legal history, there is good, bad and ugly. Regardless of how anyone’s life

experiences and personal opinions shape what falls into good, bad or ugly, I think Oklahoma’s legal history has taught many lessons. We have lessons to learn from, improve upon, avoid, etc., all to prepare for the future.

I hope you all have enjoyed the many articles on Oklahoma’s legal history in this *Oklahoma Bar Journal*. If any or all spark curiosity and interest in certain topics, I think that is a success! Stay studious, stay curious and look to the future. And again, if you want some entertaining book recommendations, I have a few to offer.

Janet



To contact Executive Director Johnson, email her at janetj@okbar.org.

FROM THE PRESIDENT

(continued from page 4)

For every attorney who stands up and receives media attention for their work, there are many other attorneys across Oklahoma who, every day, stand up, announce ready and come forward to represent a person charged or a victim harmed. They don't do it for fame. While it is what we do as a profession, many times we are not doing it for the money.

I think people would be stunned at the amount of work Oklahoma attorneys do without pay. Pro bono work helps the homeless, protects the wrongfully terminated and assists people in getting their property back, among hundreds of other ways. People are helped by these hardworking members of the bar association who do what is right without any remuneration.

As we celebrate Law Day, an event that started in Oklahoma, let us remember that all of you are

the makers of the legal history of Oklahoma. Know that we will be the attorneys others will hear about in the years to come. It may not be in a book or newspaper, but when attorneys gather and talk about those great things that happened in their city, county, state or nation, they will discuss those lawyers who did amazing things to help others. And some of those stories may very well be about you.

As you go out into the world today, what will be the legal history that you will be making? Will you be remembered for your sacrifice, professionalism or willingness to step forward to help instead of shrinking into the shadows? That is your story to write by your actions.

I am looking forward to reading and hearing about that history. Because that history is the best part of Oklahoma legal history.

As we celebrate Law Day, an event that started in Oklahoma, let us remember that all of you are the makers of the legal history of Oklahoma.

MANDATORY CONTINUING LEGAL EDUCATION CHANGES

OK MCLE RULE 7, REGULATION 3.6

Effective **Jan. 1, 2021**, of the 12 required instructional hours of CLE each year, at least two hours must be for programming on Legal Ethics and Professionalism, legal malpractice prevention and/or mental health and substance use disorders. For more information, visit www.okmcle.org/mcle-rules.



Law Firm Staff Hiring Procedures

Something Else More Complicated Than It Used To Be

By Jim Calloway



SUPPOSE NEXT WEEK BEGINS with one of your top paralegals or legal secretaries giving you two weeks' notice. Maybe they are moving to another location or another local law firm. But now you have an opening to fill.

The first response is not about filling the position. First, you must determine if there are any matters the employee is working on that they no longer should. You must also determine whether some network access rights should be changed.

FIRST THINGS FIRST

If you have been informed the employee is going to work for another law firm, then it is prudent to check and see what matters you have in which that firm is opposing counsel. Hopefully there are not any – or there are only a few old, closed cases. If a departing employee is going to a firm with which you have several contested matters currently underway, it is prudent to have your IT professional restrict that employee's access to those files and to reassign someone else to do that work, even if it is the lawyer. Some firms take two weeks' notice as an event which it is simpler to let the employee go immediately and just pay the two weeks' severance. I am not suggesting that approach; I just know it happens. If you want to retain the employee and your

staff rotates who performs receptionist duties, it may make sense to have the employee do more receptionist tasks, which typically involve less sensitive information.

To avoid adding to or causing any negativity, share with the departing staff person that this is the process the firm has adopted, and it is not intended to reflect poorly on them. Rather, it is intended to protect both law firms.

REPLACING DEPARTING EMPLOYEES

You have, no doubt, heard the business maxim, "Fire fast. Hire slow." No one likes losing a good and trusted employee, but short-cutting the replacement process may ultimately result in having to do it far too often.

That means you must do your homework. Even if you may find it more challenging to hire a replacement in these times, you still must invest the time to hopefully find a great fit for the firm who will stay there for a long time.

So I still support the traditional practice of requiring a cover letter and resume. If they do not have a resume, you may allow them to submit an employment history. Then look for any mistakes.

It might seem harsh to disqualify a recent law school graduate applicant for a typo on their resume or cover letter, but we are

discussing staff hiring. Typos, poorly written sentences and other mistakes are significant for those whose job duties would include proofreading and preparing documents and correspondence.

CHECK THE REFERENCES

It is easy to be cynical about references, assuming someone will only provide the names of people who view them positively. But they must list their employment history. If none of their references are from their most recent employment, you will want to make a note to ask about that omission if you schedule an in-person interview. Asking which lawyers they primarily worked with at that firm and what they did for them is a good start.

It is very important to check references, even in this tighter job market. Imagine the worst possible disaster scenario someone new could create. Maybe it is a social media mess, stolen client information, stolen money or maybe an event that makes the local or national news.

Document the date and time you checked their references or previous employer, even if the specifics should not be shared (except perhaps with law enforcement when criminal activity is suspected).

One challenge in checking references or prior employment is that many employers, including

law firms, no longer provide much information because of liability concerns. Sometimes all you will receive is employment verification with the start date and end date. Others have suggested you might obtain more information by asking if that former employee would be eligible to be rehired at the firm. A simple “No” response gives you valuable information.

CRIMINAL BACKGROUND CHECKS

Today it is prudent to run a criminal background check for every new hire. There will be some exceptions, but the background check is relatively inexpensive and can be done online.

You can also exercise your own judgment with the results and explain to the potential employee that not every mistake is disqualifying. For example, a DUI arrest reduced to reckless driving 10 years ago may not be a problem. But if the person is still on probation for their third DUI and the job involves driving to courthouses to file documents, the past at least merits further discussion, if not moving on to another candidate. Prior theft or embezzlement charges are most likely disqualifying.

Historically, some law firms do not contact law enforcement when they discover embezzlement, whether it is from embarrassment at being a victim, the time involved in dealing with law enforcement or preconceptions about whether charges would be filed. This is another reason why it is important to check references and pay attention to significant employment gaps in their resume.

State background checks can be done at CHIRP, the Criminal History Information Request Portal.¹

The website states:

In addition to a subject’s first and last name, requests for criminal history record information must include a date of birth. CHIRP will search three (3) years before and after the date of birth for possible matches. Additional identifiers such as aliases (maiden names, previous married names, nicknames) and social security numbers, if known, can be provided for a more thorough search of the OSBI Computerized Criminal History (CCH) Database.

It might be advisable to create a form for potential employees to sign providing all that information, including prior names. I would also encourage you to observe the candidate when you tell them a criminal background check will be required. One grimace may be worth a thousand words. If they say, “I know what you will find. Let me explain,” then let them do so, and give them some credit for their candor.

They might confess something in another state that might not be picked up by the Oklahoma background check. But it is also likely they have a reasonable, non-disqualifying explanation.

EMBEZZLEMENT RISK

Depending on the type of law practice, temptations can be presented to employees. Suppose an employee who normally doesn’t handle money is the only staffer remaining at the end of a long day. A client shows up just before closing with a \$300 cash payment. The staffer takes the payment and, because it is the end of the day, does not write the client a cash receipt. The bank deposit has gone for the day, so the employee puts the cash in an envelope and puts it in their desk drawer to be turned over the next day. But they do not know how to enter the payment into the client’s ledger. Then maybe absences or the weekend remove it from the top of the employee’s mind. Three weeks later the employee notices a crumpled envelope in the back of the desk drawer. Even the honest employee will recognize that if someone was going to say something they would have done so by now. They may also note that when they turn the cash in, they may be criticized for not writing a receipt or hanging onto the money too long. Add in other complicating factors like the utility cutoff notice they just received.



