ALSO INSIDE: New Lawyers Take Oath
Annual Meeting • 2026 Committee Sign-Up

THE OKLAHOMA BAR
Journal
Volume 96 — No. 9 — November 2025

Trial by Jury

DON'T MISS THE ANIMAL LAW SECTION ANNUAL MEETING!

NOV. 12 | NOON | OKLAHOMA BAR CENTER & VIRTUAL

The 2025 OBA Animal Law Section Annual Meeting will be held Wednesday, Nov. 12, from noon to 1 p.m. at the Oklahoma Bar Center in Room 131. Join us as we elect officers and discuss possible events for 2026. This meeting is BYOL (bring your own lunch). For Zoom log in information, visit www.okbar.org/events/list.

The Animal Law Section promotes and assists OBA members with studying and understanding the laws, regulations and court decisions dealing with the legal issues involving animals. It is also intended to provide a forum for members to consider, educate and discuss the legal issues involved in humanity's relationship and coexistence with animals. Any OBA member in good standing is eligible to join.

Not yet a member of the OBA Animal Law Section? Join today by visiting ams.okbar.org.

OBA CLE
Continuing Legal Education

WEDNESDAY, DECEMBER 3, 2025

10 a.m. - 4 p.m.
The University of Tulsa College of Law
3120 E 4th Pl, Tulsa, OK 74104

MCLE 6/1

Conference Chair:
Christa Rogers, JD, AEP, CAP, CFRE

SIGNATURE SPONSOR

Argent FINANCIAL GROUP, INC

HIGHGROUND ADVISORS

THE UNIVERSITY of TULSA

CO-HOSTS
Oklahoma Bar Association
High Ground Advisors
University of Tulsa
Oklahoma Estate Planning Section
Tulsa Estate Planning Forum
Oklahoma Association of Charitable Gift Planners
Tulsa County Bar Association

PRESENTING ORGANIZATIONS
GableGotwals
Argent Financial
HighGround Advisors
Mariner
EverPar
The University of Tulsa

REGISTER AT:
HTTPS://WWW.EVENTENY.COM/EVENTS/THE-PLANING-EDGE-BUSINESS-TAX-AND-LEGACY-STRATEGIES-SUMMIT-24401/

THE PLANNING EDGE:

Business, Tax and Legacy Strategies Summit

> WHO SHOULD ATTEND <

This program is designed for professionals at the intersection of wealth, law and philanthropy — those who guide individuals, families and businesses through complex financial and legacy decisions.

Attorneys practicing in estate planning, business succession, tax, nonprofit or elder law who want to stay current on emerging legal and regulatory trends.
Certified Public Accountants (CPAs) and Tax Advisors seeking strategic insights into new tax legislation, compliance updates and planning opportunities that support long-term wealth preservation.
Financial Advisors, Wealth Managers and Trust Officers looking to enhance collaboration with legal and accounting professionals to deliver comprehensive planning solutions.
Philanthropic Advisors and Gift Planners interested in innovative charitable giving strategies and how philanthropy can align with estate and tax planning goals.
Business Owners and Family Office Executives navigating transition, succession and legacy planning for closely held enterprises.

Whether you advise clients, manage wealth or structure charitable gifts, this forum equips you with the insights, tools and professional connections needed to stay on the leading edge of planning excellence.

THE OKLAHOMA BAR Journal

contents

November 2025 • Vol. 96 • No. 9

THEME: TRIAL BY JURY

Editor: Judge Roy Tucker

ON THE COVER: *The art deco style of this seventh-floor courtroom at the Oklahoma County Courthouse in Oklahoma City retains the original style of the iconic Public Works Administration project. The building was constructed in 1937 and is listed on the National Register of Historic Places. Special thanks to Judge Sheila D. Stinson. Photo by Lori Rasmussen.*

FEATURES

8 | 'THE LAWFUL JUDGMENT OF HIS PEERS': JURY SELECTION TIPS FOR PRACTITIONERS
BY MATTHEW R. PRICE

12 | SPEAKING THE TRUTH ABOUT *VOIR DIRE*
BY JIM T. PRIEST

20 | EVISCERATION VIA CROSS-EXAMINATION
BY SHELLEY L. LEVISAY AND DAVID T. MCKENZIE

26 | OUJI BORED? CRAFTING NOVEL AND MODIFIED JURY INSTRUCTIONS IN OKLAHOMA
BY ANDREW J. HOFLAND AND JUSTIN A. LOLLMAN

34 | BECOMING A RACONTEUR: PREPARATION OF THE CLOSING ARGUMENT
BY ROBERT DON GIFFORD II

42 | THE RIGHT TO TRIAL BY JURY FOR TERMINATION OF PARENTAL RIGHTS
BY EVAN HUMPHREYS

48 | STRONG CASE, HEAVY COST: THE EMOTIONAL WEIGHT OF TRIAL LAW
BY SCOTT GOODE

PLUS

54 | NEW LAWYERS TAKE OATH

58 | ANNUAL MEETING

70 | 2026 COMMITTEE SIGN-UP

DEPARTMENTS

4 | FROM THE PRESIDENT

6 | BAR NEWS IN A MINUTE

72 | FROM THE EXECUTIVE DIRECTOR

74 | LAW PRACTICE TIPS

78 | BOARD OF GOVERNORS ACTIONS

82 | OKLAHOMA BAR FOUNDATION NEWS

86 | BENCH & BAR BRIEFS

90 | IN MEMORIAM

91 | EDITORIAL CALENDAR

92 | CLASSIFIED ADS

96 | THE BACK PAGE

PAGE 54 – New Lawyers Take Oath

First, Just Be Still and Listen

By D. Kenyon "Ken" Williams Jr.

"FIRST, JUST BE STILL AND LISTEN" is the opening advice from the grandfather in *The Treehouse,* a novel by Naomi Wolf. "It is a disaster that we are losing the option of silence – with all these televisions, all these channels, these devices you carry that constantly interrupt you. ... The very first lesson to a young poet, or anyone starting in on creative work, is this: go somewhere quiet and listen inwardly. What you hear internally might completely surprise you; and it will not be true unless you hear it first internally."

Several years ago, my three oldest grandsons decided that I needed to build a treehouse for them at our home in the country. As I began looking for building plans for treehouses that might be adapted to the configuration of trees near our home, I stumbled across *The Treehouse*. It is a loosely biographical story of an independent-minded woman in her 40s reconnecting with her 80-year-old father, who is both a poet and a quasi-mystical figure. The woman asks her father to teach her how and help her build a "treehouse" for the woman's child/the father's grandchild. What she is really seeking is a place and time to "be still and listen" – a refuge from the hectic and combative world in which she is living.

D. Kenyon "Ken" Williams Jr. is a shareholder and director at Hall Estill in Tulsa.
918-594-0519
kwilliams@hallestill.com

The book was a difficult read for me because of all the poetry incorporated into the novel (as mentioned in an earlier message to you, my engineering and law school education did not train me to understand and appreciate poetry). One reference that did call to me was William Wordsworth's 1802 poem, "The World Is Too Much With Us," which reads, in part:

The world is too much with us;
late and soon,
Getting and spending,
we lay waste our powers:
Little we see in Nature that is ours;
We have given our hearts away,
a sordid boon!

But the grandfather's initial advice, "be still and listen," reminded me of one of my favorite ancient wisdoms: "Listen to advice and accept instruction, that you may gain wisdom in the future." That advice is also an iteration and echo of one of my persistent (and futile) complaints, *i.e.*, the loss of time to reflect. Before facsimile machines, scanners, emails and text messages, lawyers crafted letters and documents through a process that, of necessity, included drafts and redrafts and time to reflect upon the words before transmitting the product by mail to the recipient. With the accelerated cycle of work and client expectations of immediate responses that have become the "new normal" for our profession, the time to reflect has been lost. In my experience, the potential for error and a lower standard of craftsmanship has been the result of that loss.

In the novel, the treehouse is an allegory for a place and time to be still and listen. Twice this year, I have had the honor to address the 2025 new admittees to our association, along with the swearing-in ceremony attendees who love and applaud the admittees in their new profession. For those few moments and in that place, those present had an opportunity to be still and listen to the wise advice of Chief Justice Dustin P. Rowe to "return your phone calls." Less sage but heartfelt were my following thoughts shared with those who attended, which I now share with you.

In my opinion, the profession of law is the most advantageous profession on Earth! The learning process trains us to solve problems in a variety of life situations. It gives us great opportunities to do so many things our fellow citizens cannot. In addition to having opportunities to positively impact our laws and society, we also have the opportunity to help people – to do the greater good!

(continued on page 73)

Oklahoma Bar Association 405-416-7000
Toll Free 800-522-8065
FAX 405-416-7001
Continuing Legal Education 405-416-7029
Ethics Counsel 405-416-7055
General Counsel 405-416-7007
Lawyers Helping Lawyers 800-364-7886
Mgmt. Assistance Program 405-416-7008
Mandatory CLE 405-416-7009
Board of Bar Examiners 405-416-7075
Oklahoma Bar Foundation 405-416-7070

www.okbar.org

THE OKLAHOMA BAR
Journal
Volume 96 — No. 9 — November 2025

The Oklahoma Bar Journal (ISSN 0030-1655) is published monthly, except June and July, by the Oklahoma Bar Association, 1901 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105. Periodicals postage paid at Oklahoma City, Okla. and at additional mailing offices.

Subscriptions $85 per year. Law students registered with the OBA and senior members may subscribe for $45; all active members included in dues. Single copies: $8.50

Postmaster Send address changes to the Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152-3036.

Bar News in a Minute

JIM CALLOWAY HONORED

Jim Calloway accepts his award. Photo courtesy of Sean Harrington.

Congratulations to retired OBA Management Assistance Program Director Jim Calloway, who recently received the American Legal Technology Lifetime Achievement Award. The award was presented at the Suffolk University Law School in Boston on Oct. 15. Mr. Calloway, who retired in May after 28 years of service, is celebrated for displaying "leadership, excellence and vision over a long career in driving innovation in the law."

CARSON BROOKS APPOINTED DISTRICT JUDGE FOR 20TH JUDICIAL DISTRICT

On Oct. 16, Carson Brooks was appointed by Gov. Kevin Stitt as the district judge for Oklahoma's 20th Judicial District, Office 1. Judge Brooks has lived in Ardmore since 2012 and brings over 20 years of legal experience to the bench. He earned a bachelor's degree in agricultural sciences and natural resources from OSU and a J.D. from the OCU School of Law. He spent 11 years in private practice and later served as an assistant district attorney in Carter County, where he tried numerous jury and nonjury cases involving family, criminal and juvenile matters. Judge Brooks enjoys spending time with his wife and their three children, attending church, hunting and fishing and cheering on the Oklahoma City Thunder.

MCLE DEADLINE APPROACHING

Dec. 31 is the deadline to earn any remaining CLE credit for 2025 without having to pay a late fee. The deadline to report your 2025 credit is Tuesday, Feb. 17, 2026.

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

IMPORTANT UPCOMING DATES

The Oklahoma Bar Center will be closed Tuesday, Nov. 11, in observance of Veterans Day. The bar center will also be closed Thursday and Friday, Nov. 27 and 28, in observance of the Thanksgiving holiday.

LET US FEATURE YOUR WORK

We want to feature your work on "The Back Page" and the *Oklahoma Bar Journal* cover! All entries must relate to the practice of law and may include articles, reflections or other insights. Poetry, photography and artwork connected to the legal profession are also welcome. Photographs and artwork relating to featured topics may also be published on the cover of the journal. Email submissions of about 500 words or high-resolution images to OBA Communications Director Lori Rasmussen at lorir@okbar.org.

