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THE OKLAHOMA BAR Journal

Volume 94 — No. 9 — November 2023



Family Law

THURSDAY & FRIDAY,
DEC. 14 & 15, 2023

9 a.m. - 3:40 p.m.
Oklahoma Bar Center, OKC

Live Webcast Available

MCLE 6/1 - DAY ONE
MCLE 6/1 - DAY TWO



38TH ANNUAL ADVANCED BANKRUPTCY SEMINAR

Co-sponsored by the OBA Bankruptcy and Reorganization Section

DAY ONE:

Case Update aka the Chuck and Brandon Show

Charles Greenough, McAfee Taft, Tulsa

Brandon Bickle, Gable Gotwals, Tulsa

The Intersection of Federal Energy Policy and the Bankruptcy Code

Robin Russell, Hunton Andrews Kurth, Houston, TX

Health Care Issues

January Bailey, Prella Eron & Bailey, PA, Wichita, KS

Patricia Hamilton, Topeka, KS

Bitcoin ATM and other related Debtor issues in Chapter 11

Brett A. Axelrod, Fox Rothschild, Las Vegas, NV

Ethical Considerations and Best Practices

UST Panel: Ilene Lashinsky, U.S. Trustee Region 20; Karen Walsh, AUST/NDO&EDO;

MJ Creasey, AUST/WDO

TBD, Professor Jack Williams, Georgia State University, Atlanta, GA

DAY TWO:

Chapter 13 Issues, Mary Beth Ausbrooks, Nashville, TN

Business Bankruptcy Issues, Salene Mazur-Kraemer, Pittsburg, PA

TBD, Hon. Terrence L. Michael, Chief Judge, NDO

Consumer Bankruptcy Issues, Panel: Jerry Brown, OKC; Clif Gooding, OKC; Titus Hillis, Tulsa

Bankruptcy Court Panel

Blaine Schwabe, Gable Gotwals, Moderator

The Honorable Paul R. Thomas, USBC Eastern

The Honorable Terrence L. Michael, USBC, Northern

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THE OKLAHOMA BAR Journal

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Editor: Sheila Southard

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Our Way to Thank Veterans for Their Service

By Brian Hermanson

NOV. 11 IS THE DAY WE CELEBRATE VETERANS Day in the United States. Not a day should go by that we forget the incredible sacrifices members of our military have endured to protect our freedoms. Each one of us needs to take every opportunity to thank them for their service. However, it appears that just thanking these outstanding individuals does little to help them with some of the suffering they face.

Those veterans who did so much for us often find great difficulty, both while in the service and in the years that follow. Low pay and benefits, along with both physical and mental challenges, leave many of our finest homeless or without sufficient funding to provide for their needs. One should ask themselves, "What can I do to help these people who have done so much for me?"

Well, there is much we can do as a bar association to help these heroes. The Oklahoma Lawyers for America's

Heroes Program was launched on Veterans Day in 2010. It was designed to provide assistance and legal advice to those who have honorably served our country and are unable to hire an attorney. The program provides qualifying veterans with lawyers to get the legal assistance they so desperately need. For the past 13 years, this program has been providing attorneys who were willing to go that extra mile for those individuals who have done so much for each of us.

But there is a problem. Lawyers have not been signing up to volunteer their time. The needs of veterans are going unanswered because not enough of us have been stepping forward to help. These people who suffered so much to help us can't get lawyers to help them.



A handwritten signature in black ink, appearing to read "B. Hermanson".

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For more information and to volunteer for the Oklahoma Lawyer's for America's Heroes Program, visit www.okbarheroes.org.

I know that lawyers volunteer every day to provide help to all types of worthy causes. I believe lawyers, as a group, are the best volunteer force in the state. So why do we have this unmet need? Why don't we have a long list of people willing to come forward and accept these cases? I can only assume it is because many of us are unaware of the need that is out there. Many of us are so busy living our lives that we have missed the need of those who were willing to give everything to protect us.

Now you know. You know the need is there for you to raise your hand and agree to take a case every once in a while to help these veterans. You know the people who have protected our country now need us to help protect them.

(continued on page 43)

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Watch Where You Step: Military Retirements and the Survivor Benefit Plan

By Evan Taylor

MILITARY RETIREMENT OVERVIEW

A member of the United States military, upon completion of his or her required term of service, is entitled to draw retired pay. Federal law allows the states to treat “disposable retired or retainer pay either as property of the member or as property of the member and his spouse in accordance with the law of the jurisdiction of such court” under the Uniformed Services Former Spouses Protection Act.¹ Oklahoma has, in turn, squarely decided that military retired pay may be divided as marital property in a divorce action.²

When the division is handled in an offhand manner, such as stating in the decree that, “Wife is awarded her marital share of the Husband’s military retirement to be divided by Qualified Domestic Relations Order,” or something similar to this will create a lot of problems.³ This abbreviated approach pushes all the hard work off to the task of drafting a retirement division order, as the Defense Finance and Accounting Service (DFAS) will not divide the military retirement based on that language in the decree. In fact, such an approach is deficient in more ways than one and a poor way to handle the retired pay, which may start before the military member reaches 40 years

old. Nonetheless, this article will not seek to cover all issues in dividing a military pension but will instead focus on one invisible issue that is lurking out there. This is because although the DFAS will conspicuously refuse to send payment under a deficient retirement division order, the DFAS will not notify anyone that something very important remains uncompleted.

Military retirement pay is a pension and, more specifically, a defined benefit plan. This means that it provides a benefit beginning at a predefined retirement age according to a formula at least partly based on the years of service and the salary of the beneficiary. This benefit is then paid to the military member until

his or her death. After the member’s death, the DFAS will stop the member’s payments. It also means the former spouse’s payments will cease as well. The only way to prevent the cessation of payments is for the military member to elect a survivorship annuity. This annuity adds a monthly premium cost that is subtracted from the monthly pension payment. Unless required to maintain the benefit, the military member may not elect it, and thus, the hidden danger is the former spouse’s share of the military retirement will evaporate upon the member’s death. The military member might also be harmed by having a deduction for a benefit that was not properly elected.

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THE SURVIVOR BENEFIT PLAN

The U.S. military's survivorship annuity is known as the Survivor Benefit Plan (SBP), and it is associated with the member's military retired pay.⁴ The SBP was created in 1972 to provide for survivors of retired military personnel.⁵ Enrollment in the plan is automatic for military personnel who are entitled to retired pay unless he or she affirmatively opts out of the SBP.⁶ By default, benefits are paid to an eligible surviving spouse.⁷ If the service member predeceases the spouse or former spouse, then the survivor is eligible to receive 55% of the selected base amount (usually the full pension) for life.⁸ The cost of the monthly premium for SBP coverage is 6.5% for active-duty retirement.⁹ The percentage used to determine the premium is different for retired reservists and National Guard members.

MISSTEPS TO AVOID

One misstep is drafting an order that requires the member or the former spouse to pay the

premium for the SBP. Federal law requires that the SBP premium be deducted from the gross pay, so it is subtracted from the retired member's pay before the pension is divided.¹⁰ The federal government cannot change the premium allocation for the deduction from the total before arriving at the disposable retired pay.¹¹ Thus, no state court order can effectively direct the DFAS to withhold the premium from the former spouse's share or change the percentage of the division. Thus, no agreement or order should attempt to divide the cost of the premium unless there is another mechanism outside of the DFAS to affect the division between the parties.

Another misstep is that the SBP election was not made in time. A service member whose marriage ends after becoming eligible to participate in the SBP has "one year after the date of the decree of divorce, dissolution, or annulment" to "elect to provide an annuity to that former spouse."¹² A service member who elects to provide an annuity to a former spouse must,

at the time of making the election, provide a written statement, signed by the service member and the former spouse, stating whether the election is being made pursuant to the requirements of a court order or voluntary written agreement.¹³ The service member does so by submitting a DD Form 2656-1. The form requires that a certified copy of the relevant order be supplied with the form.

A further misstep is the former spouse's lawyer relying on the military member to make the election. If the service member does not submit the required form, then the former spouse can make a "deemed election." If a service member "is required ... to provide an annuity to a former spouse and ... fails or refused to make such an election," the service member's former spouse may cause the election to be "deemed" made by providing a "written request ... that such an election be deemed to have been made" and a "[c]opy of [a] court order or other office statement" requiring the annuity to be paid to the service member's former spouse.¹⁴ This form requires the former spouse to submit a copy of a court order that requires such election or incorporates a written agreement giving them coverage.¹⁵ The former spouse does this by submitting a DD Form 2656-10. For a former spouse to invoke this "deemed election," the military must "receive [] a request from the former spouse ... within one year of the date of the court order or filing involved."¹⁶ The former spouse's lawyer should affirmatively take on the responsibility to see that the proper forms are submitted to deem the election.

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ENSURING CORRECTNESS

If someone is wondering whether the SBP was properly elected, there is a way to verify whether the SBP is in effect and if it has been awarded to the right person. This begins with obtaining a copy of a document sent out by the DFAS. The bad news is that this document is sent to the retired member, not the former spouse.

Each month, a retired military member receives a Retiree Account Statement (RAS) from the DFAS. On this RAS, there is a section on the first page with five lines for each member participating in the SBP. In that section, there will be a line for "Type of Coverage" or "SBP Coverage Type." If it does not say "former spouse" under the Type of Coverage section, then someone needs to further inquire. The line may say "spouse only." The line might even have the former spouse's name listed. However, the absence of the proper designation of "former spouse" indicates that there is trouble. Of course, the former spouse or retired member may also contact the DFAS and request information regarding the status of the SBP benefit. The DFAS should confirm the status in a letter.

Now, let's assume that was not done. The first step necessary lies with the state court orders. The problem may be that language related to the SBP may not have been properly phrased in the divorce decree or in the retirement division order. This will prevent the former spouse from making the "deemed" election. Worse yet, there is also a chance it was not included at all, such as in the off-hand provision about the former spouse "being awarded his or her marital share." But even if the SBP is mentioned, it is not sufficient

to have language that says, "The former spouse may elect ..." or "The Air Force will provide ..." or something similar. The language must not be conditional. Instead, the language must clearly impose a duty on the military member to make the former spouse election. It is this affirmative duty that allows the former spouse to file for a "deemed" election as described above. If there is a lack of sufficient language or it is absent altogether, then the former spouse's lawyer should begin problem-solving how to correct the underlying state court orders.

Oklahoma law restrains what can be done to change a faulty military retirement division. A final property division order is not subject to modification at a later date, except by those laws applying to vacating judgments.¹⁷ This is an issue of subject matter jurisdiction, and therefore, it cannot be waived or conferred by agreement of the parties.¹⁸ The retirement division order is a mechanism by which a divorce decree awards the retirement benefits.¹⁹

The trial court's authority is constrained to conform the retirement division order to the underlying divorce decree and is not allowed to modify the property division order.²⁰ If the underlying orders do not mention the SBP, then there may be no recourse for addressing it now. If the underlying orders address it but the language is not sufficient to obtain the deemed election, then it will have to be changed. The movant is likely to attempt to ask the court to "construe" the decree and stretch that to the very edge of actual modification.²¹

CORRECTING AN IMPROPER ELECTION

Now, there might be benefits to the military members if the SBP election was not properly made. If the service member remarries, he or she can elect coverage for the new spouse under various conditions. A service member can elect to cover his or her spouse should he or she remarry, but such an election must be made within one year after the date that person marries.²² However, if the service member already has coverage for a former spouse, then he or she can change coverage to his or her current spouse without regard to the aforementioned time limitation unless he or she is prevented from doing so.²³ The service member would be prevented from changing the coverage if he or she was required by a court order or written agreement to provide the former spouse coverage unless:

- 1) He or she can provide a certified court order that modifies the provisions of all previous court orders, which permits them to change the election; or
- 2) In the case of a written agreement, he or she submits a statement signed by the former spouse evidencing their agreement to change the election.²⁴

Thus, if there is no requirement for former spouse coverage, then the service member can use Form DD-2656-6 to request that his or her new spouse be covered by the SBP. The SBP cannot be split between former spouses and current spouses – it belongs to one or the other.²⁵

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The SBP is something that can make a big difference in the former spouse's finances after the military member passes away.

The danger for the military member is that he or she could have been paying the SBP premium for years without the benefit going to anyone. The retired member may have to seek an adjustment from the DFAS to refund the SBP premium. This has consequences because SBP premiums are taken off the top. Once the premium is removed, then the retired member's disposable pay will increase. This will affect awards to former spouses based on a percentage. The refund of the SBP premium will result in a recalculation of the percentage owed to the former spouse and will likely result in an underpayment, which the DFAS will turn around and collect from the military member out of his or her future benefits. The military member needs to be careful of this danger zone as well.

Let's say there has been a misstep or two, and the DFAS is refusing to process the order or finds that due to some deficiency, the election was not properly made. In this case, a service member or former spouse who is dissatisfied with the decision can petition the Board of Correction of Military Records for the relevant branch to remedy the problem.²⁶ However, "no correction may be

made ... unless the claimant ... or the Secretary concerned files a request for correction within three years after discovery of the error or injustice."²⁷ This is a federal administrative proceeding that offers an outlet for disagreements with actions taken by the military branch concerned. The process is begun by filing an Application for Correction of Military Record using Form DD-149. Each branch has its own process. For example, the Air Force provides an online portal to begin its process.²⁸ It is suggested that if one is not familiar with this process, he or she contact someone who has experience with the same to ensure the best outcomes.

CONCLUSION

In short, one should be aware of the problem. The SBP is something that can make a big difference in the former spouse's finances after the military member passes away. As the former spouse's lawyer, it is important to see that he or she gets the benefit he or she has been awarded as a part of their divorce. As the military member's lawyer, it is important to see that he or she is not paying for a benefit he or she has not been required to elect.

ABOUT THE AUTHOR



Evan Taylor is a family and divorce lawyer, as well as a dedicated chicken keeper, located in Norman.

ENDNOTES

1. 10 U.S.C. §1408 *et seq.*
2. *Stokes v. Stokes*, 1987 OK 56, 738 P.2d 1346; *Rookard v. Rookard*, 1987 OK 87, 743 P.2d 1083.
3. There is so much wrong with this sentence that it could be the subject of multiple articles.
4. 10 U.S.C. §1447-1455.
5. Pub.L. No. 92-425, 86 Stat. 706 (1972).
6. 10 U.S.C. §1448(a)(1)(A), (a)(2)(A).
7. 10 U.S.C. §1450(a).
8. 10 U.S.C. §1451(a)(1)(A).
9. DoDI 1332.42.
10. 10 U.S.C. §1408(a)(4).
11. *Id.*
12. 10 U.S.C. §1448(b)(3)(A).
13. See 10 U.S.C. §1448(b)(5).
14. 10 U.S.C. §1450(f)(3)(C).
15. 10 U.S.C. §1450(f)(3)(A)(ii).
16. 10 U.S.C. §1450(f)(3)(C).
17. *Jones v. Jones*, 1968 OK 84, 442 P.2d 319.
18. *Shaffer v. Jeffery*, 1996 OK 47, ¶7, 915 P.2d 910.
19. *Troxell v. Troxell*, 2001 OK CIV APP 96, ¶15, 28 P.3d 1169.
20. *Id.*
21. *Tate v. Tate*, 1996 OK 17, ¶13, 912 P.2d 320, 322 (citing *Cartwright v. Atlas Chemical Industries*, 1981 OK 4, ¶8, 623 P.2d 606, 610 (footnotes omitted)). More simply put, "modification" is an alteration in the terms of the adjudicated obligation." *Cartwright*, 1981 OK 4, ¶8, 623 P.2d at 610. A party may seek "clarification" of an order, especially if it relates to the adjudication of a controversy. However, a party cannot seek clarification without the order being unclear. In fact, the court has both the duty and the power to construe and correct its judgments. *Mills v. Mills*, 1992 OK CIV APP 136, 841 P.2d 624; *Nelson v. Nelson*, 2003 OK CIV APP 105, 83 P.3d 889. However, the court may not change substantive provisions of the decree in a proceeding to construe the decree. *Titsworth v. Titsworth*, 1952 OK 184, 244 P.2d 295.
22. 10 U.S.C. §1448(a)(5)(B).
23. 10 U.S.C. §1450(f)(1)(C).
24. 10 U.S.C. §1450(f)(2)(A & B).
25. 10 U.S.C. §1448(b)(2)(B).
26. See 10 U.S.C. §1552.
27. 10 U.S.C. §1552(b).
28. <https://afmra-portal.cce.af.mil>.

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Reunification Therapy: A Mechanism for Managing the Chaos

By J. Parker Kempf and Britane D. Outlaw

FAMILY THERAPY CAN HELP IN FAMILY LAW

Courts dealing with custody disputes, family breakups, divorce and legal separations know the damage caused by these highly stressful situations, particularly the damage caused to children. While attorneys advocate for their clients and judges make difficult decisions, there is room for family therapy to improve outcomes for families and children. When done correctly and with willing parties, family therapy can be initiated in the interim to provide coping skills to survive the current challenges while also providing navigation toward a brighter future with healthy bonds and less animosity. The primary goals of family therapy during family transitions, such as court proceedings, are to mitigate long-term emotional and behavioral challenges for all parties, improve future and family relationships and improve coping with the changing family dynamics. Having a neutral third party to partner with and advocate for all parties in the situation will lessen overall stress and fear while improving the likelihood of success.