This is how many of the six-figure law firm embezzlement by employee cases begin. Once it is seen how an embezzlement could work, they could begin looking for other avenues that are open. An Oklahoma lawyer/CPA told me a story where five employees of a firm had American Express business accounts. The bookkeeper soon figured out that she could pay her personal American Express bill with a law firm check and no one would be the wiser. Soon her AmEx account had a large positive balance, and the bookkeeper began traveling for pleasure more.

Good processes can limit the opportunities for financial mischief. Someone other than the bookkeeper doing the books should review the bank statement or online bank records monthly. All cash payments received must result in a receipt given to the client with carbonless copies made.

For an example of a worst-case scenario, we have the case of Blanca P. Greenstein. The West Palm Beach lawyer did not bother with a background check because her then-husband, who was also the law firm's CFO, recommended the employee, having worked with her at another firm. Had a background check been run, the firm would have discovered this person was a felon, having been previously convicted of theft. As the headlines later noted, "A Swindle Cost a South Florida Attorney Her Law License, Marriage and \$155,000."²

Even though the lawyer borrowed money to replenish all missing funds within 48 hours and no one accused her of a wrong, intentional act, she ended up with an agreed three-year suspension from the practice of law, along with paying \$8,261 in costs.

That she was an innocent victim was likely a mitigating factor.

But the fact that the bookkeeper wrote personal checks to herself totaling \$155,000 over an 18-month period was likely an aggravating factor, as even a cursory examination of trust accounting records would have revealed the scheme.

The law practice management advice is the trust account contains funds from clients and others. The lawyer with the trust account has complete responsibility. A lawyer can delegate certain duties, but you cannot abandon oversight of your trust accounting responsibilities. Many large law firms have their employees who handle money bonded, a process that would also catch felony convictions.

CONCLUSION

One of Greenstein's friends and lawyer advisors said Greenstein's story should serve as a lesson to all attorneys that the bar has an "acute sensitivity" when it comes to trust accounting.³ Given that the lawyer receives the money in trust to keep it safe, that "sensitivity" is understandable.

But this is not the only lawyer discipline story that started with an inadequate hiring process, which is why I now believe that these processes are essential for law firm staff hiring.

Mr. Calloway is the 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 or jimc@okbar.org. It's a free member benefit.

ENDNOTES

1. <https://chirp.osbi.ok.gov/>. Accessed April 10, 2023.
2. <http://bit.ly/40VnN7H>. Accessed April 10, 2023.
3. *Id.*

Approved Financial Institutions for IOLTA Program

PURSUANT TO REVISIONS MADE TO OKLAHOMA RULE OF PROFESSIONAL CONDUCT 1.15, Safekeeping Property, which were approved by the Oklahoma Supreme Court on Oct. 10, 2022, lawyers may only hold IOLTA deposits in financial institutions that have been certified as approved institutions by the Oklahoma Bar Foundation and approved by the Oklahoma Bar Association Office of the General Counsel. Approved institutions are those in compliance with the interest rate comparability and other provisions of Rule 1.15. The following institutions have been certified and approved to hold IOLTA funds:

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| American Exchange Bank, Lindsay | Blue Sky Bank | Farmers & Merchants National Bank, Fairview |
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| Bank of America | Commerce Bank of Kansas City | First Enterprise Bank, Oklahoma City |
| Bank of Beaver City | Community Bank of Oklahoma (Bank of Verden) | First Fidelity Bank, Oklahoma City |
| Bank of Beaver City, Liberal, KS | Community Bank, Bristow | First Liberty Bank, Oklahoma City |
| Bank of Cherokee County, Tahlequah | The Community Bank, Liberal, KS | First National Bank & Trust Co. of Broken Arrow |
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OBF COURT REPORTER EDUCATIONAL SCHOLARSHIP

The Court Reporter Rural Service Grant Program aims to increase the availability of court reporters in rural Oklahoma courts by providing educational grants to court reporting schools for scholarships and related equipment. The program also funds stipends for qualified court reporters committed to working in rural counties.



Toni Swayze is a court reporting student at OSU-OKC and an OBF scholarship recipient. “My court reporting journey started a few months after I lost my job of 10 years. I dove right into school. The OBF scholarships lifted my spirits and renewed my motivation and drive. I look forward to joining the judicial process, thanks to the generosity of the OBF during my journey.”



Remembering Judy Hamilton Morse



OUR SINCERE CONDOLENCES to David Morse, family, friends and colleagues of attorney and OBF Past President Judy Hamilton Morse, who passed away on Wednesday, March 29.

Ms. Morse was a respected attorney, leader and mentor during her career. She served on the Oklahoma Bar Foundation Board of Trustees for 11 years and led the foundation as president in 2005. One of her many accomplishments during that time was her instrumental role in converting the Oklahoma IOLTA program from voluntary to mandatory for attorneys. This change dramatically increased funding available to provide legal representation to Oklahomans in need.

“Judy was a true leader and innovator for the foundation as well as a treasured and beloved friend. Her impeccable ethics, intelligence, dedication and spirit will never be forgotten,” said OBF Executive Director Renée DeMoss.

In her personal life, Ms. Morse was a loving wife, mother, grandmother and friend. She was an inspiration to all who knew her, and she will be greatly missed. For more information about Ms. Morse’s life and honors, please read her beautifully written obituary: www.oklahoman.com/obituaries/pokl0463460.



The Oklahoma Bar Journal Courts & More

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A Tradition of YLD Service

By Caroline M. Shaffer Siex

THE OBA YOUNG LAWYERS Division was established in 1966 to provide an avenue for Oklahoma's young lawyers to work on bar-related and public service-related projects. While the term "young" is in the division name, the YLD encompasses any lawyer who has been in practice for fewer than 10 years, regardless of age. Ten years just refers to your "practice age."

In writing this article to explain our division's history, I reviewed articles going back more than a decade to see how the YLD has changed and evolved. I found that no matter who the chair was, what "hot issues" were buzzing around or how time passed, the YLD never swayed from being the "service

arm" of the bar. Here are just a few examples of the amazing work of YLD leadership:

- In 2010, YLD Chair Molly Aspan established the "Statewide Community Service Project Day." Each YLD director assembled young lawyers in their district for a service project benefiting public libraries. The goal was to get everything "done in a day." The event provided an avenue for lawyers across Oklahoma to network while giving back to their local communities.
- In 2011, YLD Chair Judge Roy D. Tucker titled his first article in the January

Oklahoma Bar Journal "YLD to Continue Dedication to Public Service." Judge Tucker discussed how the YLD board was compiling "legal handbooks" to assist volunteer lawyers in providing the highest-quality legal advice. The handbooks were also distributed to veterans and active members of the armed services.

- In 2012, under YLD Chair Jennifer Kirkpatrick, the division received two ABA YLD Awards of Achievement: first place for overall activities and achievements and second place for Outstanding Service to the Public Project for the young adult guide project.

I could go on about how YLD chairs brought something to the table every year. However, the human attention span is not infinite.