CONNECT WITH THE OBA THROUGH SOCIAL MEDIA

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

LHL DISCUSSION GROUP HOSTS DECEMBER MEETINGS

The Lawyers Helping Lawyers monthly discussion group will meet Thursday, Dec. 4, in Oklahoma City at the office of Tom Cummings, 701 NW 13th St. The group will also meet Thursday, Dec. 11, in Tulsa at the office of Scott Goode, 1437 S. Boulder Ave., Ste. 1200. The Oklahoma City women's discussion group will meet Thursday, Dec. 18, at the first-floor conference room of the Oil Center, 2601 NW Expressway.

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, and keep an eye on the OBA events calendar at www.okbar.org/events for upcoming discussion group meeting dates.

2026 MOCK TRIAL KICKS OFF

The 2025-2026 Oklahoma High School Mock Trial season kicked off on Tuesday, Oct. 7, with the Mock Trial Clinic held at the Oklahoma Bar Center. Attorney volunteers spoke at the clinic, covering topics of interest for mock trial participants, such as the mock trial rules, impeachment procedures, direct and cross-examination and more.

To help make this year's mock trial a success, consider serving as a volunteer! Opportunities are available for scoring panelists, judges, coaches and several other positions. To volunteer, contact Program Director Mike Horn at michaelh@okbar.org by Nov. 15. Learn more about the Oklahoma High School Mock Trial Program at www.okbar.org/mocktrial.

MEMBER DUES STATEMENTS ARE AVAILABLE ONLINE

Don't forget, you can now pay your dues online! Access your member dues statement and make payment through 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! Payment is due by Friday, Jan. 2, 2026.

'The Lawful Judgment of His Peers': Jury Selection Tips for Practitioners

By Matthew R. Price

"No free man is to be arrested, or imprisoned, or disseised, or outlawed, or exiled, or in any other way ruined, nor will we go against him or send against him, except by the lawful judgment of his peers or by the law of the land." – Magna Carta

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense." – Sixth Amendment, U.S. Constitution

The idea of a juror in the Western world traces as far back as dicastes in ancient Greece, who resembled a judge to the modern eye more than a juror selected today.[1] The format for a juror you would recognize took shape with the Magna Carta in England in 1215, where the aristocracy could be tried by members of the aristocracy and not the king.[2] This filtered its way through English society and influenced our founding fathers through the Sixth Amendment of the U.S. Constitution phrase "impartial jury of the State and district wherein the crime shall have been committed."[3] Oklahoma took it to heart and placed it within the core document of the state constitution: "Trial by an impartial jury of the county in which the crime shall have been committed."[4] In Oklahoma, attorneys shall be allowed to "supplement" the judge's questions when selecting a jury by asking their own questions.[5]

Why the history lesson for the average trial lawyer? It is important to understand that the idea of a juror and a jury is deeply ingrained in our culture from before our culture was our culture. It has seeped into our books, movies and TV shows, from *To Kill a Mockingbird* to *My Cousin Vinny*. Every Oklahoman who will potentially serve on your jury walks into the courtroom with a preconceived notion of what their job is going to be if selected. I submit to the members of the bar three roles a successful trial attorney must fill for a successful, potentially favorable jury selection (also known as *voir dire*) process for your client: 1) the educator, 2) the confidant and 3) the storyteller.

THE EDUCATOR

"The great enemy of the truth is very often not the lie – deliberate, contrived and dishonest, but the myth – persistent, persuasive, unrealistic." – John F. Kennedy

Many jurors will be new to this process and not know the rules of the game. Your first role as a successful trial attorney is that of an educator. Introduce the potential

While some jurors are expressive and outgoing, many will not volunteer information about their personal lives. If you ask a closed-ended question, they will take it. Avoid these at all costs.

juror to the process. Explain to them about opening statements, case in chief, jury instructions and closing arguments. Tell them about bathroom breaks. It is important that you teach the jury about concepts of the law by asking questions to understand what they think they know.

Remember, jurors have a lifetime full of experiences and have learned, correctly or incorrectly, concepts of law and the jury trial process. Previous research has highlighted that bias may be introduced by many factors, such as 1) pretrial beliefs and attitudes, 2) cognitive biases and 3) biased interpretations of evidence by expert witnesses.[6] Ask them what they know about some legal precepts that will come up in the trial. Those questions are best open-ended. Make sure they are right. If they are, congratulate them, and spread the information throughout the panel. If they are wrong, gently correct them, and see if others feel that way. No one enjoys being dictated to or preached at. Your role as an educator should come as a friend bearing knowledge from study and experience, not as a disciplinarian calling out the student for a poor response. The jury has to trust that the information you are giving them is for their benefit and not to show how smart you are.

Failure to educate the jury in a positive way risks having misconceptions about the law make it back to the deliberation room. Cases are not won in jury selection, but they certainly can be lost. A misinformed jury can possess all the right facts and arguments from counsel but come to an incorrect and devastating result for your client. All of which could be averted by bringing it up in jury selection.

THE CONFIDANT

"First of all, if you learn a simple trick, Scout, you'll get along a lot better with all kinds of folks. You never really understand a person until you consider things from his point of view ... until you climb into his skin and walk around in it." – Atticus Finch, *To Kill a Mockingbird*

A jury panel that does not trust you will never offer up personal histories that may reveal bias, impartiality or unfairness. "People who trust each other ... are also more willing to share intimate information."[7] Offer information about yourself. Reveal to the jury some of your personal stories or beliefs. Provide the jury with privacy, and if someone does not feel comfortable, ask for a sidebar with the judge and opposing counsel, where the potential juror won't have to air their embarrassing or upsetting story in front of the whole panel.

While some jurors are expressive and outgoing, many will not volunteer information about their personal lives. If you ask a closed-ended question, they will take it. Avoid these at all costs. Get the jury talking. The only way to figure out if they possess any biases is for the juror to talk, not you. Open the line of communication, but get them to tell you their secrets, their stories, their opinions. Ask about the news they watch. Ask about funny stories about their kids, including discipline, credibility and perception.

This information only comes from a juror who feels comfortable with you. Make that juror you are talking to the most important person in the room. Give them your eye contact, attention, sympathy and understanding. Laugh when

they say something funny. A juror who gets these cues from you will tell you what you want to know.

THE STORYTELLER

"One thing I have learned from this experience is that it is hard to keep an audience attentive and involved with a 'speech,' but it's easy if you tell a story that involves your listeners and inspires them with a memorable moral." – Jim M. Perdue

People are people. From Genesis to *Star Wars*, human beings crave a story that connects them to the best and worst aspects of the human experience. Our friends and neighbors need something to aspire to, move on from, pity or avenge. While a well-informed, honest and open jury goes a long way, if the jury can't connect with you on an emotional level, for many, it falls flat. Your client's story won't ring true.

It is more than the law and facts that the public desires – it's the story of why we are here. Juror research indicates that the presentation of evidence in story form is more persuasive than listing facts and witness order recitations.[8] Prosecutors who have presented solidly investigated cases consistent with the law have fallen to a not guilty verdict due to a lack of a compelling story. Defense attorneys have felt the sting of guilt for a client the attorney believed was innocent, with no relatable tales told. Personal injury cases that are well laid out evaporate for want of how it has affected the plaintiff.

Speeches based solely on logic come up short, with many jurors expecting to hear a tale of revenge or infidelity. Love lost or riches gained can fill in the holes of logic when a lawyer is missing scientific evidence. Juries want the reasons, emotions and actions to come together in a story they can understand. It is your job to present it to them. Fail to do so at your own peril and the peril of your client.

BRINGING IT ALL TOGETHER

Example Voir Dire *Segment*

Attorney: Juror #8, have you ever heard of innocent until proven guilty?

Juror #8: Yeah, I've heard of it from movies and TV.

Attorney: Is innocent until proven guilty a good idea?

Juror #8: Of course.

Attorney: Why?

Juror #8: We shouldn't assume people did it just because someone said so.

Attorney: I would agree with you. Does everyone believe that if given a jury instruction on innocent until proven guilty, they would follow it?

(Everyone in the jury panel says yes, nods and raises their hands.)

Attorney: I remember you telling the judge you have kids. All within a few years of each other, right?

Juror #8: Yessir.

Attorney: I've got kids, and whenever someone breaks the lamp, I round up the usual suspects. Juror #8, have you ever rounded them up and asked them questions about the lamp?

Juror #8: Many times.

Attorney: So let's paint the scene. The lamp is broken, and the kids are standing around pointing at each other. How do you tell how the lamp was broken?

Juror #8: I look at body language and ask them questions and see if the stories match up.

AT THE END OF THE DAY

While we have come a long way from the Magna Carta to *Matlock*, people are people. An Oklahoma practitioner who introduces their prospective jury panel during *voir dire* to the three roles of educator, confidant and storyteller, as shown in this article, may not prevail every time. However, tapping the vein of the human experience through knowledge, trust and drama will assist in effectively delivering your message to the jury and increasing your chances for success for those you represent.

ABOUT THE AUTHOR

Matthew R. Price is an attorney in Muskogee and a founding partner at Hammons Hamby & Price. He represents clients in criminal defense. He also serves as a criminal public defender for the Oklahoma Indigent Defense System in Muskogee, McIntosh and Sequoyah counties. Mr. Price is the involuntary commitment counsel and public guardian counsel in Muskogee County.

ENDNOTES

1. http://bit.ly/4ocN34A.
2. "The 1215 Magna Carta: Clause 39," *The Magna Carta Project*, trans. H. Summerson *et al.* http://bit.ly/4306ghw (last accessed May 5, 2025).
3. U.S. Const. amend. VI.
4. Okla. Const. art. II, §20.
5. Okla. Dist. Ct. R. 6.
6. Lee J. Curley, James Munro and Itiel E. Dror, "Cognitive and human factors in legal layperson decision making: Sources of bias in juror decision making," *Medicine, Science and the Law* (July 2022).
7. www.psychologytoday.com/us/basics/trust.
8. Nancy Pennington and Reid Hastie, "Cognitive Theory of Juror Decision Making: The Story Model," *Cardozo Law Review,* Vol. 13, (1991) p. 542-543.

Speaking the Truth About *Voir Dire*

By Jim T. Priest

I HAVE OFTEN TOLD THE STORY OF MY FIRST TRIAL and embarrassing *voir dire* examination. It was a $1,500 lien foreclosure case, and I was the plaintiff attorney who had never seen or conducted a *voir dire*. Judge Purcell turned to me and said:

"Mr. Priest, you may inquire."
Me: "About what, your honor?"
Judge Purcell: "You may ask the jurors questions."
Me: "Oh, ok." I then turned to the jury. "How are you all doing?"

After stumbling through my off-the-cuff questions, the worthy defense lawyer did an admirable job questioning the array, after which the judge invited us to the bench.

Judge Purcell: "Mr. Priest, your first strike?"
Me: "I'm sorry, your honor, what?"
Judge Purcell: "Your first strike."
Me: "I'm sorry, your honor, I have no idea what you're asking me."
Judge Purcell: "Who do you want to knock off the jury?"
Me, turning back to look at the panel: "They all look ok to me, Judge."
Judge Purcell: "Mr. Priest, if you don't knock three off for some reason, I will knock three off for no reason."

Me, thinking to myself, *better me than him*: "Ok, Judge. Let's start with juror number four." (That juror was looking at me funny.)

And so it went.