Family court systems have embraced mental health care in many forms to enhance positive outcomes for litigants. Among the most preferred and commonly used tools by family court systems are referrals for varying forms of family therapy.¹ Family therapy can take many forms in divorce and custody cases and can have many goals including but not limited to improving co-parenting interactions, fostering healthy adjustments to the changing family and reintegrating or reunifying a child with an estranged parent.²

PARENTAL DYNAMICS WARRANTING REUNIFICATION THERAPY

Successful reunification therapy referrals require courts to first recognize the dangerous dynamics taking place between the two parents or between the parents and children. While no custody or divorce case will be without tension and anger, the most emotionally charged family court cases may result in what is known as the “resist/refuse” dynamic. This dynamic comes in various

forms and severities. The resist/refuse dynamic results in the child or children declining any relationship with one of the two parents.³ The resist/refuse dynamic can be divided into two originating causes: intentional parental alienation or a natural devolution from the resisted parent’s behaviors.⁴ Intentional alienation refers to when the primary parent involved in parental alienation often engages in insulting the alienated parent, purposefully gaslighting the child about their experiences with the

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opposing parent and intentional barriers placed between the estranged parent and the child. Incidental resist/refuse dynamics occur when the estranged parent's behavior has had a negative impact on the child, such as behaviors from untreated mental illness or substance abuse disorders.⁵ Often, we see incidental estrangement occur when parents have previously had negative impacts on the child while under the influence, through exposure to unsafe situations or neglect or due to erratic behavior through the course of mental illness. When a court has identified a resist/refuse dynamic, they should consider a referral for what's known as reunification therapy.⁶

SETTING THE STAGE FOR SUCCESS

Courts should take special care when referring families for reunification therapy. Referrals should be highly specific regarding the goals of therapy, the desired length of therapy, the involved parties and the therapist's roles and responsibilities. Therapists engaged in reunification therapy hold a unique role that they do not often face in other circumstances. They are expected to find the root of the relationship issues and treat the relationship issues, while also reporting back to the court with their findings and recommendations.⁷ Additionally, therapists are typically given a distinct responsibility to communicate

with judges, guardians *ad litem*, individual therapists working with the family and each party's counsel. Topics of communication include session attendance, progress, regression, barriers to the family's success, concerns for the children's welfare and recommendations or opinions on the custody situation. Satisfying these expectations requires clearly defined written court orders. To be clear, the Oklahoma Board of Behavioral Health requires that clinicians who are treating an individual may only provide fact witness testimony unless required by law or court order.⁸ Courts can clear up this issue from the beginning by including language in their orders directing the chosen therapist to

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provide opinions and recommendations through their course of treatment.⁹ From there, therapists will provide families with the appropriate documents to consent to treatment, release necessary information to the courts and each other and inform them of the clinician's unique role. Combining concise and clear court orders with proper internal documentation ensures courts and families are best served by the unique reunification therapy process.¹⁰

A CASE FOR REUNIFICATION THERAPY

Understanding the basis of reunification therapy will ensure appropriate referrals for well-suited families. According to Faust, “[Reunification] is most often conceptualized as a process wherein a child reconnects and rejoins their family of origin.”¹¹ Thus, in situations where alienation is present, a family therapist can provide substantial aid by facilitating the beginnings of a new connection for family members.

THE CONTENTS OF REUNIFICATION THERAPY

Reunification therapy is a tapestry woven together of various techniques designed to address the family's cognitive and emotional needs.¹² A therapist will interview each member of the family, assessing their attachment styles, awareness of the changing family structure and communication capabilities. These considerations will guide the creation of the family's treatment plan and prognosis in reunification therapy, ultimately creating a framework for success.

Prior to addressing familial needs, care should first be paid to the communication abilities

each family member possesses to communicate needs. One would assume children would struggle most to communicate their experiences, which is true. Parents, however, also provide ample communication deficiencies that may limit connection with their child.

Once the strengths and weaknesses of the family members are assessed, therapists determine the attachment style of each family member. Attachment theorists suggest there are four major attachment styles across age groups:

- 1) Ambivalent (also called preoccupied) attachment is expressed in children as distress due to separation from a caregiver that is not alleviated when the parent returns. In adults, this attachment style is likely to manifest as a reluctance to become close with others, stress about being loved by their partner or substantial difficulty accepting relationship changes.¹³
- 2) Avoidant (also called dismissive) attachment is often seen as a child who does not seek comfort or contact from caregivers largely due to estrangement or neglect. Adults exhibit struggles with intimacy, show little to no emotion in social relationships and resist sharing thoughts or feelings with others.¹⁴
- 3) Disorganized (also called insecure) attachment is seen in childhood as a mixture of anxious and avoidant attachment styles. This often results in the parentification of a child, where the child takes on the role of the family's caregiver to meet

the parent's needs. Adults will display an inability to cope with a child's fear or distress, possibly becoming irritated and yelling at the child's distress.

- 4) Secure attachment is expressed in childhood as being able to separate from parents for short periods of time and seeking consolation from parents when frightened. Adults tend to display good self-esteem, share feelings with partners and friends and seek out social support.

By evaluating each member of the family against these four attachment styles, specific needs will become evident to a trained professional. For instance, the initial focus will be to ensure maximum comfort and security for the children within the new and changing family.

Once the child's basic needs are met, therapists will address the more complex attachment issues within the parents. For instance, if a parent struggles with an avoidant attachment, they will struggle to encourage the children to actively speak their feelings and know how to meet those voiced needs. Additionally, a child who exhibits disorganized attachment and has taken on the role of a parent will have a very difficult time experiencing a “normal” childhood going forward. They will have difficulty relinquishing leadership to their parents again or engaging in play/leisure activities.

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REINTEGRATION WITHIN THERAPY

In circumstances where substantial alienation has resulted in a complete and total separation between the child and parent, reunification therapy can offer those families a structured system to reintroduce the alienated parent. Through the course of treatment, parents and children establish new shared activities, healthy boundaries, improved communication and more meaningful bonds. The therapist can offer recommendations to the court on when to appropriately begin supervised visitation, monitored visitation and therapeutically supervised visitation based on explicit observations of the interaction between parent and child.¹⁵ The therapist offers written reports at every level of visitation with regards to the children and parent's reports as well as observations from within the session, thus giving the court more thorough information on when to increase the amount of contact between both parent and child. Therapists also provide recommendations for the individual treatment of each family member. This is especially true in situations of an organic resist/refuse dynamic due to pre-existing mental health disorders in parents – disorders such as personality disorders or substance abuse.¹⁶ Reunification therapy is most likely to succeed when parents willingly address these root issues outside of reunification therapy while addressing their parenting behaviors within reunification.

CO-PARENTING WITHIN THERAPY

Moving past the assessment and reintegration stages, special care and attention should be placed on



caregivers and their interactions. This stage of reunification therapy operates from the premise that you divorce a spouse but not a family. Co-parenting training works to help parents think of the child first. "Co-parenting training differs from family therapy or couples therapy because of a 'best interests of the child' perspective."¹⁷ Efforts should focus on communication styles and a hierarchy within the family so that both parents can depict a unified front in discipline, values and decision-making. While separation and divorce result in an array of problems for separating parties, the idea of cultivating an appropriate parenting style between both parents is essential. This ensures children have a firm structure, which benefits their self-esteem, sense of security and ability to learn and absorb new information as they grow. Research indicates that "co-parenting consists of four dimensions: cooperation, agreement of care and education of the children, conflict, and triangulation."¹⁸

- Cooperation: the creation of an agreed-upon communication style for all parties in the family unit to communicate with each other with respect.
- Agreement of care and education of the children: the level of agreement of adults in matters related to the children.
- Conflict: the degree of parenting sabotage by the other parent using guilt, criticism and belittlement.
- Triangulation: the development of coalitions between a member of the co-parenting team and the child, which puts the child at the center of interparental conflicts.¹⁹

Addressing each of the four components above provides an essential and often underserved part of reunification therapy. This is an effort by all parties to address hurt feelings and biases that will prevent the parents from

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Without a doubt, when it comes to families in litigation, improved outcomes occur when all parties feel heard, understood and fairly represented.

effectively communicating about the best care for their children. Additionally, in both the conflict and triangulation stages, it becomes essential that the parents find a way to communicate effectively with each other, preventing the children from usurping the balance of power between child and parent. The failure of parents to maintain a structural balance for their children can result in the children developing behaviors and beliefs that hinder their ability to attach well to others and impair their awareness of other's needs.

Additionally, parents will receive robust coaching and practice a decision-making process that includes practicing the "pause" or Purvis method to stop and consider the situation from the perspective of the child.²⁰ When used correctly, this will result in the child feeling heard and having a greater example of empathy. A further necessary feature of the counseling process is helping the parents look past their own injuries and not force the children to take sides. The antidote for this problem is the parents working to become partners with the children, ensuring their needs and concerns are being adequately addressed. Through this process, a new communication between

both parents is born and ensures that the "child first" thought process becomes the primary goal instead of a mere afterthought. Therapists achieve this by assisting parents in finding healthy outlets for both parents to express their frustrations appropriately and not with the children, establishing a functional means of communicating through electronic communication via text/email or co-parenting apps.²¹ This allows for a less confrontational way to relay information regarding upcoming events and requirements for the children and develops new communication styles for both parents to better assist the children in new changes or transitions between homes.

Successful reunification therapy results in a remodeled family dynamic. The adjustment recommended and made will create an open environment for the children to be heard by both caregivers, for parents to communicate effectively and for children to have strong and healthy bonds with each caregiver. Additionally, parents and children will end therapy with decision-making plans to assist in moments of impasse regarding parenting matters to avoid unnecessary returns to the courtroom for small disagreements.

The overarching goal of reunification therapy lies in the family learning to communicate needs and express feelings in a safe and respectful way. Needs left unsaid become exaggerated disagreements that result in resentment and hateful comments. Further, in younger children, this may foster resentment and confusion toward one or both parents that lasts into adulthood. Parents will receive training and practice in encouraging their children to speak their truth even when it's painful for a parent to hear. This selfless act by parents allows children to feel heard and understood and results in a greater likelihood of positive communication going into adulthood. Lastly, in successful reunification therapy, parents will equip their children to seek solutions even in complex and stressful situations.

THE CLOSING ARGUMENT

Reunification therapy is a highly targeted and surgical approach at the disposal of family courts, which can be tailored to each individual family. Cases involving severe alienation or organic resist/refuse dynamics can benefit from reunification therapy through a direct and concise order outlining the

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goals and roles of the referral. Difficult cases often show promise through the therapist's efforts to improve attachment, create trust and improve co-parenting relationships. Additionally, therapists serve as a point of contact for the guardian *ad litem* and the bilateral counsel of each party. Additionally, therapists are charged with the duty of educating the court on the specific case's dynamics and offering insight into the family's best interests through regular written reports and, when necessary, testimony. Without a doubt, when it comes to families in litigation, improved outcomes occur when all parties feel heard, understood and fairly represented.

ABOUT THE AUTHORS



J. Parker Kempf is a mental health practitioner in Oklahoma. He has worked as a therapist and a vocational rehabilitation counselor. Mr. Kempf operates the Navigation Resource Center LLC and holds certifications in trauma-related therapies to better assist children in identifying the traumas that drive behaviors difficult for parents to understand.



Britane D. Outlaw is a licensed professional counselor, certified rehabilitation counselor, certified life care planner and certified case manager. She serves as a clinical director and direct practitioner and is frequently called upon in litigation for consultation, life care plans, expert reviews and expert testimony.

ENDNOTES

1. E. Reiter and D. Pollak (2021). "Reunification Therapy: What's a Court and a Therapist to do?" *Texas Lawyer: Expert Opinion*, 1-4.
2. *Id.* P. 3.
3. *Id.* P. 2.
4. M. Walters and S. Friedlander (2016). "When a Child Rejects a Parent: Working With the Intractable Resist/Refuse Dynamic." *Family Court Review*, 54(3), 424-445.
5. *Id.* P. 428.
6. A referral for reunification therapy does not indicate that intentional alienation has occurred. Therapists and courts should take special care to avoid confirmation bias when determining the cause of resist/refuse dynamics.
7. E. Miskel, S. Fletcher, A. Robb and C. Bradshaw Schmidt (2016). "Reunification Therapy and Court Orders: Best Practices to Be on the Same Page." *12th Symposium on Child Custody Evaluations*. AFCC.
8. State Board of Behavioral Health Licensure. (Aug. 11, 2023). Licensed Professional Counselor Acts and Regulations. 86:10-3-2. *Competence*, pp. 5-6.
9. For therapists to maintain good standing with the Oklahoma Board of Behavioral Health, they must have explicit instructions from the court to fill the dual role of a treating clinician while offering opinions and recommendations.
10. Internal documentation by the therapist will include but is not limited to the following forms: releases of information, limits to confidentiality and patient rights and responsibilities.
11. Linsey M. Weiler, "Review of Reunification Family Therapy: A Treatment Manual." *Journal of Marital and Family Therapy*. October 2018. 44(4): 740-742.
12. Commonly used therapeutic methods for reunification therapy include but are not limited to integrative family systems, family systems therapy, solution-focused, client-centered, trust-based relational interventions and parent child interactive therapy.
13. K. Cherry, "The Different Types of Attachment Styles." *Verywellmind.com*. May 26, 2022.
14. *Id.*
15. Diana Friedman and Christy Bradshaw Schmidt. "A Systematic Approach to Reunification Therapy." 2014 Innovations—Breaking Boundaries in Custody Litigation. July 12-13, 2014. Dallas/Addison, Texas.
16. Therapists should take special care to identify underlying mental health disorders in parents and include that in their assessment of visitation appropriateness.
17. Jefferey Zimmerman, "Co-Parenting Counseling With High Conflict Divorced Parents: Challenges for Psychologists at All Levels of Experience." *Journal of Health Service Psychology*. (2019) 45, 66-71.
18. Diogo Lamela and Barbara Figueiredo. (2016) "Coparenting after marital dissolution and children's mental health: a systematic review." *Jornal De Pediatria*, Volume 92, Issue 4, Pages 331-342. Diego.
19. Triangulation is often a dynamic at play during parental alienation cases and causes significant barriers between the child and parent.

20. Karyn B. Purvis, David R. Cross, Donald F. Dansereau and Sheri R. Parris. "Trust-Based Relational Intervention (TBRI): A Systemic Approach to Complex Developmental Trauma." *Child Youth Serv.* October 2013; 34(4):360-386. doi: 10.1080/0145935X.2013.859906. PMID: 24453385; PMCID: PMC3877861.
21. Reunification therapists can serve as "observers" on parenting apps to better assist with real time communication coaching.

A Quick Summary of *Brackeen*: An Update on the Federal Indian Child Welfare Act

By Austin R. Vance



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THIS SUMMER, IN *HAALAND V. BRACKEEN*,¹ the U.S. Supreme Court affirmed the validity of the Indian Child Welfare Act (ICWA)² in a 7-2 opinion. More specifically, the court determined that neither the anti-commandeering doctrine nor a presumption that states handle domestic family matters invalidated the act, as the authority regulating Native Americans is squarely dedicated to Congress by the Constitution. However, the high court sidestepped the question of whether ICWA violates the equal protection clause or delegation powers of Congress due to a lack of standing among the parties.³ Although some claim “the equal protection issue remains undecided,”⁴ the *Brackeen* decision 1) explained the Constitutional authority for ICWA, 2) rejected the anti-commandeering arguments but 3) determined the equal protection and nondelegation questions were not raised by the appropriate parties at that time. Each part of *Brackeen* is addressed in turn:

1) THE SUPREME COURT AFFIRMS THE VALIDITY OF ICWA AND REJECTS THE STATE-DOMESTIC RELATIONS CARVE-OUT

The main theory of the petitioners (the folks opposing ICWA) suggested that ICWA infringes on state jurisdiction concerning family law,⁵ as domestic relations are traditionally state-governed. That argument, however, does not have textual support, as the Constitution does not create a special barrier around family law to be reserved to the states. To that point, prior rulings already recognized that

Congress can displace state court jurisdiction in adoption proceedings involving Indian children pursuant to the Indian commerce clause.⁶ Undeterred, the petitioners urged the Supreme Court to adopt an implicit limitation upon the Indian commerce clause, contending that it only permits legislation regarding Indian tribes as governmental entities, not as individuals, as it relates to trade or commerce – not family relations. This line of argument – that Indian children are not commodities – was deemed rhetorically compelling but legally irrelevant.⁷

Petitioners’ strategic error was framing their arguments as if the interpretation of the Indian commerce clause was starting from scratch. There have been 2 ½ centuries of the federal government being exclusively able to regulate relations with tribes, including among Indian families under the Indian commerce clause – ICWA itself has been in force for almost 50 years. Petitioners were, consequently, unable to present a theory to rationalize existing law or otherwise explain how ICWA exceeds Congress’s authority per the current precedent. Therefore, the argument to disturb the 5th Circuit’s

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conclusion that ICWA aligns with Article I was declined.