Today, the YLD is continuing to carry the torch. The division now has legal handbooks referred to as the *Young Adult Guide*. The guide provides helpful legal information tailored to those new to adulthood. The information helps new adults, parents, teachers and school administrators. Recently, it was presented as a PowerPoint during the 2023 Oklahoma Children's Behavioral Health Conference, so



Past OBA YLD leaders Molly Aspan, Hannah Hawkins, Jennifer Castillo and Briana Parmele attend the ABA YLD meeting in February 2010.



Top left: Past OBA YLD leaders Jennifer Castillo, LeAnne McGill, Lane Neal, Karolina Roberts and Collin Walke work in the community during the 2013 Day of Service.

Top right: In August 2015, YLD members organized the first Kick It Forward Kickball Tournament to raise funds for the Kick It Forward Program to support bar members in need of financial help with membership dues.

Left: 2014 OBA YLD Chair Kaleb Hennigh (right) assists an emergency responder preparing legal documents as part of the Wills for Heroes project.



members of the community could be informed on the information and help the young adults in their lives.

Likewise, the bar exam survival kits are an ongoing tradition that appears to become better with time. The kits, which are small care packages for bar examinees, are assembled by YLD members and are a great way to get everyone together. When I joined the board, it had medicine, candy, pencils, ear-plugs and more. During the pandemic, facemasks and hand sanitizer were added to the kits. Now, we have expanded to include protein snacks as well.

We will always keep the stress balls, so everyone has some sanity to cling to during the exam.

Another service project that has a dear place in my heart is the Will for Heroes program, which provides free wills to emergency personnel and veterans in Oklahoma. The YLD has been traditionally charged with implementing the program in Oklahoma, and we are currently planning this year's event. We've had consistent participation in the past apart from "COVID years." Of course, everyone felt the chilling effect of the pandemic, but it certainly paused the YLD's service focus.

The YLD will always continue to answer its call to service. As history has shown, we have been here to serve the community and our young lawyer membership. May young lawyers continue to serve so we can maintain our division's history and keep our dignified legacy.

To better serve young lawyers, the YLD Board of Governors will now be answering questions and concerns from YLD members at yld@okbar.org.

Ms. Shaffer Siex practices in Tulsa and serves as the YLD chair. She may be contacted at cshaffer@gablawyers.com.



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**NOTICE OF HEARING ON THE PETITION FOR REINSTATEMENT
OF JOSHUA TODD WELCH, SCBD # 7428
TO MEMBERSHIP IN THE OKLAHOMA BAR ASSOCIATION**

Notice is hereby given pursuant to Rule 11.3(b), Rules Governing Disciplinary Proceedings, 5 O.S., ch. 1, app. 1-A, that a hearing will be held to determine if Joshua Todd Welch should be reinstated to active membership in the Oklahoma Bar Association.

Any person desiring to be heard in opposition to or in support of the petition may appear before the Professional Responsibility Tribunal at the Oklahoma Bar Center at 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma, at 9:30 a.m. on **THURSDAY, JUNE 8, 2023**. Any person wishing to appear should contact Gina Hendryx, General Counsel, Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, Oklahoma 73152, telephone (405) 416-7007.

PROFESSIONAL RESPONSIBILITY TRIBUNAL

FOR YOUR INFORMATION

TULSA COUNTY DISTRICT JUDGE JIM HUBER APPOINTED TO OKLAHOMA COURT OF CIVIL APPEALS



Gov. Kevin Stitt appointed Tulsa County District Judge Jim Huber to the Oklahoma Court of Civil Appeals, District Two, in April. He will replace the late Judge Keith Rapp.

Judge Huber received his J.D. from the TU College of Law in 1993. He began his legal career at Malloy & Associates before opening his own firm. He later became a managing partner at Collier & Huber Law Firm, representing businesses and individuals in employment and commercial litigation matters. He left private practice in 2019 upon being selected by the Tulsa County district judges to serve as a special judge. Judge Huber has served as a Tulsa County District Judge since 2020 and as chief judge of the Family Court Division, where he supervised six special judges while presiding over a family court docket and a youthful offender criminal docket.

JULIE BAYS APPOINTED TO ABA TECHSHOW BOARD

OBA Practice Management Advisor Julie Bays has been appointed to the Planning Board for the 2024 ABA TECHSHOW. TECHSHOW is a multi-day conference dedicated to teaching attorneys how to use technology for better efficiency and to better serve clients. Each Planning Board member serves a one-year term, with the opportunity to serve multiple terms.

“Serving on the ABA TECHSHOW Planning Board is a great professional experience, allowing one to become acquainted with so many legal technology experts from across the country,” said Jim Calloway, OBA MAP director, who served on the board for four years. “It is also a great honor for Julie, recognizing her professional accomplishments, including serving as a columnist for the ABA’s *Law Practice* magazine.”

Next year’s TECHSHOW will be held Feb. 14-17 at the Hyatt Regency in Chicago.



LHL DISCUSSION GROUP TO HOST SUMMER MEETINGS

The Lawyers Helping Lawyers monthly discussion group will meet June 1, July 6 and Aug. 3 in Oklahoma City at the office of Tom Cummings, 701 NW 13th St. The group will also meet June 8, July 13 and Aug. 10 in Tulsa at the office of Scott Goode, 1437 S. Boulder Ave., Ste. 1200. Each meeting is facilitated by committee members and a licensed mental health professional. The small group discussions are intended to give group leaders and participants the opportunity to ask questions, provide support and share information with fellow bar members to improve their lives – professionally and personally. Visit www.okbar.org/lhl for more information.



BAR JOURNAL TAKES SUMMER BREAK

The *Oklahoma Bar Journal* theme issues are taking a short break. The next issue, devoted to ethics and professional responsibility, will be published in August. You will still receive the digital *Courts & More* issues with court material and news every Wednesday in June and July. Have a safe and happy summer!

THE BACK PAGE: SHOW YOUR CREATIVE SIDE

We want to feature your work on “The Back Page”! Submit articles related to the practice of law, or send us something humorous, transforming or intriguing. Poetry, photography and artwork are options too. Email submissions of about 500 words or high-resolution images to OBA Communications Director Lori Rasmussen at lorir@okbar.org.

CONNECT WITH THE OBA THROUGH SOCIAL MEDIA

Are you following the OBA on social media? Keep up to date on future CLEs, upcoming events and the latest information about the Oklahoma legal community. Connect with us on LinkedIn, Twitter, Facebook and Instagram.



REGISTER TODAY FOR THE SOLO & SMALL FIRM CONFERENCE
Early Bird Deadline is June 5, and the Hotel Room Block is Available
Until May 21



The Solo & Small Firm Conference is quickly approaching! Register now for the conference, June 22-24 at the Osage Casino Hotel in Tulsa. Our special guest speaker, Stanley Tate, will cover “Carving Your Path: Developing a Successful

Law Practice in a Niche Area of Law” and “Everything You Need to Know About Student Loans in 2023.” He will also join the popular “60 Tips in 60 Minutes” panel.

You’ll also hear from several knowledgeable speakers during your CLE breakout sessions, covering a wide range of substantive law and law practice management topics, with a focus on tools for and frequent challenges encountered by solo and small firm lawyers. Evening social events offer the opportunity to meet and network with other attorneys from across the state. Register by June 5 to get the early-bird rate.

And don’t forget to book your hotel room early – the hotel room block is only available until May 21. Use the code *OBA23* for your discounted room rate. Registration and hotel information are available at www.okbar.org/solo/registration.