Surprisingly, I won the trial. I have always thought that perhaps the jury had mercy on my client for having such an inept lawyer. In the months and years that followed, I became much more adept at jury selection from observation, practice and listening to Irving Younger's Trial Techniques lectures.

All that history to say this: If I eventually became good at jury selection, so can you. *Voir dire* is largely about getting the jury to talk, connecting with the jury and showing you are trustworthy. If a lawyer gets jurors to talk and communicates trustworthiness to the jury, that lawyer will usually win.

WHAT IS *VOIR DIRE*?

Voir dire is a Latin term that roughly translates to "speak the truth." But every trial lawyer worth their salt knows that's only aspirational. Most jurors will mostly tell the truth most of the time. But if you assume you're getting all the truth from all the people all the time, you'll be sadly disappointed. Therefore, when selecting a jury, be humbly skeptical about the answers you receive, and never underestimate a juror's misunderstanding or avoidance of what you're asking.

I encountered this years ago when defending a workers'

compensation retaliatory discharge case in Carter County. This was back when these cases were tried in district court. The judge had questioned the jury thoroughly about prior comp claims and employment terminations they had experienced. No one spoke up. The plaintiff's counsel and I had gone deeper on those same issues. Not a hand was raised. I was about to sit down after conducting my *voir dire* when I had a *Columbo* moment and asked the question slightly differently: Did anyone feel that they had ever been treated unfairly in the workplace for any reason? One juror, who had been through the entire process, raised his hand. "I felt like I was fired once 'cause I had an injury on the job." Duh! The judge and two lawyers thought they'd asked that question numerous times before, but this was the first time the juror really heard it. Needless to say, he was stricken from the jury.

CHALLENGES

One of the most important lessons I learned about jury selection came from Mr. Younger:[1] You don't pick a jury. You *unpick* a jury. You should not focus on how

many preemptory challenges you have; instead, you should focus on how many you have *remaining*. Mr. Younger, in his lectures, would shout, "Focus on the remainder! Because once your challenges are gone, you have almost no control over who goes in the box." That is why you must look not simply at the 18 jurors in the box but also at those sitting in the audience who might be called to fill vacant seats.

Mr. Younger's lecture series on trial techniques was, for me, the most important source of information and inspiration. In his lectures, Mr. Younger identified various "challenges" that can help you in unpicking the jury.

1) Challenge to the Array

This is a challenge the lawyer makes to the entire panel because of some objectionable way the entire array was arrayed. This challenge is so seldom used that it is hardly worth mentioning other than to be aware it exists.

A challenge to the array is defined as a challenge that seeks to disqualify an entire jury panel assembled up until that current point. Generally, the reason given is that the selection of the jury panel violated some rule designed to produce impartial juries drawn from a fair cross section of the community. For instance, a challenge to the array may be made on the grounds that jurors were not "publicly drawn" as required by statute.[2]

2) Challenge for Cause

A challenge for cause exists where the facts *require* the judge to excuse the juror. Again, this does not happen often, but if, for instance, the defendant's brother made it on the panel, the judge would be required to excuse the brother. This would happen regardless of the brother's protests; he could be fair and impartial. Often, these issues are sorted out in the jury assembly room by the judge presiding in that arena.

There are three goals in jury selection:
1) acquire information about the juror,
2) communicate information to the juror and
3) establish your trustworthiness.

3) Challenge to the Favor

This elegant, antiquated terminology is not much used and refers to challenges where the judge is asked to exercise their discretion in excusing a juror. A juror reveals he went to high school with the defendant. He hasn't seen the defendant in many years, other than one time at a reunion where they spoke briefly. He claims he can be fair and impartial, but the relationship is there. Must the judge excuse him? No. Can the judge excuse him? Certainly.

I ran into a juror I thought should be challenged for cause, but the judge decided it was a challenge to the favor. I was representing a plaintiff in a case seeking punitive damages. During *voir dire*, I told the jury I knew some people had strong feelings about punitive damages and asked if there was anyone on the panel who felt they could not award punitive damages even if the facts merited it. One grizzled juror in the front row raised his hand and growled, "I would never award punitive damages. Ever." I turned to the judge and raised my eyebrows, and the judge responded, "You'll need to take care of that yourself, Mr. Priest." I turned back to the juror, who asked me, "What does that mean?" and I replied, "It means you're going to stay on the jury but only for a little while longer." I used one of my preemptory challenges to knock him off.

4) Preemptory Challenge

Challenges or "strikes" to individual jurors that can be exercised by each side without stating a reason are called preemptory challenges. Sometimes it is said these are challenges for "no reason," but every trial lawyer knows this is false. Mr. Younger says there is always a reason a juror is excused, even if it is that the juror gives you the creeps. Sometimes you can articulate the reason. Sometimes it's as simple as a gut feeling, or your client, sitting at counsel table, doesn't want a particular person on the jury.

Mr. Younger explains that a zealous advocate in jury selection

does not want a "fair and impartial jury." The zealous advocate wants a jury made up of people who are biased in favor of their side. If you are defending former Attorney General John Mitchell in his 1974 criminal conspiracy case, you want a jury made up of people who think, look and act like Mr. Mitchell. Opposing counsel also wants a biased jury but in the opposite direction. In the clash of the opposing forces, truth (or, in this case, impartiality) is thought to emerge. The prepared trial lawyer will have an ideal juror profile and will strike those jurors who depart most significantly from that profile. But while wide discretion is allowed in exercising preemptories, there are limits imposed by the *Batson* challenge.

5) Batson *Challenge*

A thorough review of *Batson* challenges is beyond the scope of this article, but there is a plethora of information to satisfy one's curiosity. Succinctly stated, the U.S. Supreme Court in *Batson v. Kentucky*[3] prohibited the use of peremptory challenges to exclude jurors for racially discriminatory reasons. Over the years, other types of discriminatory challenges have also been outlawed, *e.g.*, excusing jurors based on gender. Again, the prepared trial lawyer should be alert to *Batson* and its progeny and be prepared for this challenge in the event one suspects an inappropriate exclusion of jurors is taking place.

I only had one occasion where my selection of jurors received a *Batson* challenge. It was a Title VII gender discrimination case in federal court, and I was challenged in my excusal of three female jurors, with the plaintiff's counsel arguing that I dismissed them simply because they were women. At a sidebar, the judge asked me to articulate my reasons for the challenges, and I explained, in brief, my reasoning. The judge overruled the *Batson* challenge, and the ruling was not raised on appeal.[4] One could argue that it is improper to invade trial counsel's reasons for exercising preemptories, but a *Batson* challenge overcomes that argument.

HOW TO UNPICK A JURY

There are three goals in jury selection: 1) acquire information about the juror, 2) communicate information to the juror and 3) establish your trustworthiness.

Acquiring information comes in a variety of ways. In cases where the stakes are consequential, a mock jury, a jury consultant and a background investigator might be used. In routine cases, all counties provide a list of the names of people called for jury duty. In large counties, this information is too vast to be helpful. But in smaller counties, the names are fewer, and you can run the names by a local lawyer or your own client if they reside in the county. You won't get information on all the names, but you'll get at least a sampling, depending on your source's scope of knowledge.

In most cases, you'll find out about the jurors inside the courtroom. Watch them from the moment they walk into the courtroom. What are they wearing (both clothing and jewelry)? Are they carrying reading material and, if so, what kind? *The Wall Street Journal* or the *National Enquirer* or an Agatha Christie murder mystery? Do they walk with a limp? Do they talk to other panel members? Watch them like Sherlock Holmes, and remember, at all times, some (or all) of them are watching you.

Judges do not want you arguing to the jury in *voir dire*. I remember my senior partner, Ken Webster, was interrupted during his *voir dire* by the judge who sardonically asked, "Mr. Webster. Do you have any *questions* you wish to *ask* the jury rather than *statements* you wish to *make* to the jury?" But Mr. Webster had it right, although perhaps he could have been more subtle. You are always communicating information to the jury – both about yourself and about your case.

One of the most important things you are communicating to the jury is your own trustworthiness. You are, in essence, saying, "You can trust me. I won't try to fool you." Many jurors don't trust lawyers, so you have your work cut out for you. So be sincere and authentic. In the final analysis, trustworthy lawyers win more cases than untrustworthy ones, and a panel of jurors will usually – eventually – sniff out a phony.

How do you communicate trustworthiness? By being genuine – down to earth but not condescending. By using plain language such as "car" instead of "motor vehicle," "before" rather than "prior to," "after" instead of "subsequent." By looking them in the eye and admitting, up front, some weakness in your case. By viewing yourself not so much as a "persuader" as a "teacher" in an instructional partnership rather than in a Socratic lecture.

RULES ABOUT JURY SELECTION

In Oklahoma state courts, there is scant statutory guidance on jury selection:

12 O.S. §6 (RULE 6) – Voir Dire Examination

The judge shall initiate the voir dire examination of jurors by identifying the parties and their respective counsel. He may outline the nature of the case, the issues of fact and law to be tried, and may then put to the jurors any questions regarding their qualifications to serve as jurors in the cause on trial. The parties or their attorneys shall be allowed a reasonable opportunity to supplement such examination. Counsel shall scrupulously guard against injecting any argument in their voir dire examination and shall refrain from asking a juror how he would decide hypothetical questions involving law or facts. Counsel shall avoid repetition, shall not call jurors by their first names or indulge in other familiarities with individual jurors, and shall be fair to the court and opposing counsel.

Note that the rule does not say the lawyer cannot call jurors by their last name, and indeed, they should. I don't know if memorizing juror names would be considered "indulging in other familiarities with individual jurors," but I was never called on it. In questioning jurors, you want to individualize. Ask each juror at least a few questions, and let them talk about themselves. It almost doesn't matter what the subject is, so long as you get the juror talking, enabling you to gain insight into how they think and who they are. Questions posed to the whole panel are seldom illuminating. "Can all of you be fair and impartial?" is a net that doesn't catch fish.

12 O.S. §12-575.1. Selection of Jury in Discretion of Court – Manner

Notwithstanding other methods authorized by law, the trial judge may direct in his discretion that a jury in a civil case be selected in the following manner:

(a) if the case be triable to a twelve-man jury, eighteen prospective jurors shall be called and seated in the box and then examined on voir dire; when eighteen such prospective jurors have been passed for cause, each side of the lawsuit shall exercise its peremptory challenges out of the hearing of the jury by alternately striking three names from the list of those so passed for cause, and the remaining twelve persons shall be sworn to try the case;

(b) if the case be triable to a six-man jury, twelve prospective jurors shall be called and seated in the box and then examined on voir dire; when twelve such prospective jurors have been passed for cause, each side of the lawsuit shall exercise its peremptory challenges out of the hearing of the jury by alternately striking three names from the list of those so passed for cause, and the remaining six persons shall be sworn to try the case.

If there be more than one defendant in the case, and the trial judge determines on motion that there is a serious conflict of interest between them, he may, in his discretion, allow each defendant to strike three names from the list of jurors seated and passed for cause. In such case he shall appropriately increase the number of jurors initially called and seated in the box for voir dire examination.

A more comprehensive array of statutes on jury selection appears in Title 22 of the Oklahoma Statutes, Criminal Procedure, beginning at Section 591. Challenges to the panel and challenges to individual jurors are explained in detail, including definitions of challenges for cause and preemptory challenges. Attorneys trying criminal cases must familiarize themselves with these statutes, since they may be consequential, as they were in *Warner v. State*, discussed later.