But, by raising this argument, the petitioners ironically pushed the court to clearly explain the constitutional foundation for ICWA. The majority opinion emphasized that the plenary power of Congress over Indian affairs, including its power to regulate commerce with the Indian tribes, gave it the constitutional foundation to pass ICWA. This power, in turn, justified ICWA's placement preferences, which prioritize the adoption of Indian children by Indian families or other Indian parties. While the court previously allowed ICWA to survive in *Holyfield* and *Baby Girl*,⁸ *Brackeen* offers an explanation as to how this court views the breadth and power of Congress over Indian affairs:

We have often sustained Indian legislation without specifying

the source of Congress's power, and we have insisted that Congress's power has limits without saying what they are. Yet petitioners' strategy for dealing with the confusion is not to offer a theory for rationalizing this body of law – that would at least give us something to work with. Instead, they frame their arguments as if the slate were clean. More than two centuries in, it is anything but. If there are arguments that ICWA exceeds Congress's authority as our precedent stands today, petitioners do not make them.⁹

2) THE U.S. SUPREME COURT REJECTS THE ANTI-COMMANDEERING CLAIM

Brackeen was initially decided in favor of the act by the U.S. 5th Circuit Court of Appeals.¹⁰ The circuit, however, undertook an *en banc* review¹¹ and reversed in part.¹²

Petitioners' Tenth Amendment arguments effectively succeeded across the board. The Fifth Circuit held that §1912(d)'s "active efforts" requirement, §1912(e)'s and §1912(f)'s expert witness requirements, and §1915(e)'s recordkeeping requirement unconstitutionally commandeer the States. *Ibid.* It divided evenly with respect to the other provisions that petitioners challenge here: §1912(a)'s notice requirement, §1915(a) and §1915(b)'s placement preferences, and §1951(a)'s recordkeeping requirement. *Ibid.* So the Fifth Circuit affirmed the District Court's holding that these requirements, too, violate the Tenth Amendment.

The anti-commandeering clause, consequently, became a focal point as the federal government cannot generally force state government employees or agents

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to fulfill federal policies. But Justice Barrett upheld the federal government's promise to protect Indian children as she broke down and rejected the anti-commandeering argument in three parts:

- 1) First, petitioners challenged the foundations of ICWA: "the requirements that an initiating party demonstrate 'active efforts' to keep the Indian family together; serve notice of the proceeding on the parent or Indian custodian and tribe; and demonstrate, by a heightened burden of proof and expert testimony, that the child is likely to suffer 'serious emotional or physical damage' if the parent or Indian custodian retains custody."
- 2) Second, "[t]hey claim that Congress can neither force state agencies to find preferred placements for Indian children nor require state courts to apply federal standards when making custody determinations."
- 3) "Third, they insist that Congress cannot force state courts to maintain or transmit to the Federal Government records of custody proceedings involving Indian children."¹³

The first argument failed because "active efforts," as required by ICWA, applies to "any party" to an involuntary proceeding, not only state agencies.¹⁴ Anti-commandeering does not apply when the rule being enforced is not directed against a sovereign but merely falls upon them coincidentally as a party to litigation. Petitioners argued that while the

rules were not directed to states, they were primarily aimed at state agencies or agents as involuntary proceedings to terminate parental rights were brought by the state. The court rejected this argument because under ICWA, nonstate parties, like prospective adoptive parents or family members, may also initiate involuntary proceedings in court. In fact, the last ICWA case before the Supreme Court, *Adoptive Couple v. Baby Girl*, 570 US 637 (2013), was an involuntary proceeding initiated by the prospective adoptive parents.

The second argument also lacked legs as the petitioners challenged the "diligent search" to find an appropriate home under ICWA.¹⁵ There, the court again noted that the requirement is not exclusive to states, making anti-commandeering inapplicable. Expanding on that theme, however, the court added that state judges who undertake jurisdiction over Indian children are bound by the supremacy clause regardless: "[W]hen Congress enacts a valid statute pursuant to its Article I powers, state law is naturally preempted to the extent of any conflict with a federal statute. End of story."¹⁶

The petitioners' final argument was to challenge the act's requirement that proceeding records be maintained and provided to the secretary of the Interior, pursuant to ICWA. The court, however, found that recordkeeping is ancillary (and thus permitted) to the underlying and valid law, and Congress has regularly required state courts to maintain certain records as needed.¹⁷ "[T]hey are a logical consequence of our system of 'dual sovereignty' in which state courts are required to apply federal law."¹⁸

Having taken the anti-commandeering clause to task, it is clear that ICWA operates under authority conferred to Congress by Article 1 of the Constitution – most specifically the Indian commerce clause, which applies to Indian affairs with individual tribal members – and state courts are required to comply when they undertake a legal proceeding with an Indian child involved. The fact that the state, like any party, has additional requirements imposed upon it is not an anti-commandeering violation. For those reasons, the clause is simply inapplicable.

3) EQUAL PROTECTION AND NONDELEGATION CHALLENGES LACK STANDING

In an important procedural decision, the court ruled that the petitioners lacked standing to challenge the equal protection and nondelegation aspects of ICWA. The majority found that both individuals and the state of Texas could not demonstrate a concrete injury that was directly traceable to ICWA and could be redressed by the requested relief. Petitioners' claims of unequal treatment in the adoption or fostering of Indian children were dismissed by the court, noting that they could not demonstrate that their alleged injury would be redressed by judicial relief. Alternatively stated, the state officials who enforced ICWA in the *Brackeen* case were not a party to the case argued to the Supreme Court. Furthermore, the court held that Texas did not have standing to challenge the placement preferences, as it does not possess equal protection rights nor can it assert such rights on behalf of its citizens.

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CONCLUSION

In conclusion, the Supreme Court's opinion affirmed Congress's authority to enact ICWA and reversed the Northern District of Texas order. This nuanced decision reinforces the long-established authority of Congress over Indian affairs while upholding the principle of state sovereignty. While the core provisions of ICWA remain intact, the ruling leaves room for reconsideration of how federal Indian law interacts with state autonomy and agency. The decision is a reminder of the intricate balance of power between federal, state and tribal authorities in the complex field of Indian law. On that day, Indian country won.

ABOUT THE AUTHOR



Austin R. Vance is an attorney at Whitten Burrage and past chair of the OBA Indian Law Section.

ENDNOTES

1. *Haaland v. Brackeen*, 599 U.S. 255, 143 S. Ct. 1609, 216 L.Ed 2d 254 (2023).
2. 25 U.S.C. §§1901 *et seq.*
3. See generally *id.*
4. *Id.* at 1661 (J. Kavanaugh, concurring).

The underlying opinion of the Northern District of Texas issued in *Brackeen v. Zinke*, 338 F. Supp. 3d 514 (N.D. Tex. 2018), attempted to revitalize the rightfully abandoned legal theory that tied Indian status to observable conduct and biological race, rather than Indian status being a political classification of citizenship. See Austin Vance, "For the Children: Indian Status is a Political Classification," *OBJ* vol. 91, no. 2, at 12 (February 2020), available at <https://bit.ly/46J4hxx>.

5. Technically, the secretary of the Interior is also styled as a petitioner, but the court references the Brackeen family and others as petitioners throughout the opinion. *Haaland v. Brackeen*, 599 U.S. 255, 143 S. Ct. 1609, 1616, 216 L. Ed. 2d 254 (2023) ("Petitioners—a birth mother, foster and adoptive parents, and the State of Texas—filed this suit in federal court against the United States and other federal parties.").

6. *Haaland v. Brackeen*, 143 S. Ct. 1609, 1630, 216 L. Ed. 2d 254 (2023) ("[T]he Constitution does not erect a firewall around family law. On the contrary, when Congress validly legislates pursuant to its Article I powers, we 'ha[ve] not hesitated' to find conflicting state family law preempted, '[n]otwithstanding the limited application of federal law in the field of domestic relations generally.' *Ridgway v. Ridgway*, 454 U.S. 46, 54, 102 S.Ct. 49, 70 L.Ed.2d 39 (1981) (federal law providing life insurance preempted state family-property law); see also *Hillman v. Maretta*, 569 U.S. 483, 491, 133 S.Ct. 1943, 186 L.Ed.2d 43 (2013) ("state laws 'governing the economic aspects of domestic relations ... must give way to clearly conflicting federal enactments' (alteration in original).") (also citing *Fisher v. District Court of Sixteenth Judicial Dist. of Mont.*, 424 U.S. 382, 390, 96 S.Ct. 943, 47 L.Ed.2d 106 (1976) (per curiam)).

7. Further arguments asserted that ICWA can't be sanctioned by principles inherent in the Constitution's structure, limiting them to matters of war and peace. Petitioners also pointed out that ICWA doesn't implement a federal treaty. The petitioners criticized precedents for being inconsistent with the Constitution's original meaning. However, they offered no account of how their argument integrates with established case law, nor did they discuss potential consequences of their position.

8. See generally *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 109 S. Ct. 1597, 104 L. Ed. 2d 29 (1989) and *Adoptive Couple v. Baby Girl*, 570 U.S. 637, 133 S. Ct. 2552, 186 L. Ed. 2d 729 (2013).

9. *Haaland v. Brackeen*, 143 S. Ct. 1609, 1631 (2023).

10. *Brackeen v. Bernhardt*, 937 F.3d 406 (5th Cir. 2019).

11. *Brackeen v. Haaland*, 994 F.3d 249 (5th Cir. 2021).

12. *Haaland v. Brackeen*, 143 S. Ct. 1609, 1627 (2023).

13. *Haaland v. Brackeen*, 143 S. Ct. 1609, 1631-32 (2023).

14. *Id.* at 1632.

15. *Id.* at 1633.

16. *Id.* at 1635.

17. *Id.* at 1636-37.

18. *Id.* at 1638.

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Advocating for Noncitizen Children in Oklahoma State Courts

Special Considerations for Family Law Practitioners

By *Elissa Stiles*

ELENA IS A 7-YEAR-OLD GIRL FROM MEXICO who was sent to the United States alone with a visitor visa at the age of 6.¹ Her father abandoned the family when she was just 3 months old, and her mother still lives in Mexico. Her mother made the excruciating decision to send Elena to the United States due to the crippling poverty and expanding violence in their hometown. Elena's grandparents, who are U.S. citizens, have taken her into their home in Oklahoma City and are her only family and caretakers here in the United States. Elena has no legal guardians or parents in this country, and at this point, her visitor visa has expired. Of course, Elena doesn't understand any of this, but her grandparents constantly worry about her future. What's a first grader to do in a foreign country with no parent by her side and no safe place to return?

Hope for Elena's future rests in part on the guardianship her grandparents are seeking and the specific language that will be included in that order. If their attorney includes the right language, Elena may gain not only a set of legal guardians but also a pathway to lawful immigration status and protection from being sent back to a country where she has no safe home.

SPECIAL IMMIGRANT JUVENILE STATUS

Recognizing the vulnerability of children like Elena, Congress created a new program in 1990

as part of the Immigration and Nationality Act.² Dubbing it Special Immigrant Juvenile Status or "SIJ," Congress crafted a pathway to lawful, permanent status for noncitizen minors who had been abandoned, abused or neglected. Evolving to meet the needs of the growing number of vulnerable minors in the United States, Special Immigrant Juvenile Status continues to provide a way for youth *under 21 years of age* to apply for lawful status when one or both of their parents has abused, neglected or abandoned them.³

In order to be eligible for SIJ status, a minor such as Elena must

have a prior order from a state juvenile court placing the child in the custody or care of an agency or individual. U.S. Citizenship and Immigration Services has clarified, "For purposes of SIJ classification, a juvenile court is defined as a U.S. court having jurisdiction under state law to make judicial determinations on the dependency and/or custody and care of juveniles. This means the court must have the authority to make determinations about dependency and/or custody and care of the petitioner as a juvenile under state law at the time the order was issued."⁴ In Oklahoma, such "juvenile courts" commonly

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include Oklahoma district courts determining guardianship, paternity, divorce, custody, foster care placement and adoption matters. In order to allow the minor to pursue SIJ status, the court's order must make an express finding that 1) the child cannot be reunified with one or both parents due to abuse, abandonment, neglect or a similar basis under state law and that 2) it is not in the child's best interest to return to their country of nationality or last residence.⁵

Some state judges may feel undue weight when presented with a proposal for such SIJ-specific findings in their courtroom, worrying that they are unreasonably being asked to grant lawful status to a noncitizen child. These judges need not worry: "Although state courts have the authority to provide certain protections for

children under state law, *they do not have the authority to administer or enforce provisions of the Immigration and Nationality Act (INA). Only USCIS [U.S. Citizenship and Immigration Services] can grant or deny SIJ classification or lawful permanent residence (a Green Card)*" (emphasis added).⁶ Further, the state court order is merely one of several requirements to obtain SIJ status. Special Immigrant Juvenile applicants must also present evidence of qualifying age, nationality and presence in the U.S., among other things. Even being granted SIJ does not confer any kind of permanent immigration status on a minor, as they must still, separately, proceed through the rigorous application process for lawful permanent residency, which involves criminal history checks and national security

screenings.⁷ Summarily, state court judges need not fear that SIJ language in an order, in any way, bestows immigrant status on the child in their courtroom. That child is many years and multiple screenings away from receiving any such status and only at the discretion and consent of USCIS.

Still, the state court order is an absolute *requirement* for a vulnerable noncitizen minor to be eligible to even apply for SIJ status. In Elena's situation, her only current option for applying for lawful immigration status is through SIJ, which means her guardianship order *must* contain the appropriate and required language. If that language is not included in the order, Elena is presently not eligible for any other application for lawful status, and she is vulnerable to being deported to Mexico, where

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she has no safe home to which she can return. As a result, family law practitioners should be familiar with the fairly basic SIJ language requirements and be prepared to include them in proposed orders involving noncitizen children who have been abused, abandoned or neglected by at least one parent. Many immigration practitioners, finding themselves overwhelmed with immigration cases or unfamiliar with family law practice, will refer clients to family law practitioners to obtain the paternity, guardianship or divorce decree needed to provide protection and care for the child and to obtain the judicial findings required to apply for SIJ and subsequently permanent residency.

EVALUATING CASES WITH NONCITIZEN CHILDREN

For family law practitioners meeting with parents, guardians or caretakers of noncitizen children, here are some practical steps for determining whether a minor client, or a minor under the care of a client, might benefit from the inclusion of SIJ-related language in a court's order:

- 1) Is the child living with only one parent or living with a nonparent?
- 2) Is there or has there been abuse, neglect or abandonment of the child by one or both parents?

Hint: This often looks like a parent abandoning the family before or after the child is born, physically or emotionally abusing the child or sending the child away to live elsewhere, sometimes on

a dangerous journey alone to the U.S.

- 3) Is reunification with both parents unrealistic or unsafe for the child?

If these questions are answered "yes," the practitioner can include a few sentences in the proposed paternity, divorce, guardianship or other order that will ensure the minor may apply for SIJ if they otherwise qualify and wish to do so.

REQUIRED ORDER LANGUAGE

For a state court order to meet the requirements for a minor to later pursue SIJ status, it must do the following:

- 1) Place the child as a dependent in the custody of a state agency/department or appoint an individual or entity upon which the child is dependent.

- 2) Make a finding that the child cannot be reunified with either one or both parents due to 1) abuse, 2) abandonment, 3) neglect OR 4) a similar basis under state law.
- 3) Make a finding that it is not in the child's best interest to return to their country of nationality or the last country of residence of the child or parents.⁸

By including a sentence for each of these required findings in the proposed judicial order, practitioners can advocate for their vulnerable minor clients in state court in a way that will allow those children to apply for the protection of lawful status in the U.S. down the road.

A brief note about the third finding requirement above: While in most cases the child's country of nationality and the last country

Family law practitioners have an important role to play in state courts by advocating for special findings for these vulnerable children who are in need of protection. With this in mind, practitioners all over the state can provide even greater hope for their young noncitizen clients.

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of residence of the child/parents are the same country, that is not always the case. In situations where the child is a citizen of one country but most recently lived in a separate country outside the U.S., or the child's parent(s) most recently lived in a separate country outside the U.S., the finding in the judicial order must specify that it is not the child's best interest to be returned *to any of those different countries*. The language in the order must specifically address every separate country.

Where practitioners have applicable cases with a paternity, divorce, guardianship or other order already entered, but the order does not include the SIJ-required language, that issue can be remedied. Practitioners can simply move to amend the existing order to add the required SIJ findings as long as the court maintains jurisdiction over the minor.

HOPE FOR ELENA AND OTHER NONCITIZEN CHILDREN

Elena's story has a happy ending. Thanks to her grandparents' attorney, the order appointing Elena's grandparents as her legal guardians included the necessary SIJ language, and she was able to apply for Special Immigrant Juvenile Status. Because she met all the requirements to be granted SIJ, she recently received an approval after a year-long wait and is now awaiting a decision on her application for permanent residency.

As Congress acknowledged in crafting this pathway to status for noncitizen children, Elena's situation is far from unique. Family law practitioners have an important role to play in state courts by advocating for special findings for these vulnerable children who are in need of protection. With this in mind, practitioners all over the state can provide even greater hope for their young noncitizen clients.

ABOUT THE AUTHOR



Elissa Stiles, supervising attorney at Rivas & Associates, serves as the vice chair of the OBA Immigration Law Section and chair of the Tulsa County Bar Association Immigration Section. She has focused her practice on immigration law since graduating from the TU College of Law in 2019.

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Addressing Custody With Gender-Expansive Children

By Kensey Wright

AS THE 2SLGBTQIA+ (TWO-SPIRIT, LESBIAN, GAY, BISEXUAL, TRANSGENDER, queer, intersex, asexual plus other self-identification classifications) community becomes more widely accepted, we are seeing an increase in the comfort level of children expressing a desire to explore their place on the gender spectrum. As a result, our court system is being hurled head-on in addressing custody issues involving gender-expansive children. Many members of the bar and bench have little to no experience in serving clients with gender-expansive children. Many may be unaware of what the phrase “gender-expansive” even means – which will be explained in this article. As a result, courts often ask the wrong question, and attorneys address the wrong issues in addressing custody with these children. We should not be first questioning whether or not a child’s desire is necessarily “real” but rather examining the psychology of gender expression and fostering a custodial relationship for the parent that best follows the science. Given the current legislative treatment of gender-expansive children in Oklahoma, it is more important than ever for attorneys and judges to have a true understanding of the importance of asking the correct question.