SOCIAL SECURITY SCAMS



The Social Security Administration is warning of a new scam involving official-looking communications such as letters, emails, texts or phone calls. In a recent

press release, the Office of the Inspector General warns, “Scammers are sending fake letters that closely resemble official Social Security Administration (SSA) and SSA Office of the Inspector General (OIG) letterhead or that of other government agencies, such as the Federal Trade Commission ... These scammers are trying to steal your money or your identity.” Here are some tips to avoid a scam:

- 1) Hang up the call or ignore the message. Talk to someone you trust.
- 2) Secure your money and personal information. Do not transfer money or buy gift cards.
- 3) Be skeptical and cautious of unexpected calls and messages.
- 4) Do not click links or attachments.

SOVEREIGNTY SYMPOSIUM 2023

The 35th annual Sovereignty Symposium has been scheduled for June 13-14 at the Skirvin Hilton Hotel in Oklahoma City. The theme for this year’s event is “Treaties.” The keynote speaker will be Baroness Emma Nicholson of Winterbourne, who is a member of the United Kingdom House of Lords. The event also includes a flute circle and art show, and participants are encouraged to bring a flute so that they may join the flute circle. More details, the hotel booking code and the tentative agenda are available at www.sovereigntysymposium.com.

IMPORTANT UPCOMING DATES

Don’t forget the Oklahoma Bar Center will be closed Monday, May 29, and Tuesday, July 4, in observance of Memorial Day and Independence Day. Be sure to docket the OBA Annual Meeting Nov. 1-3 at the Skirvin Hilton Hotel in Oklahoma City.

NOTICE: JUDICIAL NOMINATING COMMISSION ELECTIONS

Nominating petitions for election as members of the Judicial Nominating Commission from Congressional Districts 1 and 2 (as they existed in 1967) will be accepted by the executive director until 5 p.m. on May 19. Ballots will be mailed June 2 and must be received at the Oklahoma Bar Center by 5 p.m. on June 16. Members can find nominating petition forms at www.okbar.org/jnc under “Resources.”

ON THE MOVE

David Herber has joined the Oklahoma City office of GableGotwals as an associate. He practices in the areas of administrative and regulatory law, bankruptcy, commercial and insurance law. He received his J.D. with distinction from the OU College of Law. Mr. Herber previously worked at an Oklahoma City law firm, where he practiced a wide range of business litigation and transactional matters. Prior to working at law firms, he served as deputy general counsel in the Executive Office of Gov. J. Kevin Stitt, where he advised the governor and his office on various issues related to criminal law, state ethics rules, elections and administrative law. Mr. Herber has also served as a judicial extern to Chief Judge Joe Heaton in the U.S. District Court for the Western District of Oklahoma, a summer law clerk in the Civil Division of the U.S. Attorney's Office for the Western District of Oklahoma and a research assistant for the editor-in-chief of the *American Business Law Journal*.

Adam W. Childers has been elected president and CEO of the law firm of Crowe & Dunlevy. He serves as the chair of the firm's Labor & Employment Practice Group. Additionally, Mr. Childers is a member of the OU College of Law's Order of the Barristers and serves as an administrative law judge at the Oklahoma Department of Labor. He received his J.D. from the OU College of Law, where he served as the captain of the speech and debate team.

J. Robert Kalsu has been elected as vice president of economics of the law firm of Crowe & Dunlevy. He serves as the chair of the firm's Aviation & Commercial Space Practice Group and primarily practices in the areas of commercial and business law, aviation title, finance and regulatory law. Mr. Kalsu received his J.D. from the Southern Methodist University School of Law.

Natalie K. Leone has joined the Tulsa law firm of Rivas & Associates as an associate attorney. She will be spearheading the firm's new bilingual business formations department, which also serves as a bilingual registered agent for businesses across the state. She will focus on helping Latinos establish their businesses. Ms. Leone received her J.D. from the TU College of Law and practices law in both Texas and Oklahoma.

Tracy E. Smith has joined the Tulsa law firm of Rivas & Associates as an associate attorney. She will work on immigration law consultation, primarily analyzing intakes, interpreting evidence and documents and providing the potential immigration client with relief options. Ms. Smith received her J.D. from the University of Kansas School of Law in 2006 and previously worked as a bilingual/dual language teacher in Austin, Texas.

Brenda Doroteo has joined the Tulsa law firm of Rivas & Associates as an associate attorney. She will focus on removal defense litigation in immigration courts, as well as analyze and provide potential detained immigration clients with relief options. Ms. Doroteo received her J.D. from the OCU School of Law in 2019 and has years of courtroom experience and skills as a trial attorney to help immigrants in removal proceedings.

Isaac Treadaway has joined the Oklahoma City office of McAfee & Taft as an associate. Mr. Treadaway is a member of the Labor & Employment Group and is focused on the representation of employers and management in all phases of labor and employment law and dispute resolution. He has experience in advising employers on state and federal compliance issues and representing employers in FLSA, state wage law collective and class action cases, among other areas. He returned to Oklahoma after previously working in the Dallas and Houston offices of two of the nation's largest law firms and has been admitted to practice in Oklahoma, all state and federal courts in Texas and the federal court in New Mexico.

Steven E. McCain has been appointed general counsel of Morrow Energy LLC in Midland, Texas. He is the first general counsel for Morrow, which is a nationwide manufacturer, supplier and operator of renewable natural gas processing and treating facilities for landfill gas and other biogas sources. Mr. McCain previously served as vice president and general counsel of Marlin Midstream LLP and Associated Energy Services LLC. He received his J.D. with honors from the TU College of Law and was a member of the Order of the Curule Chair and an articles editor for the *Tulsa Law Journal*. He currently maintains offices in Houston and Midland.

Maggie K. Martin has been named director and shareholder of the Oklahoma City office of Crowe & Dunlevy. She is also chair of the Healthcare Practice Group, where she represents

healthcare systems, hospitals, physicians and other healthcare facilities in regulatory, operational and transactional matters. Ms. Martin has also served as an adjunct faculty member at the OU Hudson College of Public Health. She received her J.D. from the OU College of Law.

Timothy Sowecke has been named director and shareholder of the Oklahoma City office of Crowe & Dunlevy. He is a member of the Energy, Environment & Natural Resources and Real Estate practice groups. In recent years, Mr. Sowecke has made significant contributions to law and policy discussions surrounding perfluoroalkyl and polyfluoroalkyl substances. He previously served as a judicial law clerk to Judge Kate Fox of the Wyoming Supreme Court. He received his J.D. from the University of Wyoming College of Law.

Ming Gu has joined the Oklahoma City office of E. Vance Winningham & Associates. Mr. Gu has practiced in the areas of energy, manufacturing and technology industries since 2002. During his career, he has served as a consultant in international trade and foreign direct investment in China since 1995 and in the U.S. since 2001. Mr. Gu received his J.D. from the OCU School of Law. He was the first Chinese national to pass the bar exam in Oklahoma in 2002.

Erin J. Rooney has been promoted to shareholder at the law firm of Gungoll, Jackson, Box & Devoll PC. He joined the firm in 2019 after working with an insurance defense firm in Oklahoma City. Mr. Rooney primarily practices in the areas of personal injury, insurance, bad faith, transportation and general civil litigation.