Much of the jury selection process is left up to the judge, which means you should become familiar with the judge's protocol before entering the courtroom. Find out when the judge is trying a case, and be in the audience observing jury selection ahead of time. Make a mental note of any peculiar ways things are done, and adjust your technique. Some judges allow you to walk up to the jury box. Some require you to stay at the podium. Do whatever you can to connect with the jury, but observe any unwritten judicial constraints.

I tried a case in Oklahoma County District Court in front of Judge (now Justice) Noma Gurich. My friend, Wild Bill Wilkinson, was on the other side for the plaintiff. Judge Gurich's courtroom had an exceptionally large jury box with an extra-wide entrance to the box, and during *voir dire*, Mr. Wilkinson got into the box with the jurors, attempting to establish a connection through physical proximity. I stood to object, but as I

did so, I couldn't think of any rule that was being violated, so I simply said, "Objection, your honor, Mr. Wilkinson is in the jury box!" Judge Gurich said, "Mr. Wilkinson, get out of there." But five minutes later, Mr. Wilkinson was right back in the box, so I had to object again, which, of course, was sustained by the court. Mr. Wilkinson was trying to be a zealous advocate, and that spirit (if not his technique) is what *voir dire* is about: connecting with the jurors.

In federal court, lawyers do not typically have the opportunity to *voir dire* the jurors. The judge asks the questions, and lawyers are most often invited to submit additional questions in writing or to approach the bench and offer suggestions in a sidebar. I tried a case in the Western District before Judge Luther Bohanon, who conducted the *voir dire* and then turned to the plaintiff's counsel and inquired, "Do you have any questions you'd like asked?" The plaintiff's attorney said no. Judge Bohanon then turned to me and said, "Mr. Priest, any questions for the jury?" I saw an opening and immediately jumped up, said thank you to the court and approached the jury box to conduct my one and only federal court *voir dire*. Neither the judge nor the plaintiff's counsel stopped me, and I thought I gained a better connection with the jury. Learn to be alert to opportunities wherever you find them. But don't get in the jury box.

LOOKING FOR TROUBLE-MAKERS

Attorney Rachel Farrar wrote an outstanding article in the *Oklahoma Bar Journal* in 2018 about spotting "authoritarian" personalities, and I commend it to your reading: "Authoritarian Jurors and How to Spot Them."[5] In the article, Ms. Farrar writes:

> Psychologists, jury consultants and other social and legal experts have done a lot of research attempting to determine which, if any, individual juror traits are most likely to predict how that juror will vote at the end of the trial. Repeatedly, results of these studies have shown that the personality trait of authoritarianism frequently and consistently predicts juror verdict preferences in a broad range of case types more so than any other trait, characteristic or demographic
>
> ...
>
> People who are highly authoritarian typically hold traditional values (such as family values, personal accomplishments, family and national security and conservative religious organization), conform with conventional societal norms and idealize an orderly and powerful society. Because of this, they typically identify with mainstream society, submit to authority, faithfully follow leaders they perceive to be strong and expect everyone else to do the same.

Identifying a juror with these tendencies does not tell you whether or not you want them on your jury. But you need to think ahead to the jury deliberation room because this personality type is likely to lead the discussion and be the jury foreperson.

I tried a case in Noble County for four days, after which the jury deliberated for 12 hours from 10 a.m. until 10 p.m. I didn't think the case was all that complicated and was concerned about the length of deliberations because I was representing the defendant, and long deliberations are typically not good for civil defendants. The jury finally emerged at 10 p.m. with a 9-3 defense verdict. A few days later, I ran into one of the jurors and asked the reason for the lengthy deliberation.

She told me they first selected a foreman and immediately took a

Voir dire is your first opportunity to interact with the jury and begin the process of leading them to the verdict you desire.

straw vote to see where they were: The vote was 9-3 for the defendant. They marked the verdict form and prepared to hand it in, but as the foreperson rose to hail the bailiff, he said, "You know, they took four days to try the case; we should spend more than five minutes deliberating." So the jury deliberated further, going from the initial 9-3 vote to 8-4 and then 7-5. After hours of wrangling, the vote eventually trended back to 8-4, and finally, at 9:45 p.m., one juror who had been voting for the plaintiff said, "I'm tired and want to go home. I'm voting for the defendant," resulting in the same 9-3 verdict they'd reached after the first five minutes. The authoritarian jury foreman was responsible for the extended deliberations and my extended anxiety.

ERRORS IN JURY SELECTION

Most of the time, you do not get a "do-over" in jury selection. Once the jury is selected, you're stuck with it unless something extraordinary happens. Thus, there are not many appellate cases parsing out errors in jury selection. One case that takes up the cause is *In the Matter of AH*.[6] The opinion focused on the *voir dire* in a parental rights termination case. In questioning the jury, the prosecutor talked about "clear and convincing evidence" as the standard of proof. But when an attempt was made to define that standard during the defense counsel's *voir dire*, the trial court shut it down. This was despite the fact that one of the prospective jurors asked the prosecutor what she meant by that phrase. In reversing the state's verdict, the court stated:

> Even if the trial court does not address the burden of proof in its voir dire, allowing counsel to examine potential jurors on this aspect of the case does not usurp the court's duty to instruct the jury. It allows counsel to advise the potential jurors that counsel anticipates the court will instruct them that State's burden before parental rights may be terminated is clear and convincing evidence as defined by OUJI-Juvenile No. 2.5. Allowing such inquiry enables counsel to uncover actual or implied bias and to intelligently exercise peremptory challenges on this crucial issue in the case. If either State or Mother (Defendant) misstates or deviates from OUJI – Juvenile No. 2.5's substance and meaning in discussing State's burden of proof in voir dire and in questioning prospective jurors about it, opposing counsel will certainly object and the court may always intercede to correct the error, so jurors are not misled or confused. Under the circumstances of this case, where State informed the voir dire panel of the burden of proof but the trial court disallowed Mother the opportunity to define the burden of proof, we conclude the trial court abused its discretion.

A different result was reached in *Warner v. State*,[7] where a juror did not reveal her connection with a second-stage witness even though the names of the witnesses had been announced during *voir dire*. The Court of Criminal Appeals discussed the importance of *voir dire* before deciding the juror's mistake was not consequential:

> The purpose of voir dire examination is to ascertain whether there are grounds to challenge prospective jurors for either actual or implied bias and to facilitate the intelligent exercise of peremptory challenges. Depriving defense counsel of information that could lead to the intelligent exercise of a peremptory challenge is a denial of an appellant's right to a fair and impartial jury.
>
> …
>
> Upon a review of the record properly before this Court, we find there is no indication Juror Scales deliberately withheld information that she knew a defense witness. The attenuated nature of any relationship between Juror Scales

and witness Andrews was such that Ms. Scales could not have been expected to volunteer such information in response to the court's question. ... Further, the record reflects no additional questions were asked by defense counsel regarding Ms. Scales' knowledge of any witnesses. It is the duty of defense counsel to investigate those matters on voir dire, which affect a venireman's qualifications to sit as a juror. That which would have been disclosed by reasonable diligence during voir dire cannot later be made grounds with which to attack the verdict. This case is distinguishable from those requiring reversal when a venireman fails to disclose pertinent information when inquiry is made. Under the facts of this case, if the alleged relationship between Juror Scales and witness Andrews had been known, no basis for a challenge for cause under 22 O.S.2001, § 660, would have been presented. It is well established that all doubts regarding juror impartiality must be resolved in favor of the accused. However, when an appellant requests a new trial based on juror misconduct, the appellant bears the burden of showing both juror prejudice and harm as a result of the juror's service. Defense counsel's mere speculation and surmise is insufficient upon which to cause reversal. [citations omitted]

In a case I defended before the late Judge David Cook in Oklahoma County, I had something similar happen during the plaintiff's case in chief. After cross-examination of the plaintiff's medical expert, the court called a recess. As the witness exited the stand alongside the jurors taking a break, one juror shook the witness's hand, and the two engaged in friendly conversation. I watched it happen and then turned to the bench where Judge Cook had also seen it happen. I requested to go back on the record and approach the bench, and Judge Cook intoned, "Yes, I wish you would." Eventually, it was decided that the juror would be examined by the court, *in camera*, with counsel present, and the juror admitted she had been a patient of the provider but had not remembered it during *voir dire*. The court granted my motion for mistrial based on the juror's faulty memory, resulting in a failure to disclose.

THE IMPORTANCE OF JURY SELECTION

How important is jury selection to success in trial? I agree with this observation from a jury analyst:

> Trial lawyers all have different ideas as to what wins cases. Some say the key to winning trials is the opening statement, others will tell you it's closing argument or the cross examination of the expert or the direct examination of your client or the cross examination of opposing party. While these are important, I'm here to tell you that the number one most important part of the trial and what is absolutely critical to getting a verdict in your favor, without exception, is jury selection.[8]

Voir dire is your first opportunity to interact with the jury and begin the process of leading them to the verdict you desire. There is hot debate about the stage at which jurors begin making up their minds, but at least one scholar believes it's during *voir dire*. Margaret Roberts states in her book *Trial Psychology: Communication and Persuasion in the Courtroom*, "Approximately seventy percent of the jurors have reached a verdict by the conclusion of the voir dire [in those states that allow a full voir dire examination] and only rarely change this opinion."[9]

Read that again: 70% of jurors have reached a verdict by the conclusion of *voir dire*. Even if that quote is only half true, the trial lawyer owes it to their client and themselves to be extremely well prepared and conduct a thoroughly professional and effective *voir dire*. The moment you step into the courthouse, potential jurors are watching you. Effective advocacy requires thoughtful and insightful jury interaction at all times but especially during *voir dire*.

ABOUT THE AUTHOR

Jim T. Priest is a trial lawyer and nonprofit leader who volunteers for the Oklahoma Innocence Project and serves as a mediator/arbitrator for Dispute Resolution Consultants. He can be reached at jim@sage-counsel.com.

ENDNOTES

1. Irving Younger, Trial Techniques, tape 1 (jury selection), available on YouTube, https://bit.ly/3J324qq.
2. "Challenge to the Array," Cornell Law School website. Last reviewed July 2022. https://bit.ly/4nK9tKE.
3. 476 U.S. 79 (1986).
4. *York v. AT&T*, 95 F.3d 948 (10th Cir. 1996).
5. Originally published in the *OBJ,* 89 pg. 13 (May 2018).
6. 2021 OK CIV APP 39.
7. 2006 OK CR 40, 144 P.3d 838.
8. "Why Jury Selection is CRUCIAL to Winning a Case?" Jury Analyst website. Published June 18, 2014. http://bit.ly/48nX4ah.
9. Margaret C. Roberts, *Trial Psychology: Communication and Persuasion in the Courtroom*. 41 (1987).

Evisceration via Cross-Examination

By Shelley L. Levisay and David T. McKenzie

"The art of cross-examination is not the art of examining crossly. It's the art of leading the witness through a line of propositions he agrees to until he's forced to agree to the one fatal question." – Clifford Mortimer

Editor's Note: This article provides case studies that discuss real-world examples of language readers may find offensive or traumatizing.

All trial lawyers anticipate and enjoy cross-examination, although it rarely plays out as dramatically as television and movies portray. This article focuses on impeachment through cross-examination and the introduction of evidence. The Sixth Amendment and OK. Const. Art II, §20 provide every criminal defendant the right of confrontation. The Supreme Court reaffirmed the sacred right of confrontation in *Smith v. Arizona*[1] by prohibiting the use of forensic analysis tests without an expert testifying, emphasizing that the jury determines the credibility of the testing through the "crucible of cross-examination." The goal of cross-examination is not to embarrass the witness or engage in character assassination but for the jury or judge to question whether the witness was truthful and whether the witness was right.