TERMINOLOGY

It is important for this topic to understand that there is a fundamental difference between a person’s sex and a person’s gender. While they are often confused and freely interchanged in society, they are not the same.¹ A person’s sex is the biological makeup of a person. Simply put, most people are born with two X chromosomes or one X and one Y chromosome. While there are obviously biological differences that can occur, we are not focusing on those in this limited writing space. A person’s

gender, on the other hand, is determined by societal expectations.² This is why gender is considered a spectrum. Gender norms, and even the expansiveness of gender, differ around the world.³ Someone who is deemed to not fall within a society’s designated gender roles is considered “gender-expansive.” “Gender-expansive” is an all-inclusive umbrella term that refers to someone who possesses a gender identity or expresses their gender in a way that is beyond or different from societal expectations.⁴

It is important to know the meaning of some terms that fall under that “umbrella,” many of which are becoming more commonplace but still not necessarily understood:

- Cisgender: a person who identifies as the gender that aligns with their sex assigned at birth.⁵
- Transgender: a person whose gender identity does not align with their sex assigned at birth.⁶

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- Transition or Transitioning: the process one goes through to affirm their identity – socially, legally and/or medically.⁷
- Socially transitioning: publicly adopting desired pronouns, dress, etc.
- Retransition: returning to the gender associated with a person's sex assigned at birth.
- Nonbinary or gender non-conforming: a person who does not exclusively identify with a specific gender.⁸
- Gender-fluidity or fluid: “a person who does not consistently adhere to one fixed gender and may move among genders.”⁹
- Misgendering: the use of pronouns or other words (e.g., sir or ma'am) that do not align with a person's expressed gender.¹⁰ Misgendering can occur with or without malice.
- Dead name: a person's former name that they have chosen to leave behind.¹¹

People often stress about using incorrect pronouns or complain about the “burdensome” nature that comes with using correct



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pronouns. We address later in this article the traumatic effects of not using a person's preferred pronouns and name, especially with children and adolescents. Respecting a person's identity is as simple as using their preferred pronouns: he/him, she/her, they/them, etc. Getting into the habit of introducing yourself with your pronouns makes it significantly easier for people to tell you theirs. For example: "Hi. I'm Kensey, and my pronouns are she/her. Are you comfortable telling me your preferred pronouns?"

GENDER IDENTITY AND AGE

A significant concern that continues to arise and to be misunderstood is when an expression of gender identity is "normal" for a child, particularly when that expression does not align with a child's biological sex. A child's gender stability varies with their pubescent age. There are primarily two periods of identity exploration: prepubescent and pubescent/adolescent.

Prepubescent Identity

Prior to a child reaching puberty, their gender identity is not yet consistent. Children first begin to express gender identity at a very young age. This is seen in their manner of dress, the toys they choose, etc. From around ages 4 to 7, a child's gender identity becomes more stable in that they are more likely to maintain a consistent gender across different situations. This is not necessarily an indication that a child's gender identity at this age will remain the same as they reach pubescence, but research suggests that the more adamant a child is about their expressed gender being different than their sex assigned at

birth, the more likely a child is to be transgender or gender nonconforming in adolescence.¹² In fact, studies suggest that children who begin socially transitioning prior to adolescence actually have a low retransition rate of just 7%.¹³

Pubescent/Adolescent Identity

Adolescence is typically defined as ages 10 to 19.¹⁴ Once a child enters adolescence, there is a much stronger likelihood that their gender will remain stable and consistent.¹⁵ Studies suggest that children who are gender-expansive into adolescence, regardless of their identity at a younger age, will largely maintain that asserted gender into adulthood.¹⁶

Approaches to a Gender-Expansive Child

There are three primary approaches to treating a gender-expansive child: the affirmative approach, the reparative approach and the Dutch Protocol. The approach that should be taken in treating a gender-expansive child is largely determined by the child's age. There is some debate amongst health care professionals and scholars as to the best approach with a prepubescent child, as discussed below. Adolescent children are treated differently based on the more stable nature of gender identity.

The affirmative approach.

The affirmative approach permits a child to explore their gender identity and to receive gender-affirming care.¹⁷ The argument in favor of this approach for prepubescent children is largely based on documented data of the effects of a reparative approach on adolescents, which is addressed later.¹⁸

This approach is largely accepted as the only appropriate approach to treating gender-expansive adolescents.¹⁹

Gender-affirming care includes allowing a child to adopt their choice of dress, pronouns, name, etc. Once a child reaches adolescence, this can also include certain hormone treatment.²⁰ Hormonal therapy is *not* recommended for children who have not begun puberty.²¹ Certain children who have begun puberty may be eligible to receive hormone-suppressant therapy to delay further progression into full puberty when it is medically necessary.²² Hormonal suppressant therapy is *fully reversible* and is intended to allow a child more time to explore their identity more fully before receiving hormonal therapy, which can have some lasting effects, such as a permanent deepening of the voice.²³ Neither hormone-suppressant therapy nor hormonal therapy is administered without the supervision of a health care professional and regular check-ins with the adolescent and involvement of the parent or guardian, except in rare circumstances where it is deemed harmful to the adolescent.²⁴ The official recommendation is that the health care provider exploring hormonal suppressant therapy or hormonal therapy also seek advice and opinions from other mental health and medical professionals before any such gender-affirming care is initiated.²⁵

The reparative approach. The reparative approach is focused on encouraging or requiring a child to embrace the gender that aligns with their sex assigned at birth.²⁶ This does not necessarily have to be an aggressive or violent

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The ‘best interest of the child’ standard is largely discretionary so courts may have flexibility in addressing individual families and children.

response. If a young boy wants to play with a doll and is met with a “boys don’t play with dolls” response, this is an example of a reparative approach. There are situations where the approach is extreme, such as physically harming a child for expressing a gender-expansive identity. Scholars suggest that, at least in regard to prepubescent children, the intent of this approach is to limit the potential negative psychological effects of potentially multiple social retransitions.²⁷ Those in favor of this approach argue that permitting transition will cause more harm to the child, as their gender identity is more fluid and could cause social repercussions for the child if they are allowed to socially transition.²⁸ The World Professional Association of Transgender Health (WPATH), which sets the standards for treating gender-expansive people, however, has gone so far as to wholly denounce denying gender-affirming care as unethical for adolescent children due to the alarming rates of suicide and mental health crises among children faced with this approach.²⁹

The watchful waiting approach (aka the Dutch Protocol). This approach is neither wholly affirmative nor wholly reparative; children are not permitted to entirely socially transition until they have reached puberty. A child would not be allowed to change their gender or name but would be permitted to explore and express other elements of gender identity, such as a specific way of dress.³⁰ The only long-term studies evaluating gender-expansive youth are actually based on this model, wherein participants were considered to be eligible for puberty blockers (drugs that delay a child progressing further in puberty) at age 12, gender-affirming hormone treatment at age 16 and surgical intervention at age 18.³¹

The Best Interest Analysis

Oklahoma judges are tasked with making custody and visitation decisions based on a “best interest of the child” standard.³² Courts have historically shifted the “best interests of the child” framework and analysis to adapt to current data and scientific trends. For example, moving away from the “Tender Years Doctrine” and no longer viewing sexual orientation as grounds for a loss of custody.³³

Custodial determination involving gender-expansive children should similarly evolve based on the shifting societal norms and scientific evidence. While Oklahoma does not have significant case law on children exploring any part of their identity (race, religion, sexual orientation, etc.), cases around the country suggest that courts are making custody decisions in favor of the parent that promotes exploration into individual identity (race) and, at a minimum, tolerates it (sexual orientation), so long as such exploration does not cause harm to the minor child.³⁴ In many of these cases, the courts largely evaluate the effect of a parent’s actions on the well-being of the minor child to make a best interests determination. This application fits squarely within Oklahoma’s established framework of requiring a nexus between parental behavior and its effect on a child, allowing our courts to follow trends around the country that pertain to a child exploring their identity without substantially changing prior case law.

The “best interest of the child” standard is largely discretionary, so courts may have flexibility in addressing individual families and children. This flexibility is especially important with this

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given topic. When addressing issues involving gender-expansive children, the first step is to ensure the court is addressing the *right* question in a “best interests” analysis. Courts often want to address the legitimacy of a child’s expressed gender preference. This is the *wrong* question to be addressed. While it should not be ignored if there is legitimate evidence to suggest a child is being forced to state this preference, it is not the first question that should be asked. Instead, the court should focus its inquiries on which parent is most likely to conform to the current scientific and psychological data in supporting their child.

In representing a parent with a gender-expansive child, it is vital that we, as attorneys, educate our judges on the subject in each case. Testimony of treating physicians will be absolutely crucial as well as a presentation of data, including the WPATH 8 standards – the current recommended standards

for health professionals treating gender-expansive people. One should also consider the appointment of an educated guardian *ad litem*. Regardless of a parent’s approach, it is important to know that, in evaluating the treatment of a gender-expansive child, it is recommended for health care providers to speak to the parents of a gender-expansive child, as well as third parties, to get all viewpoints.³⁵ This should help to alleviate any concerns of a parent that they are not being heard in their feelings regarding the subject as well as alleviate any concern by the court that a child’s course of treatment is being driven solely by one parent.

First, a child’s physical age and pubertal status must be determined. In any situation, the child should be enrolled with a health care provider that is certified in transgender health if they have not already been seeing one. It is vital for a court to have the expertise

of such a provider to weigh in on the appropriate treatment for any child, particularly a preadolescent child. Next, each parent’s response should be evaluated. As noted above, some experts suggest that a reparative approach may not be as damaging to preadolescent children; however, support for an affirming approach or the Dutch Protocol is simply stronger and thus recommended by WPATH.³⁶ A fully affirmative approach is recommended with adolescent children.³⁷ Given the data on the emotional well-being of gender-expansive youth, particularly adolescents, courts should be extremely cautious with a parent who adopts a reparative approach with a child because this placement can literally mean the difference between life and death for some of these children.

To date, there is no case law on this issue in the state of Oklahoma, but we are undoubtedly fast approaching that point in time. An analysis of cases around the country suggests that custody of adolescent children should be awarded to the affirming parent.³⁸ Adolescents who identify as gender-expansive have a *significant* increase in the likelihood of suffering serious mental health disorders and risks. This is not because of how they identify but because of how they are treated in their communities and families.³⁹

The Trevor Project, an organization that seeks to eliminate suicide among 2SLGBTQIA+ youth through education and support, conducted a study in 2021 that resulted in 42% of 2SLGBTQIA+ youth reporting they had seriously contemplated suicide, with approximately half of those individuals also reporting as being gender-expansive.⁴⁰



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Tulsa Reaches Out, an advisory council within the Tulsa Community Foundation, together with other organizations, conducted a survey in 2019 among 800 children and adults who identified as sex and gender minorities in the Tulsa area in order to evaluate community health and needs.⁴¹ The results revealed that children under 18 in the Tulsa area had attempted suicide at a rate *three times higher* than the national average.⁴² This data cannot be ignored in a best-interests analysis.

Presently, 21 states have bans on gender-affirming care for youth in the books, including Oklahoma. It goes without saying that this will cause additional issues that courts will have to address in these custody matters. Therefore, when representing families with gender-expansive children, *education is key* – education for yourself, your client and the court. The biggest hurdle for gender-expansive children is a lack of understanding about the process and the science behind it. With the proper education, we as attorneys can make a difference in the lives of these children and families.

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Empowering the Next Generation

How the OBA Leadership Academy Shapes Future Leaders

By Gigi McCormick

AS ATTORNEYS, WE OFTEN find ourselves in leadership positions, either because of our own goals and ambitions or because of the public's perception that attorneys inherently make good leaders. Whichever situation describes our leadership path, one thing that we understand is that leadership is a talent that needs to be honed and developed. The future of our association and our state depends on the intentional development of this talent. With this in mind, in 2007 OBA leadership established the OBA Leadership Academy.

The Leadership Academy hosted its first class in 2008, creating a rich history of leadership development for attorneys across the state. The focus of the program is to equip participants with the skills and connections to become leaders within the bar as well as in our local communities. Participants learn about OBA governance, special considerations for attorneys in public service, networking skills and effective communication. They also attend the Annual Meeting. As a participant in the 6th Leadership Academy class in 2017, I can attest to the profound impact this program can have on your professional and personal life.

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start in January 2024. Applications will be accepted from Nov. 10 – Dec. 8. Requirements for applicants are as follows:

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- Applicants should demonstrate a commitment to the profession and community impact

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Ms. McCormick is the OBA Director of Educational Programs. She can be reached at gigim@okbar.org.

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Other members of the Oklahoma Board of Bar Examiners are Vice Chairperson Bryan Morris, Ada; Tommy R. Dyer Jr., Jay; Robert Black, Oklahoma City; Juan Garcia, Clinton; Amanda Mullins, Chickasha; Joel Wohlgemuth, Tulsa; Thomas M. Wright, Muskogee; and J. Roger Rinehart, El Reno.

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Leda Lucinda Becker
Megan Nicole Bednarz
Gwendolyn Ann Bell
Haley Chance Bennett
Everest Thomas Berggren
Grace Kathryn Birdwell
Robert Cooper Black
Shoney Ann Hixson Blake
Francesca Ann Boewe
Austin James Bower
Ashtyn Hope Bradley
Shannon Marie Brasher

Natalie Irene Brazzale
Elysse Carine Brenner
Meghan Allyn Brobst
Daniel Watkins Bryce
Amanda Kay Bush
Addison Leigh Butler
Stephen Luke Cagle
Brooks Ryan Cain
Catherine Anne Cape
James Owen Carroll
Andrew Michael Case
Malia Denee Castillo Fields
Lyric Lorraine Clark
Michaya Lee Collier
Kourtlyn Margaret Connor
Rachel Anne Cory
Alyssa Brooke Cross
Saige Elizabeth Culbertson

Alicia Quenette Currin-Moore
Connor Louise Colclazier Curtis
Benjamin Michael Davis
Lucy Amber Marie Dawson
Hunter Rose De Jane
Remington Dalton Dean
Grace Alexandra DeJohn
Ayla Rachele Delso
Suraj Singh Dhillon
David LeMaster Donahoe
Raymond Thomas Doud
Nathan Sinclair Downey
Connor Pierce Doyle
Michael Charles Duke
Collin James Dungan
Matthew Jordan Dunn
Aaron Wayne Easton
Helenmarie Glory Edem



Candidates from the TU College of Law raise their right hands as they take the Oath of Attorney.



The OBA welcomed 263 new admittees during a swearing-in ceremony at the Oklahoma Capitol.

Right: Hank Herren signs the roll of attorneys.



Justine Inez Ellis
 Laney Lee Ellis
 Katelyn Ann Elrod
 Hunter Scott Etchieson
 Kaleigh Marie Ewing
 Emma Skye Farha
 Linda Edith Ferretiz
 Emily Mai Flinchpaugh
 Nathan Ray Floyd
 Matthew Alexander Fornof
 Rachel Ann Freeman
 Ashlyn Elizabeth Frix
 Grasy Elizabeth Fuller
 Emory Lewis Fullington
 Alexis Nicole Fulmer
 Fisher Lynn Fulton
 Judith Sarai Gallegos
 Jonathan Rodriguez Garcia
 Drew Eldon Gardner
 Rosa Maria Garner
 Andrew Christian Garrison
 Brenna Catherine Gibson
 Hannah Sophie Gibson
 Seth Andrew Gillenwater
 Glenn Austin Gipson-Black
 Breanna Colleen Glover
 Justina Elena Gonzalez
 Lindsey Nicole Gonzalez
 Alyssa BreAnn Gordy
 Benjamin Edward Groff
 Taylor Christine Gronlund
 Alejandra Gutierrez

Michelle Elizabeth Gutierrez
 Braden Avel Hague
 Thomas Glenn Hamilton
 Tabitha Leann Haney
 Rebecca S. Hargrove-Santos
 Lauren Nikole Harris
 Rachel Diane Hartman
 Emily Paige Hauser
 Nicholas Kyle Hazelrigg
 Zachary Duke Helms
 Anna Elisabeth Henson
 Henry Richard Herren
 Logan Craig Hibbs
 Andrew David Higganbotham
 Jacob Ryan Hill
 Jennie Allison Hill
 Mackenzie Lynn Hill
 Tanner Ronald Hilton
 Adam Houston Hines
 Madilyn Marie Hoffman
 Benjamin Kylo Honeycutt
 Kylan Chase Huffman
 Brinley Dean Thomas Hutson
 Honia Marie Velvehree Jackson
 Jessica Beth Jackson
 Kali Ann Jenkins
 Lacy Brooke Bull Jennings
 Reginald Marcel Johnson
 Jayci Lynn Jones
 Sidney Houston Jones
 Ta'Chelle N. Ashley Jones
 Kendra Rae Jump

Colby Darrel Karcher
 Noah Justin Kemohah
 Phillip Han Kim
 Jared Alan King
 Timmi Ruth Kline
 Alison Cassidy Knoerzer
 Shelbi RYanne Kohler
 Elly Elizabeth Kohs
 Taylor John LaBrie
 Claire Elizabeth Lenz-Dean
 Kasidi Brooke Liebmann
 Eduardo Freitas Lima
 Yovana Lopez Medina
 MiKayla Briegale Lott
 Hilda Loury
 Lauren Bryce Love
 Tristan Alexander Loveless
 Kyle Hunter Loving
 Rachel Denise Lynn
 Sarah Morgan Marshall
 Miguel Anthony Martinez
 Nicole Dawn Mathews



New admittees from the OU College of Law display their wall certificates.