HOW TO PLACE AN ANNOUNCEMENT:

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

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

Submit news items to:

Hailey Boyd
Communications Dept.
Oklahoma Bar Association
405-416-7018
barbriefs@okbar.org

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

Judge Michael Hogan was a co-recipient of the Judge of the Year Award, given annually by the Oklahoma Chapter of the American Board of Trial Advocates (ABOTA). Judge Hogan has served on the bench for seven years, starting as a special judge. In 2019, he was elected as the district judge for Oklahoma Judicial District 18.

Madelaine Hawkins has been appointed to the Board of Directors of Calm Waters Center for Children and Families in Oklahoma City. She will lend professional knowledge to the Development Committee at the center. Ms. Hawkins received her J.D. from the OCU School of Law in 2016.

Bradley Gungoll has been inducted into the National Academy of Distinguished Neutrals (NADN). The NADN is a professional association whose membership consists of ADR professionals distinguished by hands-on experience in the field of civil and commercial conflict resolution. Members are selected by their peers and approved by local litigators.

Kari Hoffhines has been elected to the Executive Committee of the law firm of Crowe & Dunlevy. She is a member of the firm's Real Estate and Banking & Financial Institutions practice groups. Ms. Hoffhines received her J.D. from the OCU School of Law.

Kayci B. Hughes has been elected to the Executive Committee of the law firm of Crowe & Dunlevy. She practices in the area of commercial litigation. Ms. Hughes received her J.D. from the OU College of Law.

David M. Sullivan has been elected to the Executive Committee of the law firm of Crowe & Dunlevy. He serves as the chair of the firm's Intellectual Property & Technology Group. Mr. Sullivan received his J.D. from the OU College of Law.

Cynda C. Ottaway has been named chair of the board of the law firm of Crowe & Dunlevy. She chairs the firm's Private Wealth & Closely Held Business Practice Group. Ms. Ottaway received her J.D. from the OU College of Law.

Malcolm E. Rosser IV has been named vice chair of the board of the law firm of Crowe & Dunlevy. He is a shareholder in the firm's Tulsa office and co-chair of the firm's Real Estate Practice Group. Mr. Rosser received his J.D. from the OU College of Law.

AT THE PODIUM

Marty Ludlum spoke at the Southern Academy of Legal Studies in Business in San Antonio. He spoke about the Rooney Rule on employment discrimination within the NFL.

IN MEMORIAM

Charles E. Campbell of Stillwater died April 1. He was born Jan. 16, 1945, in Chickasha. Mr. Campbell grew up in Edmond and graduated from Edmond Memorial High School in 1963. He attended OSU, where he was an active member of Sigma Chi and the ROTC. He graduated with a bachelor's degree in marketing in 1967. **Mr. Campbell served in the U.S. Army, achieving the rank of captain and serving his country until he was honorably discharged in 1969. He then served in the Army Reserves until 1974.** He received his J.D. from the OCU School of Law in 1974. Soon after, he opened his law practice in the Lawyer's Building, where he practiced for over 48 years. He was a member of the Payne County Bar Association, Stillwater Country Club, Stillwater Elks Lodge and Stillwater Frontier Rotary Club and a parishioner of St. Francis Xavier Catholic Church. Memorial contributions may be made to Our Daily Bread and Resource Center, the St. Francis Xavier Catholic Mother Theresa Fund or a charity of your choice.

James A. Clark of Ardmore died March 19. He was born April 29, 1941. Mr. Clark was a well-known author and former district attorney. He wrote and published books on different topics of life, including *A Journey Through the Life of a Lawyer*, as well as authored numerous pamphlets. He received his J.D. from the OCU School of Law in 1967.

Michael A. Daffin of Sallisaw died Aug. 17, 2022. He was born Aug. 3, 1956, in Bremerton, Washington. Mr. Daffin received his J.D. from the TU College of Law in 1979. He was a lawyer for 43 years and showed a dedication to his community; he served on the school board for Sallisaw Public Schools and was a major contributor to the wrestling program. Memorial contributions may be made to Sallisaw Public Schools.

Melinda Gail Dunlap of Boynton died April 8. She was born Nov. 9, 1964, in Muskogee. She received her J.D. from the TU College of Law in 1990. Ms. Dunlap opened and operated her own law practice in Okmulgee for most of her career.

Pamela Sue Gotcher of Tulsa died March 29. She was born Feb. 19, 1954, in Tulsa. Ms. Gotcher received her J.D. from the TU College of Law in 1979 and was a member of the Texas and Oklahoma bar associations. She practiced in the area of banking law for 42 years.

Robert J. Hays of Chickasha died Sept. 21, 2022. He was born March 25, 1939, in Weatherford. He graduated from Weatherford High School, where he began authoring sports stories for the school newspaper. Mr. Hays continued his writing at Southwestern State University and eventually became a sports-writer for *The Daily Oklahoman*. He graduated from OU with a journalism degree and received his J.D. from the OU College of Law in 1965. He served as a municipal court judge and was involved in the American Bar Association and Grady County Bar Association.

Mr. Hays served in organizations such as the Chickasha Booster Club, Epworth United Methodist Church and the Association of South Central Oklahoma Governments. Memorial contributions may be made to the University of Science and Arts of Oklahoma baseball and softball programs through the USAO Foundation.

Jeffrey Phillip Herrick of McAlester died April 12. He was born Dec. 20, 1966, in McAlester. He graduated from McAlester High School in 1985 and received his J.D. from the OCU School of Law in 1992. Mr. Herrick served the McAlester community his entire career, as well as working as the city attorney and judge in Haileyville.

J Roger Hurt of Oklahoma City died March 9. He was born Dec. 22, 1958, in Tulsa. He received his J.D. from the OU College of Law in 1984 and worked at Pierce Couch Hendrickson Baysinger & Green, where he eventually became a senior partner. Mr. Hurt was an active member of New Hope United Methodist Church, playing a vital part in the ministry to the unhoused in Oklahoma City. Memorial contributions may be made to New Hope United Methodist Church or its Second Saturday Unhoused Outreach Ministry.

James L. Kee of Duncan died March 20. He was born Oct. 9, 1935, in Drumright. He graduated from Bartlesville High School in 1953 and attended OSU on a scholarship from Phillips Petroleum. **Mr. Kee joined the U.S. Army after three years of college and was proud to be a member of the 101st**

Airborne Division Band. After completing his service, he received his J.D. from the OCU School of Law in 1966. He worked as an assistant district attorney before opening his private law practice in 1974. His practice served the Duncan community for nearly 50 years. He was a founding member and past president of the Oklahoma Criminal Defense Lawyers Association, past president of the Stephens County Bar Association and board member of the Eisenhower Center at the University of New Orleans. Mr. Kee served on the OBA Board of Governors and was honored for his 50 years of service to the profession. Memorial contributions may be made to the Chisholm Trail Church of Christ, Stephens County Honor Guard or Patriot Guard Riders.

Robert James Kee of Beaver died Feb. 18. He was born May 8, 1949, in Great Bend, Kansas. Mr. Kee graduated from Mooreland High School in 1967 and attended OU, where he received his bachelor's degree in economics. He received his J.D. from the OU College of Law in 1975. Mr. Kee moved with his family to Beaver, where he worked at Leonard, Trippet, Leonard & Kee with mentors and colleagues. Memorial contributions may be made to the Team Gleason Foundation, the Mooreland Public Schools Foundation or the Beaver Educational Support Team.