CREDIBILITY

For the jury to determine the credibility of witnesses, the court tasks them with considering the witness's bias, prejudice or interest in the outcome of the litigation, their memory, how the witness developed personal knowledge or observed the facts their testimony concerns, their consistency with previous statements and their demeanor.[2] Though the court does not give this instruction unless an actual eyewitness testifies, OUJI-CR(2d) Instruction No. 9-19 provides several lines of inquiry to cover: 1) Did the witness have ample opportunity to observe? Considering factors such as lighting conditions, distance, duration, stress of the moment and prior dealings with the person. 2) How positive is the witness on the identification? 3) Did the witness previously fail to identify the witness? 4) Was their description of the person or thing accurate? 5) Did they describe the suspect before police showed them a person, picture or lineup? 6) Did police show them one person or several people or one picture of multiple pictures? The court developed the eyewitness identification instruction from *Manson v. Brathwaite*[3] to help combat the problems of suggestible lineups; however, the police rarely use lineups but rather show them a single person or photograph. Remember, credibility is always primary, never secondary, and it is always allowed on cross-examination, despite the other party's objections, so do not cower.

IMPEACHMENT

The jury instructions explain to jurors that the introduction of impeachment evidence is for the jurors to determine if it affects the believability of the witness, not for substantive proof of guilt or liability in a cause of action.[4] A common way of impeaching a witness includes the use of prior convictions under Oklahoma law, but a trial lawyer needs to understand the limitations under this

statute.[5] First, the general rule is that the conviction must be within 10 years from the date of conviction or release from prison, whichever is later. If an attorney wishes to introduce evidence of a stale conviction, they must file notice 10 days prior to trial. The trial court then must determine if the specific facts and circumstances of the conviction outweigh its prejudicial effect. Another way to revive a stale felony conviction is if the witness has a conviction for a crime of moral turpitude, even a misdemeanor, within the past 10 years; that crime will revive the old conviction, but that does not allow the admission of the crime of moral turpitude.[6] Further, the state's filing of supplemental information does not provide notice to the defendant of intent to cross-examine based on stale convictions.[7]

When the trial court allows the introduction of hearsay, the opposing party may attack the credibility of a declarant as if they testified and support it with competent evidence.[8] The reason for the rule is one of fairness. This rule allows the ability to submit evidence impeaching the declarant as if they had testified.[9] First, a party may introduce evidence of the declarant's character for truthfulness as provided.[10] Second, a party may introduce evidence of prior criminal convictions under Okla. Stat. Tit. 12, §2609 (2002); FRE 609 (2011). One difference between impeaching a live witness and a declarant is that with a live witness, the impeachment concerns *prior* inconsistent statements. In contrast, with a declarant, it is likely with *subsequent* inconsistent statements.[11] This rule gives the trial court discretion to allow impeachment testimony without requiring the declarant an opportunity to explain it because of the impracticability of doing so when the declarant is unavailable as a witness.[12] The Oklahoma rule, however, is even more permissible and does not require a determination on whether the declarant had an opportunity to explain.

The question then becomes, "How does a lawyer introduce the evidence to impeach the declarant?" If fortunate enough to have an investigator, lawyers need to run background checks on the declarant as they would on any other witness. If the declarant has any felony convictions or convictions for crimes of dishonesty, the easiest thing is to obtain certified copies of the declarant's judgment and sentences. Sometimes, the client may be the best person to know people who know the declarant to be a liar and seek out those witnesses to testify about their character. Further, call all the witnesses to whom the declarant made conflicting statements. Seek out any written version of the declarant's subsequent inconsistent statements: For example, did they write any text messages, emails, social media posts or sworn statements? If so, subpoena the person to whom the declarant wrote and have them testify.

404B EVIDENCE

Character evidence is not admissible, except when a party can find a way for it to be, and the statute provides several reasons, including "proof of motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident." Practitioners seem to think that it only applies to criminal defendants, but it applies to civil cases and any witnesses. In criminal cases involving criminal defendants, the state must file a *Burks* notice 10 days prior to trial.[13] Lawyers wanting to use this type of evidence against witnesses should file a similar notice to have a pretrial ruling on the issue rather than trying to argue the issues at the bench during cross-examination.

RAPE SHIELD EXCEPTIONS

The rape shield statute prohibits the introduction of opinion or character evidence regarding the victim's sexual behavior and specific incidents of sexual behavior with anyone other than the accused.[14] The statute also authorizes the impeachment of other sexual behavior if it shows proof of pregnancy, semen or injury but cannot introduce those incidents on the issue of consent. Rape shield also specifically allows the introduction of prior false allegations of sexual assault. One other exception is if the alleged victim participated in sexual activity in the accused's presence. To impeach with any of those exceptions, the lawyer must file a motion 15 days prior to trial for the court to hold an *in camera* hearing to determine if the proffered evidence will be admissible; however, the trial court can allow such impeachment evidence if newly discovered, and due diligence could not have discovered it earlier.

EXPERT WITNESSES

Always object to the other side asking the judge to declare the witness as an "expert," because that signals to the jury that the judge told them the witness is more important than others. The criminal jury instructions do not use the term "expert witness" but "opinion witness." Further, the

instructions in civil and criminal explain that the jury determines "the weight and value" of expert/opinion testimony. To call an expert witness, the court must determine that "scientific, technical, or other specialized knowledge" would aid the factfinder. To cross-examine an expert, the lawyer needs to be extremely knowledgeable about the field. This may require consulting with an expert to ensure the lawyer understands everything. If the lawyer is fortunate enough to hire their own expert, they should have the expert sit and listen to the other expert's testimony.

Study the expert's *curriculum vitae* and challenge if parts of it are lacking. Read all writings of the expert and see if other experts challenged or contradicted their opinions or if their writings contradict their opinion in the current case. Research if the witness has testified in other cases and if juries did not agree with the expert or if cases were reversed for something involving the expert's testimony. Read learned treatises on the subject matter and challenge them to ensure that their opinion or work matches what the prevailing research shows. If they are unfamiliar with prominent articles in the field, it may show they are not as knowledgeable as they claim. A successful trial lawyer will not accept any expert's opinion just because they claim to be an expert.

The following is a brief example of impeaching an expert witness in a child sexual abuse case:

> Attorney: Do you agree with this statement: "A normal sexual assault nurse examination does not mean that sexual victimization has not happened."
>
> Expert: No.
>
> Attorney: So you disagree with the *Official Journal of the Academy of Pediatrics* article about genital anatomy in pregnant teenagers, titled "Normal Doesn't Mean Nothing Happened," that found that out of 36 pregnant teens where sexual activity was undisputed, only two had findings of penetrating trauma?

THE ART OF CROSS-EXAMINATION

Effective cross-examination is the practice of active and intense listening to the witness's answers, complete preparation and relaxation. The examination of any witness is a living and breathing thing. The examiner must carefully listen to the witness's answers and simultaneously process those answers while continuing to ask the salient questions that have been predetermined in trial preparation. Adaptation is crucial. The key to adaptation is intently listening to the witness, which is easy with complete relaxation and command of the courtroom.

The examiner, be it on direct or cross-examination, must, to the greatest degree possible, step away from any predetermined script and be able to refocus and readjust based on the answers the witness gives. The interrogation of a witness never goes precisely as planned. The witness will throw curveballs and sometimes knuckleballs, but what the examiner is looking for is the slow floating "change-up" that will allow the cross-examiner to "tee-up" the witness with a question the lawyers could never have predicted in pretrial preparation.

Preparation is the key to an effective cross-examination. What testimony or points does the lawyer need to get through to that witness? Cross-examination is a way for the lawyer to present their client's version of the story and potentially why the juror should not believe that witness. Cross-examination is about the lawyer, not the witness.[15]

Read every statement the witness has given and have all the statements in hand during cross-examination, including

The examiner must remember that cross-examination is rarely going to be a *Perry Mason* moment. Often, the most effective cross-examination is to pin the witness down for destruction by other witnesses.

videos of witness interviews and a transcript; many AI applications can generate a transcript with time stamps. If the witness admits to the prior inconsistent statement, then that finishes the inquiry on that prior inconsistent statement. If they deny the statement or claim a lack of memory, the lawyer must then call that witness to testify to the prior inconsistent statement.

The examiner must remember that cross-examination is rarely going to be a *Perry Mason* moment. Often, the most effective cross-examination is to pin the witness down for destruction by other witnesses. One of the best examples of pinning down the witness is from the O.J. Simpson trial, when F. Lee Bailey asked Mark Fuhrman:

> "Have you ever referred to black people as n-- in the last 10 years?"
> "Not that I recall."
> "So if you have called someone that, you have forgotten it?"
> "I can't answer the question the way you have phrased it."
> "Are you saying on your oath that you have never addressed any black person as a n-- or talked about black people as n-- in the last 10 years?"
> "I have not."
> "So anyone who comes to this courtroom and says that you have would be a liar?"
> "Yes."
> "All of them?"
> "Yes, all of them."

Most criminal defense lawyers at the time thought Mr. Bailey failed because he did not get Mr. Fuhrman to admit anything. The legal commentators gave him a grade of F at the time. It was a brilliant example of pinning him down, where the prosecution had no wiggle room to backtrack the lie. The above famous cross-examination is also a textbook example of calling a witness to impeach with the inconsistent statements they denied.

However, Mr. Bailey knew he had the witnesses who could permanently destroy the credibility of Mr. Fuhrman, and Mr. Bailey and the team did exactly that. The defense called Kathleen Bell to testify that Mr. Fuhrman told her, "All of the n-- should be gathered together and burned." Natalie Singer testified that Mr. Fuhrman said to her, "The only good n-- is a dead n--." Then, they presented something most lawyers would only dream of discovering in a case: hearing the statements in Mr. Fuhrman's own voice in Laura Hart McKinney's recordings and transcripts, in which he used the N-word 42 times.

Be confident in the questions. Practice the articulation, tone and manner of delivery. Remember, this is a performance for the jury, and likability matters. The jury expects the attorneys to be experts in their field. Think about vocabulary. No one enjoys a professorial lecturer, but it is best to avoid slang language.[16] In everyday life, everyone engages in cross-examination to a certain extent, seeking to uncover the truth with children, co-workers and others. This process requires setting aside the courtroom setting and spectators; the colloquy between the lawyer and witness should make the answers less likely to be true. The goal is for the jury to listen to the conversation and think that the witness is not truthful.

Always use leading questions with one fact per question. If the witness dodges the question, ask it again, even narrower, to require them to answer. Do not be afraid to object to the witness's answers and ask the judge to compel the witness to answer the question the lawyer asked.

Not all witnesses require cross-examination. Suppose the witness said nothing that hurt the client's case; then, there is no need to ask any questions. Examiners do not need to attack all witnesses but may need to seek clarification or repetition of a helpful point. Lawyers can always find something useful with all the witnesses. Attacking witnesses without a purpose is pointless and will alienate the jury.

Finally, preparation, practice and prowess with the evidence code will help the journey toward better cross-examination. With cross-examination, the lawyer should be "testifying" through the questions and focusing the jury to understand all the problems with the witness's testimony. Cross-examination is thrilling when done well and should be enjoyable, but confidence and command of the courtroom are prerequisites. New and seasoned lawyers should apply these tips in their next trials.