Right: *OCU School of Law graduates celebrate their admittance to the Oklahoma bar.*



Ryan William Maxey
 Victoria Alexandra Mayhall
 Cole Thomas McDaniel
 Carly Elaine McKenny
 Cole Eric McLain
 Jordan Kayley Medaris
 Neely Elizabeth Meeks
 Elyse Berlin Mendoza
 Adam Grant Miller
 Alexander Lee Miller
 William Casey Montgomery
 Michael Nathan Moore
 Taylor Mackenzie Morain
 Murry Lee Morie
 Emilee Justine Morris Ratcliff
 Jacob David Morrison
 Austin Thomas Moseley
 Malorie Rian Mottinger
 Amy Wood Mueller
 Conner Joseph Mulvaney
 Jordan Christopher Murray
 Clayton Job Myers
 Kathryn Nicole Nelson
 Taylor Madison Newcomb
 Dakota Ethan Nichols
 Mosiah Olvera Rodriguez
 Brenner Charles Orendorff
 Tatyana Luisa Orrock Nunes
 Peter Paul Otis
 Dereck Lee Owens
 Kirsten Linn Parker
 Jacob Micah Andrew Patton
 Carla Faye Payne
 Matthew Austin Peace
 Jessica Grace Pennington

Macy Grace-Henderson Perry
 Lauren Elizabeth Peterson
 Kirsten Alyssa Pfeiffer
 Cameron Ray Pinkerton
 Isabella Marie Piske
 Gracelyn Abbee Porras
 Lindsey Ann Prather
 Hannah Victoria Pritts
 Sarah Elizabeth Ramsey
 Haley-Anne Rawson
 Tristan Mitchell Reagan
 Erin Lynn Reynolds
 McKenna Kathleen Rhodes
 Emily Noble Richard
 Bailee Michelle Richards
 Ryan Scott Riddle
 Samuel Paul Ring
 Jacob Kenneth Rinn
 Mace Michael Robinson
 Reid Smith Rogez
 Brendan Eli Aubrey Rolland
 Melissa Anne Rolseth
 Haley Elise Ruiz
 Caden Sharp Rusk
 Neeley Paige Russell
 Elizabeth Grace Sammons
 Danielle Nicole Sasser
 Jack Edward Schaefer

Rebecca Elizabeth Schmidt
 Tanner Reed Schroeder
 Palmer Alan Scott
 Rylee Blea Seabolt
 Ashton Dewayne Sears
 Alison Faye Sells
 Rebecca Leanne Sheetz
 Kandi Jo Shelton
 Scott Christopher Sherrell
 Sadie Grace Slaff
 Alyssa Elaine Sloan
 Mylan D'Angelo Smith
 Jonathan Trevor Sperling
 Andrew David Stephens
 Breanne Aleise Stewart
 Adam Wesley Sullivan
 Samantha Renee Swaim
 Brandon Scott Swearingin
 Andie Jane Sweeden
 Natalie Sophia Swink-Smith
 Samantha Abigail Tamura
 Taylor Michelle Thomas
 Reid William Thompson
 Cameron Cody Torres
 Emily Kathryn Tubb
 Michael Jeffrey Turner
 Jayme Jude Valtierra
 Nicholas Craig VanGilder
 Austin Ryan Vernier
 Regan Larissa Wagner
 Madison Joan Wagnitz
 Gregory Michael Wallace
 Cassidy Erin Walsh
 Dusty Darlene Weathers
 Brittany Marie Weaver
 Matthew Austin Welborn
 Ryan Asher Wellington
 Hunter Duane Westfahl
 Taylor Rose Wewers
 Joseph Gregory Wheeler
 Megan Lee Whipp
 Katherine Alyssa White
 Hannah Elizabeth Whitefield
 Taylor Nicole Whitefield
 Brooklyn Taylor Wilguess
 AshLynn Michele Wilkerson
 Ann-Claire Karalyos Williams
 Brady Lawrence Wilson
 Brennah Rae Wilson
 Samantha Danielle Wolf
 Marisa Kae Wrape
 Riley Paige Wren
 Rachel Suzanne Wyatt
 Ashley Nicole Youngblood
 Kalen Mashaun Youtsey

2024: Your Time to Get Involved!

NOW IS YOUR OPPORTUNITY to join other volunteer lawyers in making our association the best of its kind – by signing up to serve on an OBA committee in 2024.

Did you know the OBA has more than 20 active committees – meaning there are many opportunities for you to serve and lead in your profession? By joining a committee, you can get more involved in the association, network with colleagues and work together for the betterment of

our association and our communities – all in a way that is meaningful and relevant to you!

By serving on an OBA committee, you can tackle projects for which you have a passion – whether that’s improving access to justice for all Oklahomans, fostering public understanding of the law or helping your fellow lawyers who may be facing challenges with addiction or substance abuse. Plus, you’ll have the opportunity to build relationships with your professional

colleagues and build your network and leadership skills at the same time.

I invite you to review the full list below. We will make appointments for 2024 soon, so choose your top three committee choices and fill out the online form at <https://bit.ly/3SjMzce>.

I am looking forward to hearing from you!

Miles Pringle
President-Elect



To sign up or for more information, visit www.okbar.org/committees/committee-sign-up.

Access to Justice

Works to increase public access to legal resources

Awards

Solicits nominations for and identifies selection of OBA Award recipients

Bar Association Technology

Monitors bar center technology to ensure it meets each department’s needs

Bar Center Facilities

Provides direction to the executive director regarding the bar center, grounds and facilities

Bench and Bar

Among other objectives, aims to foster good relations between the judiciary and all bar members

Cannabis Law

Works to increase bar members’ legal knowledge about cannabis and hemp laws

Civil Procedure and Evidence Code

Studies and makes recommendations on matters relating to civil procedure or the law of evidence

Disaster Response and Relief

Responds to and prepares bar members to assist with disaster victims’ legal needs

Diversity

Identifies and fosters advances in diversity in the practice of law

Group Insurance

Reviews group and other insurance proposals for sponsorship

Law Day

Plans and coordinates all aspects of Oklahoma’s Law Day celebration

Law Schools

Acts as liaison among law schools and the Supreme Court

Lawyers Helping Lawyers Assistance Program

Facilitates programs to assist lawyers in need of mental health services

Legal Internship

Liaisons with law schools and monitors and evaluates the legal internship program

Legislative Monitoring

Monitors legislative actions and reports on bills of interest to bar members

Membership Engagement

Facilitates communication and engagement initiatives to serve bar members

Member Services

Identifies and reviews member benefits

Military Assistance

Facilitates programs to assist service members with legal needs

Professionalism

Among other objectives, promotes and fosters professionalism and civility of lawyers

Rules of Professional Conduct

Proposes amendments to the ORPC

Solo and Small Firm Conference Planning

Plans and coordinates all aspects of the annual conference

Strategic Planning

Develops, revises, refines and updates the OBA’s Long Range Plan and related studies

The Importance of Being an Engaged Bar Member

By Janet Johnson

BEING AN ACTIVE MEMBER of the Oklahoma Bar Association is an asset to you, other bar members and the community. Whether you are a seasoned attorney or a newly minted lawyer, active participation in the OBA can be a valuable aspect of your legal career. There are several ways to see the significance of membership engagement, and all are rewarding.

For example, there are many networking and professional growth opportunities. One of the most compelling reasons to be an engaged bar member is the opportunity to build a robust professional network. The OBA hosts a plethora of events, conferences and seminars where attorneys from various practice areas come together to share their expertise and experiences. Engaging in these activities can lead to valuable connections, mentorship opportunities and even referrals for new clients. These connections can be pivotal in advancing your legal career and staying updated on the latest developments in the field.

Additionally, the OBA CLE Department is top notch. In fact, it is the leading provider in the state. Since CLE is essential for attorneys to maintain their licenses and stay current with the ever-evolving legal landscape, you don't want to miss what the OBA CLE Department has



Executive Director Johnson discusses law school engagement opportunities with Oklahoma City Mayor David Holt, dean of the OCU School of Law.

to offer. By actively participating in these programs, you not only fulfill your professional obligations but also enhance your knowledge and skills, making you a more effective advocate for your clients.

And last but certainly not least, involvement and engagement with the OBA in a leadership role, sections, committees and other member offerings allows you to mentor and be mentored – to give and receive support. All lawyers, new and seasoned, can benefit greatly from the guidance and mentorship of experienced attorneys. The OBA is bringing back its Leadership

Academy in 2024. As a Leadership Academy alumna, I can personally attest to the remarkable curriculum and value of this program. Be on the lookout for more information coming to you soon!

Being an engaged bar member is more than just a professional obligation; it is a commitment to the betterment of the legal profession and the communities we serve. By actively participating in OBA events, programs, seminars, etc., you can network with peers, continue your legal education and provide support to both new and experienced attorneys. Ultimately, being an engaged bar member not only enriches your legal career but also contributes to the broader goals of promoting fairness, access to justice and the rule of law. Thus, I leave you with a challenge: Embrace your role as an engaged bar member, and let it be a cornerstone of your legal journey.

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



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

FROM THE PRESIDENT

(continued from page 4)

We now know we can do in the comfort of our offices what they did around the world and sometimes in life-threatening venues.

Visit www.okbarheroes.org to sign up to volunteer. Don't hesitate. To hesitate is to fail to do what we know we each should do. Call or email and say "yes" to those who said "yes" for each of us. By saying yes, you are telling these great heroes that you are here. You are here to say, "Thank

you for your service." You are here to show the love and admiration we have for the sacrifices they have suffered through. You are there to do the right thing right now. To be a big help, you only need to provide help every now and then. While it might not seem like a lot to you, it may be life-changing for that veteran.

For the life-changing things they have done for us, certainly, we can take time to help them now. Please help!

Visit www.okbarheroes.org to sign up to volunteer.

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Legal Technology and the Family Lawyer

By Jim Calloway

IN 2018, I WROTE A COLUMN called “Technology Competence for the Family Lawyer” for the *Oklahoma Bar Journal*.¹ The Oklahoma Rules of Professional Conduct had been amended in 2016 to provide that competence as a lawyer included an awareness of “the benefits and risks associated with relevant technology” in Comment 6 to Rule 1.1 of the Oklahoma Rules of Professional Conduct,² relating to competence.

The inspiration for that column was a *New York Times* article where a spouse was terrorized by her divorcing spouse, using his knowledge of and access to the technology he had set up in the marital home. All the home security tools, which could be accessed remotely, could also be instruments of attack: doorbells could ring during the night, code numbers on digital locks could be changed, the thermostat could be set to an extreme temperature, the home security cameras could be used to spy on visitors to the home and the email account the spouse was using to communicate with their lawyer could be opened and read.

It is common in a marriage that one spouse may be the “IT person,” and the other is more of an end user. So I suggested that a part of standard operations in family law cases is reminding the

new client to change all of their passwords and lock codes, including the home Wi-Fi, social media accounts, mobile phones and PINs for bank accounts or credit cards. It turned out to be a fairly long list.

I encourage you to review the previous column to update or create a digital security handout for your new family law clients. As law firms seek to expand their service offerings, you may even consider having a recommended local tech support person who you trust to handle confidential information and who will handle these tasks for clients if they are not tech do-it-yourselfers.

Oklahoma family lawyers were early adopters of technology. Long ago, the OBA Family Law Section had a series of “computer magic” programs when the main options for document automation were forms, copy and paste and macros. Technology is increasingly important for the family lawyer in several ways.

MARKETING

Traditional paid media, like newspaper advertisements, are expensive and have a decreasing readership. The Yellow Pages have even moved online.

Family law practitioners have dealt with the impact of online legal service providers. But in rural areas, we also see road signs

offering divorce at bargain prices. Family lawyers must deal with price shoppers who want to discuss an uncontested divorce because everything is worked out, except for custody, visitation, child support and who gets the collectibles.

More and more, the marketing opportunities are mostly digital. Because potential family law clients may have never thought they need a family lawyer until they do, it is important for family lawyers to have ongoing marketing efforts, as well as a referral network. This is a good time to review those efforts. The foundation is still the law firm’s website. It needs to include lots of content that speaks to the challenges that are of concern to these types of clients, as well as the law firm’s qualifications. You can and should build an attractive and information-packed website. But your website must be visited to be useful. By now, you should have claimed your law firm’s address and business profile on Google. Particularly in urban areas, having your business location appear on Google Maps may bring you clients who are interested in a lawyer whose office is near their home or work. Visit www.google.com/business to begin filling out your profile. If you would like to read a more detailed explanation, your attention is



directed to “How to Claim a Business on Google in Five Easy Steps” from Oak Bank.³

The fact that I referenced a bank I’d never heard of until doing the research for this column is a good lesson. I did a little research on Google, expecting to be directed to Google’s instructions on how to do this, and I was. But the bank’s post was so clear and well written, that I linked to it instead. Whether I am the fourth or the 400th person to link to this is known to the bank. But a family lawyer’s website could be packed with useful information, like five myths about Oklahoma divorce, 10 ways to minimize the impact of divorce or how joint custody works in Oklahoma. You can rotate which of these you feature and push out via social media. But the more people and organizations that link to these posts, the more likely it is Google will be friendlier

to your posts, assuming you have claimed your Google profile.

If you do a good job publicizing these posts, other organizations will soon be linking to your well-written and accurate posts. That is how internet marketing is supposed to work. If you don’t feel you are a great writer on posts directed to the public instead of the courts, inexpensive AI tools like www.copy.ai can help you write long features or short posts.

SOCIAL MEDIA

Almost every family lawyer had to learn about social media and how to get that evidence admitted as we all learned people would put things in social media posts that they might never admit to in a deposition.

I’m certain most of you warn your family law clients about inappropriate use of social media and how things that seem innocuous

to them and their friends might not play well in court, particularly if they are negative posts about the soon-to-be ex-spouse. But some lawyers have had to appreciate that some people cannot avoid social media because of their job or their interests. If your client is a volunteer youth sports coach and the schedules and practices are shared on social media, the client needs to continue using that tool.

You can warn your client not to post about the divorce or separated spouse on social media. But the client will have to ask their friends not to post about the divorce or the “ex” as well. Have a few examples of how innocuous posts from parties and events do not always present well in court.

New tools are emerging almost daily it seems.
So if you want to improve something, there is
probably a new tool to assist.

SECURE DIGITAL COMMUNICATIONS

As the threat of online criminal activity increased, best practices evolved in digital communication. For example, there was a time when lawyers negotiating a qualified domestic relations order would have exchanged drafts back and forth via email. But we now understand that email is not secure and shouldn't be used for the kinds of personally identifiable information like those contained in a qualified domestic relations order. Portals and many tools from Dropbox to OneDrive allow you to share sensitive documents securely, or the lawyers can agree to a password they use to lock the Word documents they are exchanging.

When discussing the importance of secure communications with your client, it is a good time to explain to your client why forwarding attorney-client communications to friends or relatives is a bad idea. We are still big fans of practice management software solutions that provide portals and often client-facing apps your clients can use to communicate with the law firm.

INNOVATION AND EFFICIENCY

New tools are emerging almost daily it seems. So if you want to improve something, there is probably a new tool to assist. How do your intake processes work? Check out Bob Ambrogio's review of DivorceHelp123 at <https://bit.ly/46IakCI>. This is likely a good product, but the main reason for reading the review is to see the things that could improve your intake process, whether you use their tool, another tool or build a process yourself internally.

CLIENT EXPECTATIONS ON SPEED OF INFORMATION DELIVERY

We are in a time when many things can be delivered instantly. Family law clients often have issues that need to be handled immediately, whether through the court or a negotiated agreement with opposing counsel. But then, things often need to move more slowly from the client's point of view as discovery and other things must take place and a trial date scheduled. Prepare your client for that part of the process, and do a good job of letting the client know what you are working on for them.

CONCLUSION

Technology advances are creating many changes at an increasingly rapid rate. Hopefully, this month's column will give family lawyers some ideas on what they need to improve next in their service delivery. Even though we are professionals who rely on precedent and legal history in doing much of our work, we are at a time when all businesses are under pressure to improve and adapt constantly for fear of being left behind.

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://bit.ly/408zTKO>.
2. <https://bit.ly/3PlmNiK>.
3. <https://bit.ly/3ZOMVx5>.

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SHOW YOUR CREATIVE SIDE ON THE BACK PAGE

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



Meeting Summaries

The Oklahoma Bar Association Board of Governors met Aug. 25, 2023.

REPORT OF THE PRESIDENT

President Hermanson reported he attended the ABA Annual Meeting, the National Conference of Bar Presidents and the Southern Conference of Bar Presidents in Denver. He also attended the ABA House of Delegates meeting and the Oklahoma Delegation to the ABA House of Delegates Dinner to discuss issues before the ABA House of Delegates. He attended the OBA Executive Board meeting and virtually attended the OBA Professionalism Committee meeting. He attended the District Attorney Council board meeting and chaired the Justice Assistance Grant board meeting. He attended the joint reception of the OBA and the Cleveland County Bar Association and worked on planning for the OBA Annual Meeting in November. He also worked on appointments, participated in discussions with Executive Director Johnson related to OBA business and wrote the September From the President column for the *Oklahoma Bar Journal*.