John J. Kocher of Woodward died Dec. 14, 2022. He was born Dec. 9, 1949, in Wichita, Kansas. He was raised in Enid and graduated from Enid High School in 1967. Mr. Kocher attended OU before transferring to and graduating from the University of Texas in 1973. He received his J.D. from the OU College of Law, where he was elected the first writing

competition editor of the *American Indian Law Review*. His legal career began in 1984 at the Tulsa law firm of Ernest A. Bedford and Associates, and he eventually opened his own private practice in Enid, where he practiced for 28 years. Mr. Hays was sworn in as a special Supreme Court justice of the Cheyenne and Arapaho tribes of Oklahoma in 2017 and later as associate Supreme Court justice of the Cheyenne and Arapaho tribes in December 2018.

George W. Lindley of Duncan died March 17. He was born July 12, 1945. Mr. Lindley graduated from OU in 1967 and received his J.D. from the University of Texas School of Law in 1970. Following graduation, he served as a law clerk to Judge William J. Holloway of the U.S. 10th Circuit Court of Appeals, whom he saw as a mentor. Mr. Lindley went on to open his private practice law firm in his hometown of Duncan and was eventually selected to serve as a special judge for Stephens County in 1974. Following this selection, he was appointed as an associate district judge in 1976 and elected as district judge of the 5th Judicial District, Office 2, in 1979. Mr. Lindley additionally authored a court costs collection manual and conducted training on cost collections for judges and court clerks. Later in his career, he was elected as presiding judge and chairman of the Assembly of Presiding Judges. He retired in 2004 but continued to serve the public. He served on the Board of Juvenile Affairs, including holding positions such as chairman, for eight years. Donations may be made to Duncan Regional Hospital or the First Christian Church of Duncan.

W. Wayne Mills of New Bern, North Carolina, died March 25. He was born Aug. 3, 1954. Mr. Mills received his J.D. from the OCU School of Law.

Judy Hamilton Morse of Norman died March 29. She was born June 17, 1946, in McAlester. Ms. Morse received her J.D. with honors from the OU College of Law and was awarded the Nathan Scarritt Prize for the highest law school GPA. During law school, she was a member of the Order of the Coif and Phi Beta Kappa and served as editor-in-chief of the *Oklahoma Law Review*. She worked as a trial lawyer at the Oklahoma City law office of Crowe & Dunlevy for her entire legal career. She had many honors, such as being the first female president of a major Oklahoma law firm, an OU College of Law Order of the Owl Inductee, an Oklahoma Fellow of the ABA, an OBA Professionalism Award honoree and more. Ms. Morse previously served as president of the Oklahoma Bar Foundation and was a member of the Board of Visitors of the OU College of Law.

Ted N. Pool of Oklahoma City died April 3. He was born Oct. 22, 1939. He graduated from OSU and received his J.D. from the OU College of Law.

Charlie Michele Rowland of Antlers died April 5. She was born Dec. 20, 1984, in Antlers. She graduated from Antlers High School and received her J.D. from the OU College of Law in 2010. Ms. Rowland opened her own law firm, Rowland Law Firm, in her hometown and was active in her community.

Jack L. Smith of Miami died March 31. He was born Dec. 2, 1951. He received his J.D. from the OCU School of Law in 1978. Mr. Smith worked at the District Attorney's Office and was instrumental in starting the Child Support Division through the office. He worked at two law firms before returning to the District Attorney's Office, where he worked as the first assistant and oversaw the Child Support Division. Mr. Smith eventually started his private practice, where he worked until retirement.

James Travers Volz of Piedmont died Dec. 28, 2022. He was born July 15, 1938, in Rochester, New York. **After graduating from high school, he served as a corporal in the U.S. Marine Corps.** Mr. Volz graduated from St. John Fisher College with a business degree and received his J.D. from the OCU School of Law in 1983. He worked as a police officer for the Berkeley Police Department in California and attended the FBI Academy. Mr. Volz served as a special agent for the FBI. He was also a firearms instructor and co-leader of the SWAT team. He worked as an attorney for the Department of Public Safety, assistant district attorney and, finally, special judge. Memorial contributions may be made to the Wounded Warrior Project.

EDITORIAL CALENDAR

2023 ISSUES

AUGUST

Ethics & Professional Responsibility
 Editor: Melissa DeLacerda
 melissde@aol.com

NOVEMBER

Agricultural Law
 Editor: David Youngblood
 david@youngbloodatoka.com

SEPTEMBER

Corporate Law
 Editor: Jason Hartwig
 jhartwig@tisdalohara.com

DECEMBER

Family Law
 Editor: Sheila Southard
 SheilaSouthard@bbsm.com

OCTOBER

Access to Justice
 Editor: Evan Taylor
 tay11256@gmail.com

2024 ISSUES

JANUARY

Litigation & Trial Practice
 Editor: Roy Tucker
 roy.tucker@oscn.net

AUGUST

Real Property
 Editor: David Youngblood
 david@youngbloodatoka.com

FEBRUARY

Bankruptcy
 Editor: Melanie Wilson Rughani
 melanie.rughani@crowedunlevy.com

SEPTEMBER

Women in Law
 Editor: Jana Knott
 jana@basslaw.net

MARCH

Estate Planning
 Editor: Evan Taylor
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OCTOBER

Aviation Law
 Editor: Melanie Wilson Rughani
 melanie.rughani@crowedunlevy.com

APRIL

Indian Law
 Editor: Sheila Southard
 SheilaSouthard@bbsmlaw.com

NOVEMBER

Military & Veterans
 Editor: Roy Tucker
 roy.tucker@oscn.net

MAY

Natural Resources Law
 Editor: Jason Hartwig
 jhartwig@tisdalohara.com

DECEMBER

Ethics & Professional Responsibility
 Editor: Melissa DeLacerda
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If you would like to write an article on these topics, contact the editor.

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OFFICE SPACE FOR RENT IN OKLAHOMA CITY one block north of federal courthouse. Includes conference room, internet, receptionist and parking. For more information, please call 405-239-2726.

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OFFICE SPACE – OKC. Up to three offices plus secretarial area, with four established attorneys, Kelley and Britton. Parking, receptionist, phone, internet with WiFi, copier, conference room, security system, referrals possible. Contact Steve Dickey (405) 848-1775.

OFFICE SPACE FOR LEASE IN NW OKLAHOMA CITY. Adler Markoff & Associates, 25 year personal injury and criminal firm in the Rees Building on Lake Hefner has space available. Includes use of reception area, receptionist, copiers, phones and beautiful conference room. Also would include possible referrals of P.I., Estate Planning, Family Law and other areas. Please call Cathy: 405-607-8757.

FULLY FURNISHED, UTILITIES INCLUDED, QUIET OFFICES FOR RENT. Includes two individual offices, full kitchen, large conference room, tons of parking, handicap accessible, and approximately 2,000 sq. ft. MOL. Located at 5801 NW 36 St., Warr Acres. The owner uses half the space as a business brokerage office. Call 405-946-9032 ext. 1. Available immediately, month-to-month lease. Priced at \$550 per month FOR EVERYTHING.

POSITIONS AVAILABLE

Special Assets Officer

MidFirst Bank, one of the largest privately held financial institutions in the United States, is currently seeking a results-oriented professional to join our CRE Special Assets team. The Special Assets Officer opportunity requires direct contact with borrowers having financial problems, or other issues, which may contribute to a breach of performance with existing terms. Candidate should possess an ability to develop and implement a plan of action to protect and improve the Bank's position through negotiating satisfactory repayment plans, obtaining additional collateral, restructuring terms or the liquidation of pledged assets and/or placement of receivers, if appropriate. Included in this process is a thorough review of existing loan documents and evaluating the borrower's financial strength and ability to repay the outstanding debt.