ABOUT THE AUTHORS

Shelley L. Levisay earned her undergraduate degree from Oklahoma Baptist University in 2007, her J.D. from the OU College of Law in 2011 and her master's degree in Indigenous peoples law from OU in 2022. She is the Oklahoma Indigent Defense System contractor for Pottawatomie and Lincoln counties and has tried about 50 jury trials. Ms. Levisay is also an author who writes legal thrillers and nonfiction.

David T. McKenzie earned his bachelor's degree from Southwestern Oklahoma State University, two master's degrees from Northeastern Oklahoma State University and his J.D. from the OU College of Law. Mr. McKenzie has tried nearly 300 jury trials during his 37 years of practice and has served as an adjunct professor of trial practice at the OCU School of Law. He has received the Clarence Darrow Award, the Barry Albert Award, the Maurice Merrill Golden Quill Award, the Earl Sneed Award and the Professional Advocate of the Year Award.

ENDNOTES

1. 602 U.S. 779 (2024).
2. OUJI-CR(2d) Instruction No. 10-8; OUJI-CIV Instruction No. 3-13.
3. 432 U.S. 98 (1977).
4. OUJI-CR(2d) Instruction Nos. 9-20, 9-21, 9-22, 9-23; OUJI-CIV Instruction No. 3-14.
5. Okla. Stat. Tit. 12, §2609 (2004).
6. *Collins v. State,* 2009 OK CR 32, ¶24, 223 P.3d 1014.
7. *State v. Alvarado,* 2024 OK CR 23, 555 P.3d 1255.
8. Okla. Stat. Tit. 12, §2806 (2002); FRE 806 (2024).
9. FRE 806 Advisory Note.
10. Okla. Stat. Tit. 12, §2608 (2002); FRE 608 (2011).
11. FRE 806 Advisory Note.
12. *Id.*
13. *Burks v. State,* 594 P.2d 771 (1979).
14. Okla. Stat. Tit. 12 §2412 (1993).
15. Robert Gifford, "'Your Witness, Counsel' – Cross-Examination," 87 *OBJ* 2331 (2016).
16. F. Lee Bailey and Kenneth Fishburn, *Excellence in Cross-Examination* (2014).

OUJI Bored? Crafting Novel and Modified Jury Instructions in Oklahoma

By Andrew J. Hofland and Justin A. Lollman

JURY INSTRUCTIONS SHOULDN'T BE AN AFTERTHOUGHT. There's a reason why many trial lawyers advocate for starting with jury instructions and working backward from there. After all, how can you set your course if you don't know where you're going? Jury instructions are more than housekeeping; they form the architecture of your case. But the jurisdiction's uniform or pattern jury instructions aren't always enough. How those instructions are modified and tailored – and, perhaps more importantly, which additional instructions are included – transforms a raw template into a jury charge that actually assists jurors and guides their deliberations. Giving extra thought and planning to your novel and modified jury instructions will help streamline your case through trial, verdict and appeal.

THE DEFAULT STARTING POINT, THE OUJIS

In Oklahoma state courts, jury charges are predominantly based on the Oklahoma Uniform Jury Instructions (OUJIs). In 1968, as states began embracing pattern instructions, Oklahoma's Legislature authorized their creation, calling them "necessary to the equal and uniform administration of justice" to reduce reversals arising from instructional error.[1] By the early 1980s, a committee of judges, practitioners and academics produced the first criminal compilation of uniform jury instructions (OUJI-CR (1d)), with the first civil compilation (OUJI-CIV (1d)) to follow soon after. Since then, Oklahoma has added instructions for deprived-child jury trials (OUJI-JUV) and subsequent editions and amendments across the OUJIs.

More than just authorized by the Legislature, their use is required. Under 12 O.S. §577.2, a trial judge must use the OUJI text if it "contains an instruction applicable ... giving due consideration to the facts and the prevailing law."[2] Having the uniform instructions as a presumptive starting point provides perhaps obvious benefits. With uniform instructions, the parties and court can operate with a level of expectation as to how the law will be explained to the jury – and, in turn, how to orient the evidence to what must be proven at trial.

THE WORLD BEYOND OUJI

But stock OUJIs aren't everything. Sometimes, the circumstances call for a variance from the template. A non-OUJI instruction is required by statute 1) when the OUJI is silent on a particular issue and 2) when the pertinent OUJI "does not accurately state the law."[3]

When the OUJI Is Silent

Although the OUJIs have instructions ranging from oft-used and generally applicable (*i.e.*, direct and circumstantial

evidence,[4] credibility of witnesses[5] and how to deliberate[6]) to niche (*i.e.*, transferred intent in an assault and battery case,[7] reenactment evidence[8] and substantial erosion of parent-child relationship[9]), they don't cover everything. The committees simply can't contemplate every possible scenario, legal theory and evidentiary ruling. When the OUJI is silent on a particular issue, the parties, in concert with the court, need to devise a novel jury instruction. There are three main sources regularly relied on by courts when faced with instructing a jury outside of uniform instructions: 1) non-OUJI instructions previously given (and potentially blessed by the appellate courts) in Oklahoma district courts, 2) pattern instructions from other jurisdictions and 3) novel instructions drafted from relevant case law.

Instructions given in other cases. There's not always a need to reinvent the wheel. While matters of first impression do arise – typically because of new statutes or new interpretations of existing statutes – most cases are variations on a theme, and a substantially similar case has been litigated previously. In such cases, the instructions given in those prior cases can be invaluable. Proposing the language from those instructions, or lightly tailored versions of that language, can not only give you a significant head start, but your judge will also have the comfort of knowing they are not out on a limb. This is especially true when that instruction was given by the same judge or a sister court and withstood appellate scrutiny as a correct statement of law.

Depending on the type of instruction requested, it may be beneficial to look outside of Oklahoma as well. Instructions grounded in constitutional principles or in statutes that mirror Oklahoma's,[10] for example, may likely carry persuasive weight for a judge confronted with no applicable OUJI and a dearth of previous in-state examples. But be careful. When using instructions from other jurisdictions, you will need to reconcile any textual or doctrinal differences to avoid inaccurately phrasing the state of the law in Oklahoma.

Other uniform or pattern jury instructions. In the absence of an OUJI or an instruction previously blessed by Oklahoma courts, look to other vetted uniform or pattern instructions for language that courts can trust. Federal circuit model instructions, neighboring states' pattern instructions and reputable model instructions by legal publishers, such as Thomson Reuters or LexisNexis, are drafted by committees, road tested in trials and often approved on appeal. That pedigree gives you neutral, plain-English formulations judges are more likely to adopt. Because these patterns are not tailored for Oklahoma law, you gain the most benefit when using the structure, but not necessarily the substance, of the instruction. But other jurisdictions' pattern instructions can be a great source of inspiration as to what might be missing within the OUJIs. If another jurisdiction felt they merited inclusion in their pattern, you have a strong argument that your jury would likely benefit from similar, clear guidance on the subject here.

Crafting a novel instruction from authorities. There are other instances, however, when you must reinvent the wheel. Either because you're dealing with a matter of first impression or because there has been a development affecting existing concepts, you may get the sense very early on that the OUJIs and other pattern instructions don't adequately capture your situation. In such instances, it's incumbent upon you to take the relevant authority – whether statute, procedural rule or case law – and propose to the judge how to best explain what the law is. As opposed to the other two sources of non-OUJI instructions above, drafting a novel instruction from scratch can be the most intimidating and the most likely to draw scrutiny from the opposing party and the judge. But the inclusion of novel instructions can provide key guidance to jurors on how the law treats nuanced circumstances outside the more regular fact patterns generally accounted for in the uniform instructions.

> Jury instructions shouldn't be a last-minute 'pretrial matter'; they're the roadmap for the whole case.

When the OUJI Is Wrong

Even when there's an OUJI on point, it won't always accurately reflect the current state of the law. This can happen for a variety of reasons: a statute changed, a new decision reinterpreted an element or explanation of the law, the general construction doesn't account for atypical underlying facts. Whatever the reason, the judge is obligated to deviate from a uniform instruction when it "fails to accurately state the applicable law, is erroneous, or is improper."[11] When that occurs, you are left with submitting either a modified or tailored version of the OUJI to fix the inaccuracy or a novel instruction from scratch.

THE ART OF CRAFTING AND ADVOCATING FOR NOVEL OR MODIFIED JURY INSTRUCTIONS

Whatever the trigger, novel or modified jury instructions demand extra care and attention. The OUJIs are a very comfortable and safe space for courts. Departing from or adding to those instructions comes with some friction. Your goal should be to make the process as frictionless as possible for your judge. To that end, the following practices will help set you up for success when you find yourself outside the OUJIs.

Begin With the End in Mind

Jury instructions shouldn't be a last-minute "pretrial matter"; they're the roadmap for the whole case. Considering their importance in framing the issues on what must be proven, you should draft a working set of instructions as soon as you get the case. Writing them forces you to confront the elements, definitions, defenses, burdens and any unanimity or verdict-form issues while there's still time to shape your discovery and motions practices and set your case strategy and theories. Also, by drafting them early, you will have more time to adequately prepare

novel instructions and how you'll advocate for them. Waiting until the last minute, especially considering all the other issues that arise in the immediate pretrial stage, is a recipe for settling on instructions that "will have to do," shortchanging you and your client's position.

Issue Spot Instructions for Your Circumstances

Even in cases that might seem run-of-the-mill, keep an eye out for ways in which the instructions don't mesh with your facts and what you know the law to be. After compiling the applicable OUJIs and poring over their provisions, you might come across something that just appears "wrong," either because it seems to require you to prove more than you thought you had to, limit how properly considered evidence can be used or only give a partial and, therefore, potentially misleading picture of the law. These are the situations begging for a novel or modified instruction. Spotting these circumstances requires careful attention to detail and the ability to put yourself in your future jurors' shoes, ridding yourself of your curse of knowledge, to consider the language with a fresh perspective. As you review and plan your jury instructions, watch for these types of considerations:

- Element selection: Are only the pleaded and live theories included? Do the *mens rea* elements correspond to the claims? Do the definitions track the pertinent statutes? Do the instructions properly capture conjunctive versus disjunctive distinctions?
- Proper use of evidence: What limiting instructions are needed? Should such an instruction be given both contemporaneously when the evidence is elicited and during final instructions? Should the jury be admonished that it may draw no adverse inference due to the invocation of a right to silence or the invocation of privilege?
- Trial management and juror conduct: Based on the case and the local practice, is this a case in which juror notetaking is permitted or not? With pretrial publicity, is there a need for special admonishment to steer clear of certain outlets or platforms? What about addressing new and emerging ways jurors might be exposed to case information? How often should such an instruction be given? Do the facts warrant a specific antibias or implicit-bias instruction?
- Courtroom accommodations: Are there potential inferences the court should admonish the jury not to draw, like with the use of an interpreter or remote testimony? Or with support animals or medical conditions within the courtroom?
- Special verdict or interrogatory: Is there a statute of limitations issue depending on a factual determination of when the cause of action accrued? Are there alternative acts or theories that could result in a unanimity problem? Are there comparative or nonparty fault issues requiring apportionment? Does any statutory predicate – such as with punitive damages, statutory multipliers, treble damages or fee-shifting triggers – match the burden and facts that must be found to trigger the remedy?

Draft the Instruction

Actually write the proposed instruction in full – don't just outline it. This exercise forces you to reckon with the authorities you will rely on, the competing cases that cut the other way and any gaps or ambiguities you must resolve. It also helps you to distill the rule to its most succinct form, considering novel instructions are required to be "simple, brief, impartial, and free from argument."[12] In this regard, take a cue from other OUJIs. Mirror the tone, structure and economy of language found in the uniform instructions blessed by courts and the committee of experienced jurists. A polished, OUJI-style submission signals credibility and increases the odds the court adopts (or closely tracks) your version.