REPORT OF THE PRESIDENT-ELECT

President-Elect Pringle reported he worked on OBA appointments, met with potential strategic planning facilitators and attended the joint reception of the OBA and the Cleveland County Bar Association. He also attended meetings in

Denver for the Southern Conference of Bar Presidents and the National Conference of Bar Presidents and chaired a meeting of the Strategic Planning Committee.

REPORT OF THE VICE PRESIDENT

Vice President Williams reported he transmitted the Professionalism Committee's August Professionalism Moment to all state county bar association presidents for use in their respective local associations, and he chaired the Professionalism Committee virtual August meeting. He virtually participated in the Strategic Planning Committee August meeting and researched, drafted and presented a one-hour CLE presentation, "Is Civility an Old-Fashioned Concept?" to the Tulsa County Bar Association. He coordinated and scheduled the Professionalism Committee's one-hour CLE presentation for the Cleveland County Bar Association and the Creek County Bar Association. He attended the Tulsa County Bar Association's Annual Meeting and Awards Luncheon, the Fall Banquet of the Council Oak/Johnson-Sontag American Inns of Court and the joint reception of the OBA and the Cleveland County Bar Association.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Johnson reported she met with multiple roofing companies for reports and findings on the roof replacement and

attended meetings in Denver for the ABA, the National Conference of Bar Presidents, the National Association of Bar Executives and the Southern Conference of Bar Presidents. She coordinated meetings with the facilitators for strategic planning, attended the Strategic Planning Committee meeting and met with Dean David Holt of the OCU School of Law to discuss membership engagement opportunities with the law school. She had discussions with multiple stakeholders about revitalizing the Group Insurance Committee and reviewing insurance benefits that may be available to members. She attended multiple planning sessions for the Annual Meeting with numerous stakeholders and staff and met with multiple security and IT companies for necessary upgrades in the Oklahoma Bar Center. She also met with the former Access to Justice Commission chair, Michael Figgins, on upcoming issues as well as with venues to discuss overflow for the 2024 Annual Meeting. She attended the joint reception of the OBA and the Cleveland County Bar Association, the Lawyers Helping Lawyers Assistance Program Committee meeting and the 2023 Legislative Debrief.

REPORT OF THE IMMEDIATE PAST PRESIDENT

Past President Hicks reported he attended the National Conference of Bar Presidents in Denver, the Southern Conference of Bar Presidents in conjunction with

the National Conference of Bar Presidents and a planning dinner meeting with fellow Oklahoma ABA delegates. He served in the ABA House of Delegates and was honored to escort Mary Smith, a fellow member of the Cherokee Nation and the incoming president of the ABA, to her swearing-in ceremony as the organization's first Native American leader. He met with fellow immediate past presidents of the Louisiana and Mississippi bar associations, attended the Strategic Planning Committee meeting, the Tulsa County Bar Association Annual Luncheon and the joint reception of the OBA and the Cleveland County Bar Association.

BOARD MEMBER REPORTS

Governor Ailles Bahm reported she assisted in coordinating a presenter for the Legislative Debrief and attended the Lawyers Helping Lawyers Assistance Program Committee meeting and the joint reception of the OBA and the Cleveland County Bar Association. **Governor Barbush** reported he attended a possible vendor presentation at the Oklahoma Bar Center with OBA officers and staff, along with Lawyers Helping Lawyers representatives. He met with Director of Educational Programs Gigi McCormick and conferenced with the Lawyers Helping Lawyers Assistance Program chair. He communicated with each county bar president in District 2 regarding delegate submissions and other

local and state bar issues. **Governor Bracken** reported he attended the Oklahoma County Bar Association meeting and reception, the joint reception of the OBA and the Cleveland County Bar Association and two Mock Trial meetings. **Governor Conner** reported he attended the Awards Committee meeting to determine recommendations for annual OBA Awards winners. **Governor Dow** reported she attended the Cleveland County Bar Association meeting and their joint reception with the OBA and the Family Law Section meeting. **Governor Hilfiger** reported he attended the Muskogee County Bar Association meeting and is making arrangements for the upcoming bar banquet and preparing a meeting space for the September Board of Governors meeting. **Governor Knott** reported she attended the Canadian County Bar Association meeting and the joint reception of

the OBA and the Cleveland County Bar Association. **Governor Rogers** reported he attended the Clients' Security Fund Meeting and the joint reception with the Cleveland County Bar Association. **Governor Smith** reported she attended the joint reception with the Cleveland County Bar Association, the Awards Committee meeting to determine recommendations for annual OBA Awards winners and the Diversity Committee Meeting, where she participated in planning the upcoming Diversity Dinner during the Annual Meeting. **Governor Thurman** reported he met with Pontotoc County Bar Association officers to plan and prepare for future events and the joint reception with the Cleveland County Bar Association. He attended the Pontotoc County Multidisciplinary Team meeting to discuss plans for children who are victims of sexual and physical

Executive Director Johnson had discussions with multiple stakeholders about revitalizing the Group Insurance Committee and reviewing insurance benefits that may be available to members.

abuse. **Governor Vanderburg** reported he attended the Kay County Bar Association meeting and the Oklahoma Association of Municipal Attorneys Board of Directors meeting. He worked with Oklahoma Municipal League staff to help develop a webinar, which was recorded for the training of various court clerks on HB 2259 processes and requirements. As a member of the state's Cost Administration Implementation Committee, he attended meetings and developed forms for use in implementing HB 2259 on a statewide basis. **Governor White** reported he attended the Legal Internship Committee meeting, the Tulsa County Bar Association Annual Meeting and the joint reception of the OBA and the Cleveland County Bar Association.

REPORT OF THE YOUNG LAWYERS DIVISION

Governor Shaffer Siex reported she reviewed the Access to Justice Committee minutes from the June meeting, held a YLD executive meeting for end-of-year planning and met with the Tulsa County Bar Association YLD regarding issues with participation and initial planning for a joint happy hour for new admittees. She reviewed the YLD budget to date and planned projected end-of-year expenses, drafted a proposed 2024 YLD budget and assisted Dylan Erwin with YLD elections. She drafted the YLD article for the September issue of the *Oklahoma Bar Journal* and met with the YLD Chair-Elect Laura Talbert, who stood in for her at the ABA Annual Meeting in Denver due to a jury trial conflict. She began planning for the YLD's participation with the Annual Meeting by circulating tasks and with the fall swearing-in ceremony.

REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported on the status of pending litigation involving the OBA. As of July 31, there were four disciplinary cases and no resignations pending disciplinary proceedings awaiting decisions from the Oklahoma Supreme Court. Between July 1 and July 31, the Supreme Court issued one order of interim suspension, no orders of dismissal, no orders approving reinstatement and one order approving resignation pending disciplinary proceedings. A written report of PRC actions and OBA disciplinary matters for the month was submitted to the board for its review.

BOARD LIAISON REPORTS

Governor Shaffer Siex reported the **Access to Justice Committee** is hosting its annual summit on Oct. 20. The virtual event will be offered for MCLE credit, and she invited all members of the Board of Governors to attend. Governor Conner reported the **Awards Committee** recently met, and its full report would be coming later during the meeting. Governor Knott said the **Law Schools Committee** is working to coordinate meetings with representatives of the state's three law schools. Governor Barbush reported the **Cannabis Law Committee** met and timely submitted its proposed budget. He also said the **Lawyers Helping Lawyers Assistance Program** has launched a new discussion group in the Oklahoma City area for women lawyers. He said the committee has reviewed a proposal from a third-party vendor that has developed an app that is intended to encourage positive mental health behaviors. Governor Rogers reported the **Clients' Security Fund Committee** met recently and is continuing its

review of claims. He also said the **Professionalism Committee** has been meeting regularly and preparing for an Annual Meeting presentation. Governor Smith said the **Diversity Committee** met earlier in the week and is continuing its planning for the annual Diversity Dinner and will also soon be announcing the winners of the annual Ada Lois Sipuel Fisher Diversity Awards. The committee is also planning a CLE in December on voting rights. Past President Hicks said the **Strategic Planning Committee** is meeting regularly and reviewing the five-year plan. Vice President Williams said the **Legislative Monitoring Committee** was holding its annual Legislative Debrief later in the day. Governor Bracken said the **Military Assistance Committee** is planning to meet Sept. 5 and is also finalizing plans for its participation in the upcoming Oklahoma City-area Sooner Stand Down for veterans experiencing homelessness. He said volunteers for the Oklahoma Lawyers for America's Heroes Program, along with Legal Aid, will be participating.

REVIEW AND APPROVAL OF AWARDS COMMITTEE RECIPIENT RECOMMENDATIONS

Board of Governors committee liaison Governor Conner presented the Awards Committee's list of recommendations for OBA Awards to be presented in 2023. The board passed a motion to approve the committee's recommendations.

CLE ANNUAL REPORT

Educational Programs Director McCormick delivered her annual report. Highlights included the findings that virtual programs are still members' preference. She also said OBA CLE holds the largest market share (21%) of CLE

delivery in Oklahoma. A full written report was submitted to the board for its review.

CHILD DEATH REVIEW BOARD APPOINTMENT

President Hermanson proposed to submit the three names of Tom Lane, Ponca City; Eddie Wyatt, Enid; and Dennis Smith, Clinton, to Director of Commission on Children and Youth Annette Jacobi as appointments to the Child Death Review Board. The current term expires Oct. 1, 2023. The board passed a motion to approve the slate of recommended appointees.

COUNCIL ON JUDICIAL COMPLAINTS LEASE

Executive Director Johnson explained the terms of the year-to-year lease that expires June 30, 2024. The board passed a motion to renew the lease.

BOARD OF GOVERNORS VACANCIES

President Hermanson reviewed the list of leadership vacancies in 2024 and encouraged those members whose terms are expiring to help identify nominees for their district.

STRATEGIC PLAN UPDATES

President-Elect Pringle and Executive Director Johnson reviewed the work taking place to review the committee's goals to make sure all are relevant and up to date. A strategic planning retreat is being planned for 2024.

DELEGATES/ALTERNATES UPDATE

Executive Director Johnson reviewed the list of counties that have submitted the names of their delegates and alternates. She asked the governors to contact those counties in their districts who have not yet submitted those names.

UPCOMING OBA AND COUNTY BAR EVENTS

President Hermanson reviewed upcoming bar-related events, including several monthly joint receptions with local county bars: Boiling Springs Legal Institute, Sept. 19, Woodward; the New Admittee Swearing-In, Sept. 26, Oklahoma City; the Access to Justice Summit, Sept. 20, virtual; the annual Women in Law Conference, Sept. 22, Oklahoma City; and the OBA Annual Meeting, Nov. 1-3, Skirvin Hilton Hotel, Oklahoma City.

The Oklahoma Bar Association Board of Governors met Sept. 22, 2023.

REPORT OF THE PRESIDENT

President Hermanson reported he had discussions related to planning the 2023 Annual Meeting and pending litigation involving the OBA. He continued to work on appointments and led a virtual meeting with bar leadership on the annual executive director evaluation. He discussed bar matters with President-Elect Pringle and attended an open house at the Kay County Children and Family Services Center. He also attended the District Attorneys Council Technology Committee meeting and board meeting, as well as the Oklahoma District Attorneys Association Legislative Awards Dinner and board meeting. He wrote the monthly From the President column for the *Oklahoma Bar Journal* and attended a reception and dinner with the Muskogee County Bar Association.

REPORT OF THE PRESIDENT-ELECT

President-Elect Pringle reported he chaired a meeting of the Budget Committee, worked on the 2024 OBA budget and also worked on

appointments to OBA committees and the 2024 Board of Governors travel schedule. He attended the Oklahoma Bar Foundation Board of Trustees meeting, the Oklahoma Attorneys Mutual Insurance Co. Board of Directors meeting and the joint reception with the Muskogee County Bar Association.

REPORT OF THE VICE PRESIDENT

Vice President Williams reported he chaired the September meeting of the Professionalism Committee and submitted their 2024 budget request and Annual Meeting request for the committee's CLE presentation. He coordinated dates for CLE presentation requests for several county bar associations, reviewed the 2024 OBA proposed budget and participated in the Budget Committee meeting. He virtually attended the September Membership Engagement Committee meeting and prepared professionalism moments for several county bar presidents. He also attended the joint reception with the Muskogee County Bar Association.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Johnson reported she met with Michael Figgins of Legal Aid Services of Oklahoma to discuss access to justice issues and worked on the 2024 Board of Governors schedule. She met with representatives from the OCU School of Law and the OU College of Law with Membership Engagement Committee Co-Chair April Moaning to discuss membership engagement opportunities involving law students. She met with architects regarding renderings for the new Oklahoma Bar Center entrance and wrote an article for the *Oklahoma Bar Journal*. She had numerous

The board passed a motion to accept the determination of the OBA's engaged financial auditors, Smith Carney, that the amount of annual dues that members can deduct under *Keller* is \$2.82.

conversations with President Hermanson regarding the 2023 Annual Meeting, met with Corey Squires of the State Bar of Texas as well as Joe Strunk of 3000 Insurance Group to discuss group insurance options and discussed pending litigation involving the OBA with President Hermanson, President-Elect Pringle and General Counsel Hendryx. She worked on ongoing contract negotiations for the 2024 and 2025 Annual Meetings and met with former Access to Justice Commission members to gain background information. She met with President-Elect Pringle, as well as OBA directors, to discuss the 2024 budget. She met with Mike Beckham of Simple Modern and extended an invitation to speak at the Delegates Breakfast during the Annual Meeting, which he accepted. She also met with the Budget Committee to discuss the 2024 budget. She attended the CLE movie night to view *A Few Good Men* and met with Governor Barbush, OAMIC CEO Phil Fraim and CLE Director McCormick to discuss 2023 Annual Meeting sponsorships. She performed a budget analysis with Executive Director Emeritus Williams and Director of

Administration Brumit. She also attended the Lawyers Helping Lawyers Assistance Program meeting and the Lawyers Helping Lawyers Foundation meeting, the Boiling Springs Legal Institute CLE program and the joint reception with the Muskogee County Bar Association.

REPORT OF THE IMMEDIATE PAST PRESIDENT

Past President Hicks reported he presented the welcome remarks for the OBA Legislative Committee's 2023 Legislative Debrief and attended a reception for new ABA President Mary Smith, which was hosted at the TU College of Law. He also attended a meeting of the ABA Fellows with Principal Chief Geoffrey Standing Bear of the Osage Nation at the Tulsa office of Crowe & Dunlevy, where they addressed the impact of the book and movie *Killers of the Flower Moon*.

BOARD MEMBER REPORTS

Governor Barbush reported he attended the swearing-in ceremony for Chief Gary Batton, met with the Bryan County Bar Association president and attended the Muskogee County Bar Association event

and meeting. He also met with Executive Director Johnson, CLE Director McCormick and OAMIC CEO Fraim. **Governor Bracken** reported he attended the Lawyers Helping Lawyers Assistance Program Committee meeting and chaired the Military Assistance Committee meeting. He attended the Sooner Stand Down, a community service event that provides assistance to veterans experiencing homelessness. He also had discussions with OBA staff on potential changes and improvements for the Oklahoma Lawyers for America's Heroes Program. **Governor Conner** reported by email he attended the Garfield County Bar Association meeting and the Budget Committee meeting. **Governor Dow** reported by email she attended the Cleveland County Bar Association monthly meeting. **Governor Hilfiger** reported he met with the Muskogee County Bar Association and finalized planning for their joint banquet with the OBA and the Board of Governors meeting in Muskogee. **Governor Knott** reported she attended the Canadian County Bar Association meeting, reviewed the 2024 proposed OBA budget and attended the Budget Committee meeting. She reviewed and voted on a number of articles for the *Oklahoma Bar Journal* via email and attended the reception with the Muskogee County Bar Association and the Muskogee meeting. **Governor Rogers** reported he attended the Professionalism Committee meeting. **Governor Thurman** reported by email he attended the Pontotoc County Bar Association meeting, as well as its officers' meeting. He hosted a social hour for the Pontotoc County Bar Association and attended the open house for the CARE Cottage Child Advocacy Center for Pontotoc

County. **Governor Vanderburg** reported he presented relevant legislation and applicable laws to the Mayors Council of Oklahoma and the Oklahoma Association of Municipal Attorneys.

REPORT OF THE YOUNG LAWYERS DIVISION

Governor Shaffer Siex reported she wrote an article on YLD elections for the October *Oklahoma Bar Journal* and finalized plans for the OBA YLD swearing-in activities. She attended the Budget Committee meeting and the reception with the Muskogee County Bar Association. She also encouraged board members to attend the New Lawyer Happy Hour events that will be held in October.

REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx submitted a written report of PRC actions and OBA disciplinary matters for the month to the board for its review.