Seeking a candidate with a Juris Doctorate degree, with an underlying Bachelor's Degree in business, accounting or finance. Candidate should have at least 5 years commercial lending experience, or related experience managing commercial special assets, loan collections and workouts. Loan types include commercial real estate, investment real estate, asset-based loans, and construction loans. Candidate should possess a working knowledge of commercial credits, financial statement analysis, loan documentation, bankruptcy and related legal issues with an ability to formulate objective views based on knowledge and experience. Requires working with internal and external legal counsel to formulate the best administration of assigned loans.

If you are interested and would like to learn more about this position, please visit our website to complete an online application:

www.midfirst.jobs

Equal Opportunity Employer – M/F/Disability/Vets

POSITIONS AVAILABLE

ESTABLISHED SMALL DOWNTOWN TULSA LAW FIRM within walking distance of state and federal courthouses seeks an attorney for office sharing arrangement. Interested individuals should send a resume to advertising@okbar.org with the subject line "Position DG."

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.

MAPLES, NIX & DIESELHORST IS SEEKING AN ASSOCIATE ATTORNEY for our client-centered civil law practice. This is a full-time position and a great opportunity for a licensed attorney. Will train the right candidate. You must be admitted to practice law in the state of Oklahoma. Associate will be responsible for coordinating and organizing written discovery in multiple cases. This will include drafting requests, reviewing and outlining incoming responses, reviewing and indexing document production, drafting deficiency letters and meeting and conferring with opposing counsel on disputes among many other tasks. Please email resumes to cherri@mndlawfirm.com. Please send salary expectations.

STATEWIDE LAW FIRM WITH OFFICES IN TULSA AND OKLAHOMA CITY is seeking attorneys for both offices with 3+ years of experience in litigation. Compensation DOE. Excellent benefits, support, and atmosphere to develop your practice. Submit confidential resume, references, writing sample and compensation requirements to OklaLawFirm@gmail.com.

ENID, OKLAHOMA LAW FIRM LOOKING FOR AN ATTORNEY WITH AN ACCOUNTING BACKGROUND who is detailed and a self-starter. Experience in estate planning and commercial law a plus. Applicants must have excellent research skills, analytical thinking skills, and writing skills. Salary compensable with experience. Send resume to Riffel, Riffel & Benham, PLLC, Attn: Nancy Chastain, 3517 W. Owen K. Garriott, Suite One, Enid, OK 736703 or email to nchastain@westoklaw.com.

POSITIONS AVAILABLE

AV RATED INSURANCE DEFENSE/CIVIL LITIGATION seeks sharp, self-motivated associate attorneys with 2-5 years of experience in civil litigation. Openings in both Tulsa and Oklahoma City offices. Candidates should be organized, detail oriented, have strong research and writing skills and able to handle cases from start to finish. Firm believes in strength through diversity and inclusion and therefore encourages all to apply. Excellent career opportunity for the right applicants. Send replies to timcain@swbell.net.

EXPERIENCED PARALEGAL. FULL OR PART TIME: Tulsa firm seeking a paralegal. Experience in Workers' comp required. The job requires a self-motivated self-starter who can work independently, communicate confidently, and be relied upon to get the job done with minimal direction. Salary will be commensurate with experience. Please submit a resume and compensation requirements to: advertising@okbar.org with the subject line "Position JA."

LEGAL AID SERVICES OF OKLAHOMA, INC (LASO) is urgently seeking PARALEGALS and ATTORNEYS in the OKC and Tulsa areas. You'll be a great fit if you're passionate about ensuring access to justice for all Oklahomans. LASO offers you exceptional benefits that include employer-paid health and dental insurance, an employer-funded pension, generous paid leave, and training, just to name a few. But the very best benefit we can offer you is the chance to make a difference by joining our mission.

REQUIRED SKILLS: • Provide high-quality legal assistance to eligible clients on matters pertaining to their situations and civil matters. • Strong interpersonal skills: able to work well with a wide range of people. • Legal research skills. • Ability to prepare for and present evidence at trial. • Strong organizational and time management skills. • Able and willing to continue professional development. • Proficiency in PC applications.

REQUIRED EXPERIENCE: Knowledge of and expertise of the law and legal system regarding civil legal issues.

If you are interested in a rewarding career working to provide equal access to justice for all, you are encouraged to apply. Please contact or send your resume to Michael Figgins at Michael.Figgins@LAOK.org.

POSITIONS AVAILABLE

MULLICAN & HART, P.C. IS SEEKING A LITIGATION ATTORNEY with at least two years of experience for its growing downtown Tulsa practice. The ideal candidate will have excellent writing skills, solid communication skills, and be able to flourish in a fast-paced environment. Experience in transportation law or insurance defense is a plus, but is not required. The compensation package is commensurate with experience and qualifications. The firm provides an outstanding benefit package including health insurance, life insurance, and a 401K with profit sharing opportunities. Please submit a confidential cover letter and resume to office@mullicanhart.com.

TRIAL FIRM WITH AN ACTIVE CIVIL PRACTICE and explosive growth opportunities is seeking a licensed attorney to work a wide array of interesting defense files, plus some exciting and higher-profile plaintiff cases. No experience necessary, as the firm is committed to mentoring and investing the time and effort necessary to groom the right candidate. Candidates must be self-starters and creative thinkers who possess a strong and prideful work ethic. Firm benefits include a laptop, cell phone, professional autonomy, gym/yoga membership, competitive salary, incentive bonuses, insurance (health/dental), 401k with a profit share component, firm game room (e.g., billiards, shuffleboard), and more. A hybrid work from home schedule is made possible via the firm's online portal and paperless files. Please forward resume with salary expectations, reference list, and writing sample to blake@rkclaw.com. Confidentiality guaranteed. To learn more about the firm, visit our website at www.rkclaw.com.

WORKERS COMPENSATION ATTORNEY. Tulsa firm seeking a licensed attorney. Past litigation or Workers' comp experience would be a bonus but not required. Applicant must quickly become proficient in all aspects of Oklahoma Workers' Compensation law. The position involves all aspects of discovery, claim analysis, court appearances, depositions, and report writing. The job requires a self-motivated self-starter who can work independently, communicate confidently, and be relied upon to get the job done with minimal direction. This job is intended for the person looking for a long-term opportunity. Salary will be commensurate with experience. Please submit a resume, cover letter, references, and compensation requirements to advertising@okbar.org with the subject line "Position LB."

POSITIONS AVAILABLE

DEPUTY GENERAL COUNSEL

The Teachers' Retirement System of Oklahoma is seeking to fill the position of Deputy General Counsel. This is a full-time position in State Government and is eligible for a generous benefits package. Benefits include medical, dental, life and disability insurance products as well as a defined benefit retirement plan (pension), a deferred compensation plan, and pay for performance incentives. Employees earn 3 weeks of paid annual leave and 3 weeks of paid sick leave in the first year as well as enjoy 11 paid holidays and longevity pay.

Juris Doctorate degree, admission and in good standing with the Oklahoma Bar, and minimum of seven (7) years of law practice required. Prior legal experience is preferred in one or more of the following entities: state government, public pension, public trust, or similar type entity. Strong background in employment law, family law, probate, and the legislative process is preferred.