Test Your Language

As with any work, the first draft is likely far from the ideal finished product. The purpose of these instructions is to take the pertinent laws and, in few words, make them understandable for the broad range of backgrounds and experiences within the jury pool. Easier said than done. As you develop a sense of which novel instructions the deliberations are likely to hinge on, spend additional time scrutinizing them. Take advantage of your network of colleagues, family and friends. Use them as your focus group. Give them the operative language of the novel instruction, and ask them

to explain it in their own words. Can they share some examples of evidence or circumstances the instruction would seem to control? What parts of the proposed language didn't they understand? What were they surprised by in the language? Does it appear that the language is in conflict with any other sense they had about how the law was supposed to work in such cases? Beyond helping you tighten up your proposed final draft instructions, this feedback will also serve to get you out of your own echo chamber, giving you valuable insights into how an average juror might view the applicable law.

Consult Your Most Critical Instructions Throughout the Development of Your Case

Once you're armed with succinct draft instructions on what you understand the law to be, keep that information handy while working up the case. Because you focused on the jury instructions at the outset of the case, you have the opportunity to tailor your evidence to the subtleties of what must be proven or how the jury is to receive the evidence. Highlight key phrases and excerpts from the draft instructions, and use the discovery process and motions practice to further support those instructions.

For example, before the 2022 amendments to OUJI-CIV, there was not a uniform instruction for a civil fraud case specifically addressing the distinction between statements about future events that may or may not later come to fruition versus making future promises with the then-present intent not to perform for the purpose of defrauding.[13] For defense lawyers facing that issue before 2022, after reviewing the relevant Oklahoma case law (which includes authorities from 1935 and 1940 according to the comments associated with Instruction 18.8 ultimately added in 2022),[14] it would have been in their best interests to identify the issue early on and draft a proposed jury instruction similar to what the committee ultimately came up with (with the pertinent language emphasized):

> To constitute actionable fraud, false representations must generally relate to present or pre-existing fact, *and cannot ordinarily be predicated on representations or statements which involve matters that [(may)/(may not)] occur in the future*. However, if a promise about the future is made with an intention not to perform it, and is made for the purpose of deceiving the person to whom it was made, and inducing [him/her] to act, the promise constitutes fraud.[15]

Working toward that endpoint, pre-2022 defense counsel could have submitted requests for admission that the only representations in the case involved matters predicted to occur in the future, such representations involved matters outside the defendant's control and a later intervening cause contributed to or caused the future event not to occur. No matter how the plaintiff would respond to such requests for admission, the rest of the defense's written and oral discovery could have also been geared toward establishing the divide between whether the representation involved a promise within the defendant's control versus a mere forecast or best intention. By engaging early with the jury instruction drafting process as laid out above, the litigation team might have an additional viable theory based on a technical distinction that might have otherwise been missed or discounted. And by focusing on it through the discovery and motions phase, defense counsel would be better positioned to advocate to the court why a novel jury instruction on that technical distinction would be required under these circumstances – because the law (albeit with older authorities) supports it, the underlying facts warrants it, and the existing instructions leave too great a possibility for jury confusion.

For Essential Instructions, Consider Moving for Them Well Before the Pretrial Matters Submission Deadline

So vital are selected instructions to your case that you need more certainty on them before the eve of trial. Maybe you need to know whether to expend resources to pursue certain evidence or whether a particular defense or theory-related instruction given will inform whether your client reaches a pretrial resolution. Whatever the reason, certain instructions merit litigation before the usual submission process so that all involved can give them their due attention while they still have the time and bandwidth. Early motions practice pulls the instruction "out of the pile" in a way that underscores the importance to the judge and avoids any eleventh-hour reluctance to approve nonstandard language. Requested with a motion and its accompanying brief, you will have a greater opportunity to provide context for the reasons why a particular instruction is needed and expound on your rationale for

why your proposed construction accurately and fairly states the law. Not only is such an approach more persuasive to the court, but it also establishes a record of the well-reasoned request for any appellate authority that might review the denial of a requested instruction down the road.

Even for Those Submitted at the Pretrial Matters Deadline, Provide Some Level of Justification for Your Proposals

At a minimum, you will have the pretrial matters submission date to provide your proposed jury instructions. Be sure to submit your requested jury instructions, especially those novel ones, consistent with the scheduling order and local district court rules, lest you run the risk of being deemed to have waived your ability to request them. In addition to being fully reproduced with citations to the authorities you rely on, you should also consider submitting, either by footnote or on the cover page of the submission, some briefing with your proposed instructions on why the uniform instruction is inadequate, what controlling law requires and the concrete harm if the jury is not properly instructed.

Overprepare for the Charge Conference

It is the judge's responsibility to explain the law to the jury. Because it's imperative to the entire justice process that the judge gets it right (and because an appellate court will be reviewing such instructions *de novo*),[16] the court and court staff will be highly invested in what happens at the charge conference. Aim to be the most prepared in the room. Know every point of conflict, and be ready to succinctly explain why your language better states the law, fits the facts and avoids reversible error. Have clean copies and a redline against any uniform or pattern text so that the court can see exactly what you changed and why. For the handful of instructions that will decide the case, consider bringing a one-page mini-brief or authority sheet with pin cites and the controlling quotations. And be reasonable. The charge conference is a collaborative process between you, opposing counsel and the court. It's unlikely that every call is going to go your way. Concede edits (or offer a narrowly tailored fallback version) for language that doesn't matter to your theory, and reserve your capital for the instructions that do. In the end, being helpful to the court and maintaining your credibility will make it easier for the judge to adopt your language in a close call.

Make Your Record

Rarely are your proposed instructions directly adopted without any changes. When you have asked for an instruction that accurately states the law and the judge rules against you, you must ensure you make a good record. As referenced above, jury-instruction error is a frequent ground for reversal but only if you preserve the issue. Many judges like to work through objections to jury instructions, at least initially, on an informal basis through off-the-record conferences. Take meticulous notes, and at the very next on-the-record opportunity, memorialize the substance: identify each disputed instruction, tender your competing text (with any redline to pattern language), and state distinctly the grounds for your position and the specific prejudice to your client if the court's version is given. While it will likely feel annoyingly repetitive to revoice your same concerns, sometimes discussed just minutes prior, if it is not stated on the record, it's as if it didn't happen – at least for the appellate courts. And to guarantee no one can argue that you acceded or acquiesced to the instruction ultimately given, object early and

often. If the court requires the submission of a combined set of jury instructions, clearly object to the opposing party's competing construction. Continue lodging your objection during the charge conference and when the court circulates the final drafts. Object again after the instructions are read. Foreclose any claim of forfeiture by preserving your objection on the record. Remember, whether an instruction accurately states the law will be reviewed *de novo*. Increase your chances of winning at the second bite of the apple on appeal by fully articulating your reasons for a novel instruction on the record.[17]

CONCLUSION

By the time trial draws near, there is a lot on the trial lawyer's plate. At that stage, countless hours will be spent perfecting an opening statement, devising a bulletproof impeachment and imagining impactful visuals that will resonate with the jury during closing. It's easy for jury instructions to be overlooked. But those instructions – how the law is framed for the jury – arguably have the potential to move the needle more than any of those other trial presentations. Preparing them early, getting them right and using them to inform the rest of your case strategy and theory maximizes your chances of success at trial and beyond.

ABOUT THE AUTHORS

Andrew J. Hofland is a shareholder at GableGotwals, where his practice focuses on white-collar defense and commercial litigation. He previously served as an assistant U.S. attorney for the Northern District of Oklahoma and a Navy judge advocate.

Justin A. Lollman is a shareholder at GableGotwals, where his practice focuses on appeals, complex commercial litigation and white-collar criminal defense. Before entering private practice, Mr. Lollman clerked on the U.S. Court of Appeals for the 7th Circuit and the U.S. District Court for the Northern District of Oklahoma.

ENDNOTES

1. 12 O.S. §577.1.
2. 12 O.S. §577.2; *see also Marquez-Burrola v. State*, 2007 OK CR 14, ¶26, 157 P.3d 749, 758 ("trial courts should use the Uniform Instructions whenever possible.").
3. 12 O.S. §577.2.
4. Instruction 3.25 (OUJI-CIV (3d)); Instruction 9-4 (OUJI-CR (2d)).
5. Instruction 3.13 (OUJI-CIV (3d)); Instruction 10-8 (OUJI-CR (2d)).
6. Instruction 1.9 (OUJI-CIV (3d)); Instruction 10-10 (OUJI-CR (2d)); Instruction 1.9 (OUJI-JUV).
7. Instruction 19.9 (OUJI-CIV (3d)).
8. Instruction 9-46 (OUJI-CR (2d)).
9. Instruction 3.24 (OUJI-JUV).
10. *See, e.g., Krimbill v. Talarico*, 2018 CIV APP 37, ¶5, 417 P.3d 1240, 1244-45 (expressly embracing Texas case law as persuasive since Oklahoma's Anti-SLAPP Act mirrors Texas'); *Beard v. Love*, 2007 OK CIV APP 118, ¶20-21, 173 P.3d 796, 802 (Delaware decisions "very persuasive" considering Oklahoma's Corporation Act is based on Delaware's).
11. *In re T.T.S.*, 2015 OK 36, ¶18, 373 P.3d 1022, 1029.
12. 12 O.S. §577.2.
13. In re Amendments to OUJI-CIV, 2022 OK 75 (Sept. 20, 2022).
14. *Id.*
15. Instruction 18.8 (OUJI-CIV (3d)).
16. *See Johnson v. Ford Motor Co.*, 2002 OK 24, ¶9, 45 P.3d 86, 90 (stating that the jury "instructions need not be ideal, but they must reflect the Oklahoma law regarding the subject at issue.").
17. More on reminders on how to best preserve issues for appeal in "The Basics of Preserving Error for Appeal: A Trial Lawyer's Guide for Making a Better Appellate Record" by Justin A. Lollman and Andrew J. Hofland, 96-Jan *OBJ* 28 (2025).

THE OBA ANIMAL LAW SECTION PRESENTS

SOCIAL MEDIA SAVVY SHELTERS

WEDNESDAY, DEC. 10 | 12:30 PM | VIRTUAL

Join the OBA Animal Law Section and Katie Barnett on Dec. 10 for Social Media Savvy Shelters. Ms. Barnett will discuss significant legal considerations regarding employee and volunteer social media usage. Plus, she will examine matters such as defamation, First Amendment implications and the monetization of personal accounts by staff, providing guidance on complex challenges that animal shelters and rescue organizations may encounter. Her insights will offer strategies for effectively managing social media to support the organization's mission.

ABOUT THE SPEAKER. Katie Barnett, of Barnett Law Office, has primarily worked on animal law legislation, including drafting and analyzing policies that advance animal shelter reform and protect companion animals nationwide. She has led shelter reform initiatives, organized educational programs, developed continuing education for attorneys and veterinarians and lectured at law schools and professional conferences. Ms. Barnett is the founder of the KU Student Animal Legal Defense Fund and the Animal Cruelty Prosecution Clinic. She also worked with Best Friends Animal Society while in law school and upon graduation.

ZOOM LOG IN INFORMATION IS AVAILABLE AT WWW.OKBAR.ORG/EVENTS/LIST

Becoming a Raconteur: Preparation of the Closing Argument

By Robert Don Gifford II

"[Preparation] is the be-all of good trial work. Everything else – felicity of expression, improvisational brilliance – is a satellite around the sun. Thorough preparation is that sun." – Louis Nizer[1]

PROLOGUE: 'MAY IT PLEASE THE COURT. LADIES AND GENTLEMEN OF THE JURY ...'