BOARD LIAISON REPORTS

Governor Shaffer Siex said the **Access to Justice Committee** met and discussed its upcoming virtual Access to Justice Summit. She encouraged board members to attend. The committee also submitted an ad to the *Oklahoma Bar Journal* aimed at soliciting volunteers for Oklahoma Free Legal Answers. Governor Knott said the **Bar Center Facilities Committee** continues to discuss renovations to the front plaza and is including the family of John E. Shipp, for whom the plaza is named, in its discussions. Governor Barbush said the **Cannabis Law Committee** is meeting regularly and actively. He also said the **Lawyers Helping Lawyers Assistance Program** is meeting regularly and will be

presenting a 3-hour CLE during the Annual Meeting. Governor Rogers said the **Clients' Security Fund Committee** is meeting regularly and is continuing to resolve a backlog of claims. He also said the **Professionalism Committee** is planning a CLE for the Annual Meeting. Governor Smith said the **Diversity Committee** will soon be announcing the recipients of this year's Ada Lois Sipuel Fisher Diversity Awards. Past President Hicks said the **Strategic Planning Committee** is meeting regularly, and members are working on their assigned tasks. Its next meeting is planned for October. Governor Hilfiger said the **Law Day Committee** recently met to discuss its planned annual contests for school-aged children for the 2023-2024 school year. The committee voted to adopt the ABA's theme, "Voices of Democracy," for Oklahoma's May 1, 2024, observance. Vice President Williams said the **Legislative Monitoring Committee** has scheduled its upcoming meetings. He also said the **Membership Engagement Committee** is looking for better ways to engage law students. Governor Bracken said the **Military Assistance Committee** is planning CLE for the Annual Meeting. He said the Oklahoma Lawyers for America's Heroes Program is looking at ways the program might be revamped and discussed some of the challenges program volunteers report they encounter. Governor Shaffer Siex and Governor Bracken jointly reported the **Solo and Small Firm Conference Planning Committee** is planning a solo and small firm track for the 2024 Annual Meeting, which is scheduled for July 2024. They said a young lawyers track is also being planned.

KELLER DEDUCTION

The board passed a motion to accept the determination of the OBA's engaged financial auditors, Smith Carney, that the amount of annual dues that members can deduct under *Keller* is \$2.82.

ACCESS TO JUSTICE FOUNDATION REVIEW

President Hermanson asked the assembled board members to review the written document and be prepared to discuss it during the October meeting.

ANNUAL MEETING REGISTRATION

Executive Director Johnson reminded the assembled board members to please complete and return registration forms promptly. President Hermanson reviewed Annual Meeting events and speakers. Also discussed was the Diversity Dinner.

UPCOMING OBA AND COUNTY BAR EVENTS

President Hermanson reviewed upcoming bar-related events, including several monthly joint receptions with local county bars; the New Admittee Swearing-In, Sept. 26, Oklahoma City; the Access to Justice Summit, Oct. 20, virtual; and the OBA Annual Meeting, Nov. 1-3, Skirvin Hilton Hotel, Oklahoma City.

NEXT BOARD MEETING

The Board of Governors met in October, and a summary of those actions will be published in the *Oklahoma Bar Journal* once the minutes are approved. The next board meeting will be held Wednesday, Nov. 1, at the Skirvin Hilton Hotel in Oklahoma City during the Annual Meeting.

Oklahoma Bar Foundation Awards \$1.2 Million in IOLTA Grants

THE OKLAHOMA BAR Foundation is excited to announce that \$1.2 million in grants will be awarded to 45 nonprofits for fiscal year 2024 program funding. This is the largest amount of grant funding ever given through the annual IOLTA Program. The newly named grantees anticipate helping more than 66,000 Oklahomans next year. How the 45 grantees achieve their individual missions is unique, but they all have one thing in common: a major need for client access to legal representation.

“Every year the OBF receives grant requests from nonprofits that provide crucial law-related services throughout our state to those most in need,” said OBF Grants & Awards Chair Jim Dowell. “Providing essential funding for these organizations is at the core of the OBF’s mission. Hearing the impact of the OBF’s IOLTA grants

on the lives of Oklahomans is one of the most rewarding aspects of serving on the OBF board.”

The board-approved increase in grant funds means grantees can better serve their clients with direct access to life-changing legal services. This year, OBF grantee The Spero Project, whose mission is to serve the refugee community in Oklahoma City, received a larger grant amount to hire a full-time staff immigration attorney.

“We are so excited to join this year’s IOLTA grant recipients,” said Brad Bandy, founder of The Spero Project. “We are going to maximize this investment by offering immigration legal support for families living with pending immigration status. Our neighbors know the anxiety and desperation every day of living in limbo and uncertainty about their future. ‘We eat and drink with it. ... We sleep with it,’ one woman told me. But

when they know that progress is being made in their cases for their families, and especially their children, there’s a sense of hope, and it changes lives. The impact of this work is generational! Thank you for thinking of us and growing with us! We love partnering with the OBF to help our neighbors carry their burdens as we walk into a brighter future. And who knows, we might even get to be the answer to some prayers!”

OBF grantees provide critical legal services across the state to abused and neglected children, domestic violence and human trafficking survivors, refugees and immigrants living in Oklahoma. They also provide court-ordered juvenile and family services programs, adult diversion programs, legal clinics and teen law-related educational programs like the Oklahoma High School Mock Trial Program.

2024 OBF GRANT RECIPIENTS

Grantee Nonprofit Organization	Program/Project	Service Area	Grant Amount	Lives Impacted
1st Step Male Diversion Program	1st Step Parenting Course	Tulsa, Creek and Wagoner counties	\$15,025	25
CASA of Canadian County	Court Advocacy for Abused Children	Canadian County	\$15,000	130
The CARE Center	Child Abuse Forensic Interviewing Program	Oklahoma County	\$10,000	850
CASA of Southern Oklahoma	Court Advocacy for Abused Children	Carter, Love, Murray, Johnston and Marshall counties	\$15,000	90
CASA for Kids	Court Advocacy for Abused Children	Kay, Logan and Payne counties	\$15,000	164
CASA of Northeast Oklahoma	Family Preservation Project	Craig, Mayes and Rogers counties	\$25,000	193
CASA of Oklahoma County	Court Advocacy for Abused Children	Oklahoma County	\$15,000	653
CASA of Pawnee/Osage County	Court Advocacy for Abused Children	Osage and Pawnee counties	\$20,000	65

Grantee Nonprofit Organization	Program/Project	Service Area	Grant Amount	Lives Impacted
CASA of Western Oklahoma	Court Advocacy for Abused Children	Beckham, Custer, Dewey, Roger Mills and Washita counties	\$15,000	230
Catholic Charities of Eastern Oklahoma	Immigration Legal Services	Muskogee, Osage and Tulsa counties	\$25,000	800
Catholic Charities of the Archdiocese of Oklahoma City	Immigration Legal Services	Canadian, Cleveland and Oklahoma counties	\$50,000	518
Center for Children and Families	Divorce and Co-Parenting Services	Cleveland and Oklahoma counties	\$20,000	560
Child Abuse Network	Forensic Interviews and Court Advocacy	Oklmulgee, Tulsa and Wagoner counties	\$20,000	1,600
Citizens for Juvenile Justice	Oklahoma County Juvenile Bureau Literacy Initiative	Oklahoma County	\$4,399.50	100
Citizens for Juvenile Justice	Connect to Redirect Program	Oklahoma County	\$4,725	1,500
Community Crisis Center	Court Advocates	Ottawa and Delaware counties	\$9,945	650
Domestic Violence Intervention Services	DVIS Legal Program	Creek and Tulsa counties	\$20,000	3,871
Garfield County Child Advocacy Council	Court Advocacy for Abused Children	Garfield, Kingfisher and Woodward counties	\$20,000	200
Historical Society of the U.S. District Court	Judicial Learning Center: Significant Cases Program Development	Statewide	\$20,000	700
Legal Aid Services of Oklahoma	Access to Civil Legal Services	Statewide	\$130,000	25,000
Marie Detty Youth & Family Services	Domestic and Sexual Violence and Stalking Prevention Services	Caddo, Comanche and Cotton counties	\$20,000	798
Mary Abbott Children's House	Forensic Interview Program	Cleveland, Garvin and McClain counties	\$7,500	1,000
Mental Health Association Oklahoma	Special Services Docket	Tulsa County	\$25,000	240
Oklahoma Access to Justice Foundation	Legal Education and Engagement	Statewide	\$25,000	1,000
Oklahoma Appleseed Center for Law and Justice	Mental Illness and Criminal Law Handbook	Statewide	\$15,000	10,000
Oklahoma CASA Association	Training for CASA Volunteers and Local Programs	Statewide	\$12,000	3,100
OCU School of Law	American Indian Wills Clinic	Statewide	\$30,000	100
Oklahoma Guardian Ad Litem Institute	GAL Services for Low-Income Children and Families	Statewide	\$50,000	100
Oklahoma Bar Association	Oklahoma High School Mock Trial Program	Statewide	\$50,000	800
Oklahoma Lawyers for Families and Children	Family Advocacy Program	Oklahoma and Canadian counties	\$130,000	3,500
Palomar: Oklahoma City's Family Justice Center	Palomar Legal Network	Cleveland, Oklahoma and Logan counties	\$5,000	100
The Parent Child Center of Tulsa	Tulsa Safe Babies Court Team	Tulsa County	\$20,000	210
Pittsburg County Child Abuse Response Effort	Victim's Advocacy and Community Training	Pittsburgh County	\$15,000	250
ReMerge of Oklahoma County	ReMerge Diversion Program	Statewide	\$10,000	85
The Spero Project	Refugee Legal Support Services	Canadian, Cleveland and Oklahoma counties	\$100,000	350
The Spring	Legal Services for Sex Trafficking and Domestic Violence Survivors	Statewide	\$15,000	2,200
Teen Court	Delinquency Prevention/Peer Court	Comanche County	\$30,000	1,200
Trinity Legal Clinic of Oklahoma	Community Justice Initiative	Canadian, Cleveland and Oklahoma counties	\$65,000	300
Tulsa Lawyers for Children	Legal Representation for Abused Children	Tulsa County	\$60,000	250
The University of Tulsa	TU Law Immigration Programs	Statewide	\$58,000	800
Western Plains Youth & Family Services	Services for Juveniles in Detention	Ellis, Harper and Woodward counties	\$20,000	100
YMCA of Greater Oklahoma City	Youth and Government Program	Oklahoma County	\$8,000	800
Youth and Family Resource Center	Court Advocacy for Abused Children	Lincoln and Pottawatomie counties	\$10,000	47
Youth Services of Tulsa	Youth Court	Tulsa County	\$10,000	400
YWCA of Tulsa	Immigration Legal Services	Rogers, Tulsa and Wagoner counties	\$30,000	858
		TOTAL	\$1,289,594.50	66,487

You can support OBF grantees by joining as a Partner for Justice. Sign up using the form on the next page.

PARTNER WITH THE OKLAHOMA BAR FOUNDATION

Make access to justice a priority in your charitable giving!

Partners Advancing Justice



Partners Advancing Justice

Individual giving program – giving starts at \$10/month or \$100/year.



Community Partners for Justice

Group annual giving program – giving starts at \$1,000.



Legacy Partners for Justice

Leave a legacy by making a planned gift to the OBF. Joining as a Legacy Partner is one of the most powerful actions you can take to ensure justice is possible for all.

More Ways to Support the OBF



Cy Pres

Leftover monies from class action cases can be designated to the OBF's Court Grant Fund or General Fund.



Memorials & Tributes

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



Unclaimed Trust Funds

Contact the OBF office if you have unclaimed trust funds in your IOLTA Account (405-416-7070 or foundation@okbar.org).



Give Now!



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Practicing Gratitude When Asked, ‘How is Work?’ During the Holidays

By Caroline Shaffer Siex

IHAVE MEMORIES OF MY childhood teachers during Thanksgiving asking, “What are you thankful for?” As a kid, that was a pretty simple response. I was thankful for the pie at Thanksgiving, days off school and a fountain of gravy on my mashed potatoes.

Would any of us today say, “I am thankful to be a lawyer”? Let’s be honest, many of us would

not. Before you throw this article down, let’s ask, why aren’t we? There’s more to being a lawyer than hitting our billable hours and objecting to form in a deposition. I know that for me, part of being a lawyer is my experience on the OBA YLD Board of Directors. Without being a lawyer, I would not have met a group of amazing friends who practice across the state. These are now friends with whom

I have traveled, texted when I have had a bad day and created some great memories. The way I have been able to give back to our membership would also not have been possible without the board.

That’s just one part of my being a lawyer. I have had shining moments (and, of course, bad ones too). If we can think of five good things every month about being a lawyer, we could respond to our



OBA YLD members dress up for an event during the 2018 Annual Meeting.



From left YLD Chair Caroline Shaffer Siex, Treasurer Taylor Venus and Chair-Elect Laura Talbert attend the 2023 ABA YLD Spring Conference in New York.



From left Taylor Venus, Caroline Shaffer Siex and Immediate Past Chair Dylan Erwin at the 2023 ABA YLD Spring Conference in Atlanta.

loved ones asking, “How is work?” at holiday gatherings much easier. If we practice gratitude, we can probably say much more than, “It’s fine.”

Interestingly, gratitude improves our mental health.¹ If you are reading this article, you have probably read other articles from the *Oklahoma Bar Journal* contributors talking about the importance of mental health. In fact, the OBA YLD collaborated with the Lawyers Helping Lawyers Assistance Program to host a CLE based on the number of responses reported from young lawyers that demonstrated a need to focus on mental health. I say we should add something to the mental health toolbox.

The practice of gratitude can unshackle us from toxic emotions. If you have worked as a litigator, you know about toxic emotions. Wouldn’t it be great to focus on the good to help dull the not-so-good? Even though it will take

time, practicing gratitude will have a positive “snowball effect.” We probably snowball in stress, so the opposite sounds like a fresh breath of positive air. There are also lasting positive effects on the brain when practicing gratitude.

In an effort to kickstart all of our practicing gratitude, I want to share five things I am personally thankful for as a lawyer that occurred within just the past month:

- 1) I was able to help a business owner who, I could tell, cared deeply about his employees and business to get out of a bad situation.
- 2) I saw the spark of new lawyers excited about joining the OBA at the YLD New Lawyers Happy Hour event.
- 3) I had a new experience in a different town at a Board of Governors meeting.
- 4) I had great communication with an opposing party.

- 5) Hey, I got a paycheck to keep a roof over my head!

No matter how big or small, there must be something to be thankful for. As we enter this month, let’s start a list to show off at Thanksgiving about how well work is going for us. I can at least predict that better than the Dallas Cowboys.

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

ENDNOTES
 1. Joshua Brown and Joel Wong. “How Gratitude Changes You and Your Brain,” *Greater Good Magazine*, June 6, 2017. Greater Good Science Center. <https://bit.ly/3FoZ6XT>.

FOR YOUR INFORMATION

OKLAHOMA COUNTY DIVERSION HUB RECEIVES \$1 MILLION GRANT TO EXPAND DRUG COURT PARTICIPANT CAPACITY

The Oklahoma County Diversion Hub was awarded a \$1 million grant by the Bureau of Justice Assistance (BJA) to increase the participant capacity of the drug court program over the next four years. The grant funding will expand the program's capacity from 150 participants to 250 at any given time. The BJA funding extends the roles of various drug court employees and will cover 50% of an additional assistant public defender role, 50% of an additional assistant district attorney role and the addition of a program navigator, tasked with helping 125 participants each year. The program navigator will help participants understand and meet program requirements while assisting them with securing needed services and resources. Funding also covers the cost of new case management software Reconnect, which will help drug court staff supervise participants via a smartphone application. A portion of the grant is reserved for indigent drug testing, which will help participants overcome financial barriers to graduating from drug court. For more information, contact Melissa Walton, strategic director, Oklahoma County Treatment Courts, 405-906-9487, www.okcountycourt.org.

MEMBER DUES STATEMENTS ARE AVAILABLE ONLINE

In an effort to save money and cut down on the cost of printing and postage, the OBA Membership Department has posted member dues statements online in MyOKBar. As a follow-up, a paper statement will be mailed around the first of December to members who have not yet paid. Please help the OBA in this effort by paying your dues today!

Members can pay their dues by credit card online at MyOKBar or by mailing a check to the OBA Dues Lockbox, P.O. Box 960101, Oklahoma City, OK 73196. Dues are due Tuesday, Jan. 2, 2024.

MCLE DEADLINE APPROACHING

Dec. 31 is the deadline to earn any remaining CLE credit for 2023 without having to pay a late fee. The deadline to report your 2023 credit is Feb. 15, 2024. As a reminder, the annual ethics requirement is now two credits per year. The 12 total annual credit requirement did not change.

Not sure how much credit you still need? You can view your MCLE transcript online at www.okmcle.org. Still need credit? Check out great CLE offerings at <https://ok.webcredenza.com>. If you have questions about your credit, email mcle@okbar.org.

LHL DISCUSSION GROUP HOSTS DECEMBER MEETINGS

The Lawyers Helping Lawyers monthly discussion group will meet Dec. 7 in Oklahoma City at the office of Tom Cummings, 701 NW 13th St. The group will also meet Dec. 14 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.

IMPORTANT UPCOMING DATES

Don't forget the Oklahoma Bar Center will be closed Friday, Nov. 10, in observance of Veterans Day.

The bar center will also be closed Thursday and Friday, Nov. 23-24, for Thanksgiving and Monday and Tuesday, Dec. 25-26, for Christmas.



THE BACK PAGE: YOUR TIME TO SHINE

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, lorir@okbar.org.

CONNECT WITH THE OBA THROUGH SOCIAL MEDIA

Are you connected to the OBA LinkedIn page? It's a great way to get updates and information about upcoming events and the Oklahoma legal community. Follow our page at <https://bit.ly/3IpCrec>, and be sure to find the OBA on Facebook and Instagram.



ON THE MOVE

Sharolyn Whiting-Ralston has rejoined the law firm of McAfee & Taft as of counsel. She practices in the area of general litigation on the resolution of complex business and commercial disputes. Throughout her career, she has gained experience in representing employers and management exclusively in all phases of labor and employment law and litigation for more than eight years. Ms. Whiting-Ralston has joined the firm after working for more than nine years at an Oklahoma-based independent oil and natural gas exploration and production company, serving most recently as general counsel, vice president of human resources and corporate secretary. She is a member of the Tulsa County Bar Association and serves as chair of the Board of Directors for the Tulsa Day Center, a nonprofit whose mission is to serve those who are experiencing or at risk for homelessness.