To apply, go to State of Oklahoma Careers (myworkdayjobs.com) and search for announcement JR13380. Applications must include a resume, cover letter, writing sample, and three professional references not related to the candidate. **Only applications submitted in accordance with these procedures will be considered.**

MCDANIEL ACORD, PLLC IS RECRUITING A LITIGATION ASSOCIATE ATTORNEY for the firm's Edmond office to assist our clients in civil litigation within a strong team setting that focuses on client service and maximizing outcomes. Our practice includes challenging procedural and technical issues, and the successful candidate will possess strong analytical and advocacy skills. We use the latest technology to maximize efficiency. Our Firm provides excellent benefits and rewards performance. We are looking for the right attorney to join our team who will take pride in the service we deliver and fit within our family-oriented, friendly, and low-key firm environment. Candidates should have 2 to 5 years litigation experience that reflects skill in legal research, drafting memoranda, briefs and discovery, taking depositions, managing document production, and oral argument. Candidates should submit a recent writing sample and CV to smcdaniel@ok-counsel.com.

POSITIONS AVAILABLE

THE OKLAHOMA COUNTY PUBLIC DEFENDER OFFICE is now taking applications for experienced trial litigators. Mail or hand deliver resume and cover letter detailing trial experience to Donna Law, Office Manager, Public Defender of Oklahoma County, 320 Robert S. Kerr Ave., Room 611, Oklahoma City, OK 73102 or by email to donna.law@oscn.net.

GROWING AV-RATED EDMOND, OKLAHOMA LAW FIRM IN NEED OF ATTORNEYS. Roberson, Kolker, Cooper, P.C. is seeking associates with 1 to 3 years of civil litigation experience, preferably insurance defense. Strong research and writing skills are a must. Applicant is required to attend hearings, depositions, and mediations. Best benefits in town. Salary and bonuses commensurate with experience. Applicants with rural backgrounds are encouraged to apply. Send resume and writing sample to blake@rkclaw.com.

POSITIONS AVAILABLE

OKLAHOMA INDIGENT DEFENSE SEEKING ATTORNEYS

The Oklahoma Indigent Defense System (OIDS) is seeking applicants for Attorney (Defense Counsel) positions in our Non-Capital Trial Division satellite offices. OIDS employs Defense Counsel in each of our nine NCT satellite offices: Altus, Clinton, Enid, Guymon, Lawton, Norman, Okmulgee, Sapulpa, and Woodward.

Defense Counsel provide clients with competent legal advice and zealous advocacy at every phase of the criminal trial process, while representing indigent individuals in state court at the trial level in felony, misdemeanor, juvenile delinquency, traffic and wildlife cases. Applicants should possess a Juris Doctorate degree, active membership, and good standing with the State Bar of Oklahoma, or eligibility for admission; OR should be scheduled to take the Oklahoma Bar Exam.

Salary for this position starts at \$66,900; commensurate with qualifications and agency salary schedule.

OIDS provides a comprehensive benefits package designed to support our employees and their dependents, including:

- Benefit allowance to help cover insurance premiums
- Health/Dental/Vision/Basic Life/Supplemental Life/Dependent Life/Disability insurance plans
- Flexible spending accounts
- 15 days of vacation and 15 days of sick leave (increases with years of service)
- 11 paid holidays
- Retirement Savings Plan with generous match
- Longevity Bonus for years of service

Applications must be submitted online. Visit www.oids.ok.gov or <https://bit.ly/3lsI70r> to view job announcements and apply online. This is an open, continuous announcement; application reviews will be conducted periodically until all positions are filled.



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Lawyering Up with Will Rogers

By Tom Hird

WILL ROGERS' MOST famous saying is, "I never met a man I didn't like." I can hear someone say, "Yes, but Will Rogers never worked in the legal profession." It is true – his father was a Cherokee attorney and judge, but Will did not follow in his father's footsteps. I submit to you, however, that even if he had, he still

would have been able to say that he never met anyone he didn't like. One reason why is the experience and wisdom he acquired from his Cherokee heritage while growing up in Indian Territory.

Another reason is his gentle, aw-shucks humility. For example, when he said, "Everybody is ignorant, only on different subjects," or, "I have never been a non-believer, but I can honestly tell you I don't think that any *one* religion is *the* religion," he invoked a humility and lack of certitude we would all do well to model. Certitude where certitude is unwarranted runs rampant these days, both in and outside legal circles. We are the ones who are ignorant more often than we think. In this life, we all see through a glass, darkly.

If Will Rogers had been a lawyer, he would have exhibited humility rather than arrogance, and he would have tried to follow the golden rule in his dealings

with other lawyers, even the difficult ones. If you think about it, liking everyone you meet could even be considered an encapsulation of the radical principles of loving your enemies and treating others as you would like to be treated.

Will Rogers felt strongly about "I never met a man I didn't like," even directing that it should go on his tombstone. Liking everyone you meet is about developing a strong sense of empathy, not just for some, but for all. While it undoubtedly would have been hard at times, Will Rogers would have found a way to like all the lawyers and litigants he dealt with, and I believe we can do it today. In the process, we can raise the level of legal discourse and the stature of the legal profession.

Mr. Hird practices in Oklahoma City.



Courtesy Oklahoma Historical Society.

HAVE YOU MISSED THESE 2023 PROGRAMS?

NOW
AVAILABLE
IN OUR
ON-DEMAND
CATALOG

2023 OBA LEGISLATIVE KICKOFF

Original Program Date: Jan. 27, 2023 - MCLE 3/0

2023 CANNABIS LEGISLATION REVIEW

This program will provide a summary overview of the newly proposed cannabis legislation presented by the First Regular session of the 59th Oklahoma Legislature.

Original Program Date: Feb. 7, 2023 - MCLE 1/0

ETHICAL PITFALLS LAWYERS SHOULD AVOID ON SOCIAL MEDIA

What are three ethical pitfalls attorneys should be mindful of regarding their social media presence? What are three ethical pitfalls attorneys need to be mindful of regarding their client's social media presence? What are the ethical issues with online reviews?

Original Program Date: March 16, 2023 - MCLE 2 Hours of Ethics

2023 OBA DAY AT THE CAPITOL

Original Program Date: March 21, 2023 - MCLE 1.5/0

A.I. IN HEALTHCARE: REVOLUTIONARY OR RISKY?

At the conclusion of this program, participants should be able to: Describe the drivers and barriers to using artificial intelligence (A.I.) in healthcare; Understand the current role of A.I. in healthcare and potential future roles; Describe potential risks to patients and providers related to A.I.; and much more.

Original Program Date: March 30, 2023 - MCLE 1 Hour of Ethics

THE CINDERELLA CONUNDRUM: THE EVIL STEPPARENT AND WORTHLESS STEPCHILDREN IN ESTATE PLANNING AND SETTLEMENT

Problems between stepchildren and stepparents are as old as the ages. That's why so many fairy tales feature an evil stepmother or stepfather and why it is not uncommon for stepparents to consider their stepchildren worthless.

Original Program Date: March 31, 2023 - MCLE 2/1

CHATGPT: LAWYERS' FRIEND OR FOE?

In this program, you will learn about what ChatGPT is capable of doing, and in fact is already doing. You will also see examples of ChatGPT's drafting and editing abilities.

Original Program Date: May 8, 2023 - MCLE 1/0



Oklahoma Bar Association
★ AWARDS ★



★ Nominations due ★

June 30

Fifteen awards to choose from, including those for lawyers, nonlawyers, organizations and bar associations. All nominations and supporting materials must be received by the deadline.

www.okbar.org/awards