Zoe E. Butts has joined the Oklahoma City office of GableGotwals as of counsel. She practices in the areas of complex civil and business litigation. Ms. Butts received her J.D. from the OU College of Law and is distinguished as a barrister in the

William J. Holloway Jr. American Inn of Court. She has experience in comprehensive civil litigation in state and federal courts, including insurance bad faith, personal injury, medical malpractice, healthcare litigation, trucking liability and class actions. She is a member of the Oklahoma County Bar Association and the Junior League of Oklahoma City.

Ryan C. Alley has joined the Tulsa law firm of Atkinson, Brittingham, Gladd, Fiasco & Edmonds as an associate attorney. He practices in the area of civil litigation with a focus on research and writing. Mr. Alley received his J.D. from the Southern Methodist University Dedman School of Law. While in law school, he served as an editor for articles in the *SMU Science and Technology Law Review* and received pro bono hours after working at the Tulsa County District Attorney's Office.

Taylor R. Wewers has joined the Tulsa office of Hall Estill as an associate attorney. She received her J.D. from Notre Dame Law School in May. In 2019, Ms. Wewers served as a John Paul Hammerschidt Fellow in the U.S. House of

Representatives. In 2021, she served as an intern for Judge Claire V. Eagan in the U.S. District Court for the Northern District of Oklahoma.

Taylor Gronlund has joined the Oklahoma City law firm of DeBee, Clark & Webber PLLC as an associate attorney. She practices in the areas of comprehensive estate planning, trust administration and probate. Ms. Gronlund received her J.D. from the OCU School of Law.

Tiffany Barker has joined the Oklahoma City law firm of Lytle, Soulé & Felty PC as an associate attorney. She is a 2023 graduate of the OU College of Law. Ms. Barker primarily practices in the areas of commercial general liability defense and general civil and commercial litigation in federal and state courts. She previously worked in the insurance industry as a licensed insurance adjuster for Farmers Insurance and then as an arbitration writer for Advanced Subrogation Resources.

Kaycee Boren has joined the Tulsa office of CharneyBrown LLC as a senior attorney. She will practice in the areas of energy transactions and oil and gas title opinions. Ms. Boren

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 January issue must be received by Dec. 1.

received her J.D. from the OU College of Law in 2013. She has practiced in Tulsa for the past 10 years in the areas of energy transactional matters and oil and gas title opinions. Ms. Boren also frequently lectures across the state on various title and energy-related issues. She is an active member of the Tulsa County Bar Association.

Kraettli Q. Epperson has joined the Oklahoma City law firm of Nash, Cohenour & Giessmann PC as of counsel. Mr. Epperson practices in the area of resolving title issues concerning both surface and mineral interests for corporations, oil companies and individuals. He also serves as an expert for consultation and testifying purposes on title matters. Mr. Epperson additionally advises homeowners associations and landowners on

restrictive covenants interpretation, assists with their enforcement and provides arbitration and mediation services. Mr. Epperson taught Oklahoma land titles for more than 30 years at the OCU School of Law and served as chair of the Oklahoma Title Examination Standards Committee for more than 30 years.

Richard Hathcoat has been appointed to serve as the Tulsa County district judge by Gov. Stitt. He previously served as a special judge in the Tulsa County District Court since 2022 and practiced in the areas of general civil litigation and criminal defense in state and federal courts. From 2008 to 2019, Mr. Hathcoat practiced in the oil and gas industry in Colorado. He received his J.D. from the TU College of Law in 1991.

Grace A. DeJohn has joined the Tulsa law firm of Pray Walker as an associate attorney. She will practice in the area of complex commercial litigation, including insurance-related disputes, environmental claims and personal injury defense, among others. Before moving to Tulsa, she gained commercial law experience working for the in-house legal department of a Fortune 500 company in the Phoenix area. Ms. DeJohn graduated with honors from the TU College of Law in 2023, where she served as a justice for the Phi Alpha Delta legal fraternity and was an active member of the Public Interest Board, having completed more than 60 hours of community outreach and pro bono work.

KUDOS

John D. Russell has been admitted to the American College of Trial Lawyers as a fellow. He is a shareholder at GableGotwals with experience practicing in the area of commercial litigation. Mr. Russell has handled civil and criminal cases across multiple industry sectors and has represented clients before trial and appellate courts, as well as federal and state regulatory agencies.

Judge Thad H. Balkman has been selected to join the American Law Institute and admitted to the American College of Trial Lawyers as a fellow. He has served as district judge for the 21st Judicial

District since his appointment in 2013. Judge Balkman is a member of the Oklahoma Uniform Jury Instructions Criminal Committee, in which he is responsible for amending and improving jury instructions, and the Uniform Law Committee, which includes serving on the Study and Drafting committees for uniform laws.

Robert Don Gifford of Oklahoma City was honored with the Cardozo Golden Quill Award from the OBA Criminal Law Section. Mr. Gifford previously received the award in 2016.

AT THE PODIUM

Paul R. Foster of Paul Foster Law Offices PC in Norman was a featured speaker at the Community Bankers Association of Oklahoma Annual Convention, held in Oklahoma City Sept. 13-15. Mr. Foster coordinated and moderated the presentation of the bank regulatory panel consisting of regulators from the Oklahoma Banking Department, the Comptroller of the Currency, the Federal Deposit Insurance Corp. and the Federal Reserve. The presentation covered the lessons learned from Silicon Valley Bank and Signature Bank failures, liquidity, recent interest rate risk, credit risk management, litigation impacting the regulatory landscape and other trending regulatory issues.

IN MEMORIAM

Herbert E. Elias Sr. of Tulsa died Sept. 11. He was born Sept. 19, 1936, in Bristow. **Mr. Elias served in the U.S. Army for two years.** He received his J.D. from the TU College of Law in 1963. He most recently practiced law with Scott Hjelm for more than 25 years and was recognized by the OBA for 60 years of membership. Memorial contributions may be made to St. Jude Children's Research Hospital.

Bob Funston of Oklahoma City died July 28. He was born Sept. 17, 1938, in Tulsa. Mr. Funston received his J.D. from the TU College of Law in 1965. He practiced law, but his professional passion was to serve Oklahoma in any capacity needed. Mr. Funston served as a state senator for six years and gave up his seat to run for governor in 1978. He served as executive director of the Department of Economic and Community Affairs and was eventually selected to serve as executive director of the Oklahoma Employment Security Commission, where he worked for several years and took a special interest in veterans' employment after service. Mr. Funston later worked at OU as the director of the Center for Public Management, overseeing the training of thousands of state employees. At one point, Mr. Funston held the record for the total number of birds spotted by an Oklahoman, earning him a mention in *The Big Year*.

Jerome Louis Hemry of Oklahoma City died Oct. 8. He was born Jan. 30, 1937, in Oklahoma City. Mr. Hemry earned his business degree from OU, his J.D. from the OU College of Law in 1961 and

his LL.M. from the University of Michigan. **Already a second lieutenant in the U.S. Army Reserve, he reported for active duty after graduation. He was promoted to first lieutenant and was deployed with the 3rd Armored Division, stationed in Germany at the Quartermaster Corps from Aug. 6, 1962, until July 19, 1964. Mr. Hemry was honorably discharged on June 11, 1965.** He then joined his father and uncle at their law firm, Hemry & Hemry, where he practiced until 2012. He then went to work for his son and practiced law until his retirement in 2022. Mr. Hemry loved being an attorney and celebrated 60 years of membership in the Oklahoma County Bar Association. He also served in the Classen Alumni Association and as president of the Rotary Club. Memorial contributions may be made to a charity of your choice.

Marcie James of Oklahoma City died Sept. 12. She was born Nov. 8, 1940, outside of Norman. She graduated from OU in 1962 with a bachelor's degree in business management, *cum laude*. She received her J.D. from the OU College of Law in 1982. Upon graduation, she began working at Green, James and Williams. She eventually became law partners with her husband, working together until his death in 2007. Ms. James practiced law until her retirement in 2016. Memorial contributions may be made to Shriners Children's Shreveport.

James Lawrence Mauritsen of Oklahoma City died Sept. 21. He was born Dec. 26, 1949, in Cleveland, Ohio. Mr. Mauritsen received his J.D. from the OU College of Law.

Ronald Lee Ripley of Norman died July 13. He was born Feb. 14, 1946, in Pawnee. Mr. Ripley received his J.D. from the OU College of Law in 1972. He worked for more than 40 years in private practice as an attorney and corporate general counsel in Oklahoma. After retirement, Mr. Ripley served as the co-director of Students for Access to Justice at the OU College of Law. **He served his country as an Army ranger, earning distinction as a leader.** Mr. Ripley was also an active volunteer for the Oklahoma Golf Association, the Oklahoma Golf Hall of Fame and the United States Golf Association for several years, including serving as a rule official at countless golf championships of all sizes. Memorial contributions may be made to Meals on Wheels of Norman, the Women's Resource Center or the Perry High School Alumni Association.

Luther Jerome Tubb Jr. of Oklahoma City died May 22. He was born July 3, 1939, in Midwest City. Mr. Tubb graduated second in his class from the OU College of Law in 1964. He survived polio and taught himself to walk again with arm crutches and leg braces. He persevered with a positive outlook on life and showed generosity to others. Mr. Tubb was a light for clients who thought their cases were hopeless. Memorial contributions may be made to the Lynn Institute Hope Leadership Scholarship Program.

IN MEMORIAM
Judge Charles A. Johnson
1931 - 2023



Judge Charles A. Johnson of Scottsdale, Arizona, died Aug. 25. He was born Jan. 19, 1931, in Kansas City, Missouri.

Judge Johnson graduated from Ponca City High School and received his bachelor's degree from OU. He was involved in the Phi Gamma Delta fraternity, where he made lifelong friendships. He considered it to be one of his proudest experiences. In 1955, he received his LL.B. from the OU College of Law.

While attending OU, he enlisted in the U.S. Air Force Reserve Officer Training Corps. After graduating from law school, he was called to serve active duty and remained in the Judge Advocate General's Reserve Component for more than 30 years after his release. Judge Johnson retired in 1984 after attaining the rank of colonel with awards including the Distinguished Service Medal and the Legion of Merit.

He began his practice of law in Pawhuska and eventually moved to Ponca City, where he started a solo law practice. He was a senior partner at the law firm of Phipps, Johnson, Holmes & Hermanson, which became Johnson & Hermanson before he returned to solo practice with the Johnson Law Firm.

Judge Johnson was appointed by Gov. Henry Bellmon to a vacancy on the Court of Criminal Appeals. During his 25 years of judicial service in the 2nd Judicial District, he served three terms as presiding judge on the state's court of last resort for criminal cases. In 1993, Judge Johnson was named Outstanding Appellate Judge of the Year by the Oklahoma Trial Lawyers Association.

He retired from the court in 2014 and shortly served as of counsel at the Johnson Law Firm, the firm he established 60 years prior. He was also inducted as an honorary member of the Order of the Coif at the OU College of Law in 2015.

He served his church, community and the legal profession throughout his life. Judge Johnson was president of the Kay County Bar Association from 1971 to 1972 and a member and chair of the Oklahoma Alcoholic Beverage Control Board. He was selected as one of the three Outstanding Young Oklahomans honored by the Oklahoma Junior Chamber of Commerce. Additionally, he served as an elder and Sunday school teacher in his church for many years and was active in organizations such as the OBA, ABA, Oklahoma Trial Lawyers Association, YMCA and more. Memorial contributions may be made to a charity of your choice or the Oklahoma Bar Foundation in his memory. Condolences may be expressed to the family at jgjlw@sbcglobal.net.

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INSURANCE/CIVIL DEFENSE FIRM with about 20 attorneys seeks litigation associate attorneys with 1-3 years experience. The ideal applicant should have excellent verbal and writing skills and be motivated to work on cases from start to finish. Please send resume and writing sample to Amy Sherry Fischer at amyfischer@oklahomacounsel.com.

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The advertisement features a background image of a smiling man in a light blue shirt. On the left, a white box contains the Oklahoma Bar Association logo and the text: "OKLAHOMA BAR ASSOCIATION BAR BENEFITS You make a difference. OBA member benefits make it easier." On the right, the text reads: "OKLAHOMA FIND A LAWYER DID YOU KNOW? You can find lawyers by practice and geographical area through the OBA's website. To be included in the free, public directory, click the 'Find A Lawyer Sign Up' link on your MyOKBar page. CHECK IT OUT www.oklahomafindalawyer.com" At the bottom, a blue banner contains the text: "FIND MORE MEMBER BENEFITS AT WWW.OKBAR.ORG/MEMBERBENEFITS"



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Counting Blessings

By Jennifer E. Krieg

AS THE DAUGHTER OF A combat Marine, I have had many bits of sage advice passed to me – usually in the form of warnings to defend against enemy attacks and strategic maneuvers. The passage of time has taught me just how many of these gems are relevant to the practice of law. However, recent events have brought a particular one into focus: “Whether it be in marriage, friendship or business, find people you want to be in a foxhole with. Find the people who will lay on a grenade for you. Once you find them, don’t let them go.”

In 2005, I joined Monica, a law school classmate who had recently started a land and environmental consulting firm. Within a few short months, Scott joined us as the third partner, and we were off and running. Over the next 18 years, we rode the boom-and-bust rollercoaster of the oil and gas business, experienced the fickleness of the law and learned to appreciate one another’s unique talents and tolerate the quirks and annoyances. We have seen one another through marriages, the births of many children and the loss of family members and have become stronger as a result. Our partnership has been tested by the fires of politics, economic downturns and changing lives.

On Jan. 1, 2023, my family was changed forever. On that day, my husband and I were told that



From left Monica Griffin, Scott St. John and Jennifer Krieg.

our 17-year-old son was suffering from a serious form of cancer that had spread through his body. Overnight, our lives stopped. After calling our priest, the first call I made was to my partners with, “I don’t know when I will be back.” Without question or hesitation, they proceeded to carry us through the next eight months. Not only did they take on every one of my cases, but they also took care of my clients, brought in new clients for me and continued to sustain our company, which was still

recovering from the devastating pandemic. I didn’t practice law for eight months, and I never missed a paycheck. More importantly, they cared for me and my family – from making a midnight run to many drugstores to find an elusive chemotherapy lotion, to hauling my younger children to orthodontist appointments, to taking all my teary overnight calls to recite countless Hail Marys, to bringing homemade soup to the hospital when nothing else would do.

Our son has been blessed and is now cancer-free and enjoying the best senior year ever. While we thank his medical team for all their care and expertise, my family and I know that two lawyers were equally responsible for his miracle. Their sacrifices made it possible for me to focus on his care and treatment, solely and obsessively, to be present every second and fiercely advocate for him – and it made all the difference in his recovery.

So my sage advice to young lawyers entering the profession is this: “Whether it be in marriage, friendship or business, find people you want to be in a foxhole with. Find the people who will lay on a grenade for you. Once you find them, don’t let them go.”

Ms. Krieg practices in Oklahoma City.

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THURSDAY & FRIDAY,
DEC. 7 & 8, 2023

9 a.m. - 3:20 p.m.
DoubleTree by Hilton Tulsa Warren Pl
6110 South Yale Avenue
Tulsa, OK 74136

MCLE 5/1 - DAY ONE
MCLE 5/1 - DAY TWO

Disclaimer: All views or opinions expressed by any presenter during the course of this CLE is that of the presenter alone and not an opinion of the Oklahoma Bar Association, the employers, or affiliates of the presenters unless specifically stated. Additionally, any materials, including the legal research, are the product of the individual contributor, not the Oklahoma Bar Association. The Oklahoma Bar Association makes no

DAY ONE - OKC:

Exploring the 8 Dimensions of Wellness

Nanci Cosby, A Chance to Change, OKC

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Bankruptcy Law Update

Craig Regens and Brandon Bickle, Gable Gotwals

Cannabis Law Update

Amber Peckio Garrett, Amber Law Group, Tulsa

Felina Rivera, Renaissance Legal Solutions, OKC

Criminal Law Update

Barry L. Derryberry, First Asst Federal Defender, Tulsa

Health Law Update

Maggie Martin, Crowe & Dunlevy, OKC

Oklahoma Tax Law Update

Rachel Mathew, Partner, Polston Tax Resolution

DAY TWO - OKC:

Business and Corporate Law Update

Gary Derrick, Derrick and Briggs, LLP, OKC

Law Office Management and Technology Update

Jim Calloway, Director, Management Assistance Program, OBA

Julie Bays, Practice Management Advisor, OBA

Real Property Law Update

Kraettli Epperson, Mee Mee Hoge and Epperson, OKC

Estate Planning and Probate Law Update

Terrell Monks, Oklahoma Estate Attorneys, PLLC, OKC

Family Law Update

Monica Dionisio, Dionisio Sherwood Law Firm, OKC

Ethics Update

Gina Hendryx, General Counsel, OBA

DAY ONE - TULSA:

Health Law Update

Maggie Martin, Crowe & Dunlevy, OKC

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Gina Hendryx, General Counsel, OBA

FREE

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ASSISTANCE



Willingness is the key. **Recovery is available for everyone.** The trouble is that it's not for all who need it, but rather for those who want it.

- Clif Gooding, Oklahoma Bar Association Member

Get help addressing stress, depression, anxiety, substance abuse, relationships, burnout, health and other personal issues through counseling, monthly support groups and mentoring or peer support.



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