The closing argument is a lawyer's final opportunity to give meaning, context and perspective to the evidence introduced during a trial. It is "a finely crafted verbal work of art"[2] that concisely incorporates all of the evidence from trial into one theory so that the evidence the jury hears is consistent with the attorney's theme of the case.[3] Because the argument is received by the juror's ear and not read by the eye, the closing argument remains one of the highest forms of the ancient art of the true "raconteur."[4]

In a criminal trial, the accused has "a constitutional right to be heard in summation of the evidence from the point of view most favorable to him."[5] Such right arises out of the Sixth Amendment's "right to the assistance of counsel," which the U.S. Supreme Court defines as "the opportunity to participate fully and fairly in the adversary fact finding process."[6] In Oklahoma state criminal matters, this right is codified.[7] The Oklahoma Court of Criminal Appeals has long allowed counsel for the parties a wide range of discussion and illustration.[8] In giving a closing argument, counsel have a "considerable degree of latitude"[9] to discuss fully from their standpoint the evidence and "may argue all reasonable inferences from the evidence in the record,"[10] as well as deductions and conclusions drawn from the evidence.[11]

In civil matters, closing arguments are discretionary with the trial court,[12] and the Oklahoma Supreme Court has determined there is no error to deny closing arguments in civil matters since it rests in the discretion of the trial judge.[13]

FOUNDATIONS: THE ETHICS OF CLOSING ARGUMENTS

"How high a price is that to pay if he saved just one single life? Madam, I will give you $427,000 for your child. Deal? And you, madam. Same price for your husband. And you, counselor. How about half a million bucks for your precious hide?" – Jedediah Tucker Ward (Gene Hackman) in *Class Action* (1991)

Above all, prepare for closing argument by staying within the boundaries of the Rules of Professional Responsibility.[14] During both trial and on appeal, courts routinely monitor an attorney's closing argument with great scrutiny as it is often prone to error.[15] Error in closing arguments arises most often with criminal prosecutors and in civil litigation when the lawyer becomes recklessly focused on "winning the battle"

of a trial. The danger of overzealousness can cause the lawyer to "lose the war" later in post-trial or on appeal.[16] While the errors are primarily focused on the prosecutor and plaintiffs' counsel, the basic rules of closing argument are simple but should be noted by all:

- Do not misstate the facts,[17] the evidence[18] or the law,[19] but it is always proper to make "fair comment"[20] on "reasonable inferences."
- Do not make personal attacks on opposing counsel ("One more word and I am going to pop you in the mouth!")[21] or on the opposing party (calling the party a "slut puppy").[22]
- Do not state personal beliefs about the case (avoid the "I believe ...").[23]
- Do not refer to the jurors by name.[24]
- Do not argue facts that are not in the record, such as commenting on suppressed evidence[25] or using statements sustained by objection.[26]

- Do not personally vouch for the credibility of any witness,[27] as that is within the sole purview of the jury.[28]
- Do not attempt to inflame the passions or prejudices of a juror (*e.g.*, Lawton is "the crime capital of the world"[29]).
- Do not urge an irrelevant use of the evidence in matters, such as the "golden rule,"[30] comment on broader social implications[31] or tell the jurors to be the "community watchdogs."[32]
- Do not discuss the judicial process. ("Your [the jury's] job is reviewable. They know it."[33])
- Prosecutors cannot comment, by both Oklahoma case law and statute,[34] on a defendant's silence at trial.[35]

Prosecutors, due to their "special responsibility," have been more prone to committing misconduct in closing argument.[36] As the U.S. Supreme Court has stated, "The function of the prosecutor ... is not to tack as many skins of victims as possible to the wall."[37] A prosecutor's use of improper methods during closing argument can be grounds for reversal or mistrial where such remarks "so infect the trial with unfairness as to make the resulting conviction a denial of due process."[38]

In Oklahoma criminal courts, it is rare for a case to be reversed, as opposed to remanded for a new trial, due to a prosecutor's misconduct in closing argument.[39] However, the U.S. Supreme Court took exception to how that standard was applied[40] in a 2025 death penalty case when it revisited misconduct in closing argument. In that matter, Oklahoma County jurors heard the female defendant referred to by the prosecutor as a "hoochie" and a "slut puppy."[41] The prosecutor also held up a thong and lace bra in front of the jurors and declared that a "grieving widow doesn't pack her thong underwear and run off with her boyfriend!" This was all used to convince the jury that this defendant should be executed for her husband's murder. In a *per curiam* order, the U.S. Supreme Court found the prosecutor's statements about the woman's sex life and apparent "failings as a mother and wife" to be so prejudicial that they violated the due process clause and rendered the trial fundamentally unfair.

Similarly, the Oklahoma Court of Criminal Appeals found that comparisons with other unrelated offenses that inject fear and passion into the proceedings are improper. One example is an assistant district attorney who compared the crime in the case with the infamous 1970s Sirloin Stockade murders in Oklahoma City during closing argument.[42] In another example of impropriety, Oklahoma appellate courts have found reversible error when a prosecutor attempts to invoke the "golden rule" or argues the possibility that a defendant may commit future crimes.[43] ("I would ask you to send a message to the defendant that enough is enough. This is the fourth time. And we are going to send a message to the defendant that it needs to stop.")[44] In another example, after a number of appeals involving alleged misconduct by the same Tulsa County prosecutor, the Oklahoma Court of Criminal Appeals pointed out, by name, a particular prosecutor who was "playing chicken" with both the trial and appellant courts after a series of cases in which "she also flouted the law and ignored the direct and explicit rulings of the trial court."[45] In another example, this time in Garvin County,[46] the prosecutor's closing argument continually referred to the defendant's post-Miranda silence. In reversing and noting a prosecutor's "duty was to seek justice and not merely to conviction," the court found the defendant's rights to due process were violated.[47]

Counsel should be mindful to also avoid making legal arguments to a jury or to lose that connection by speaking 'legalese' to a jury.

Defense counsel in criminal matters are subject as well to the same closing argument strictures, but in addition, they can also be found ineffective in their representation in arguments.[48] Under the standard of *Strickland v. Washington*,[49] to show deficient performance, it must be shown that "counsel's representation fell

below an objective standard of reasonableness,"[50] and there was "probability sufficient to undermine the outcome."[51]

PREPARING TO PREPARE: THE WRITTEN WORD VERSUS THE SPOKEN WORD

As a general rule, no one talks the same way they write, so it is suggested that counsel, in their preparations, talk first and write second. More importantly, counsel should always choose the words carefully.[52] In developing his own skills as an orator, Abraham Lincoln studied how poets and orators expressed themselves by noting how they would turn a phrase or use figures of speech, and he admired the "great truths greatly told."[53] In preparation for his own speeches during the 1960 presidential campaign, John F. Kennedy admitted he would pour a brandy and smoke a cigar as he spoke along with recordings of Winston Churchill's speeches.[54]

Counsel should be mindful to also avoid making legal arguments to a jury or to lose that connection by speaking "legalese" to a jury. Legal arguments (*e.g.*, "beyond a reasonable doubt") are rarely persuasive to a juror, and it is advisable to allow statements on the law (*i.e.*, jury instructions) to be heard from the judge first. However, jurors can be persuaded by describing those legal arguments into "big picture" principles. Everyone can relate to justice, fairness and what is right and wrong. In that same breath, attorneys should also avoid "cop talk," but when it cannot be avoided, a criminal defense or civil rights plaintiff's attorney can point out that it was the choice of words by the prosecutor/government/insurance defense.[55]

If a case requires a "legal" argument, counsel must find a way to argue without invoking a nonemotional legal technicality itself. It can remind a juror that those technicalities are tied to the same principles that so appeal to their hearts.[56] For example, in the criminal context, to most jurors, the requirement of "proof beyond a reasonable doubt" may appear to be just a legal technicality. Without discussing the "legal" aspect of it, as the trial judge will mention to them, it is the big picture principle of the fear of convicting an innocent person that resonates with a juror. Finally, in preparing the closing argument, it is always best to keep to the adage of "keep it simple, stupid."[57]

STEP 1: ARGUMENT 'CHAPTERS'

"All the world's a stage ... and one man in his time plays many parts." – William Shakespeare, *As You Like It*, Act 2, Sec. 7

Without some framework for processing, jurors may get lost while the story is being told. It is much worse if the jurors forget what was said. An attorney cannot effectively argue when the jury can see that the attorney does not appear to believe their own argument, and this can be combated early by compiling those undisputed facts that support the desired verdict. Once listed, place them into related groups as "chapters" with a working title. The "chapter method" provides an easy structure. Many may recognize the "chapter method" from a popular technique (and book) on how to do cross-examination.[58] It is an effective tool to break down a cross-examination into a series of self-contained chapters. One example of the chapter method being applied in closing argument would start with an issue from trial, such as "problems with the eyewitness identification." Other anticipated common chapters in any given trial might be "physical evidence" or "investigative failures." Another obvious place to look for "chapter headings" would be in the jury instructions, which can provide a memorable chapter for a juror to weave those instructions into a closing argument. When done well, the "chapter" technique (with the artful placement of facts (testimony)), the judge's own instructions and counsel's "theory of the case" or "theme" will help a juror connect the dots together to a winning verdict for counsel.

STEP 2: BELOW EACH CHAPTER, LIST THE SUPPORTING EVIDENCE

Next, counsel should dig deep into every report, transcript, interview, photograph or any other piece of evidence and compile them into building blocks that support the theory of the case. Once obtained, list them under the appropriate chapter headings. Again, in returning to "identification issues," counsel may list: "Witness briefly saw a vehicle pass by his home and was unable to provide description;" "Later, gave description of dark-in-color, small truck;" and "In third interview, description evolved into a dark blue SUV." These differences, when packaged together properly and memorably, are the factual piece of the argument that gives credence to counsel's arguments elsewhere when all that is available is a "reasonable inference."

STEP 3: FORMULATE AN ARGUMENT UNDER EACH HEADING

As with the telling of a story, each chapter must have a beginning, a middle and an end. In the start, tell the jurors what point is being made ("tell them what you're going to tell them"). Next, counsel should discuss the undisputed evidence supporting their point ("tell them"). Finally, at the end of each chapter, repeat those points made and their connection to the favorable verdict. In other words, counsel should not only remind the jurors what they have already been told but also explain "why" it was told to them. Counsel must not only lay out the evidence and the reasonable inferences thereof supporting a verdict but must also articulate its significance as it follows the "theory" of the case. In moving from one chapter to the next, counsel should continuously incorporate the case "theme" or "theory" at every opportunity.

STEP 4: DECIDE THE ORDER OF THE STORY AND WEED OUT THE CHAFF

"If I had more time, I would have written a shorter letter." – French mathematician and philosopher Blaise Pascal (1657)

With the "Gettysburg Address," President Lincoln went through numerous drafts before finding the 272 words that not only moved a country but also now echo through history.[59] And just as with any great speech, the final summation of a case takes significant time, effort and focused creativity. Counsel should select the chapter that is the strongest argument and then place it at the very end of the closing argument. Do not get caught in the minutia that loses the attention of the juror. Next, counsel should select the second strongest argument as a chapter and insert it at the beginning of the closing. The remaining chapters should be placed in a manner, as discussed previously, that builds upon one another so that it reaches a juror both logically (logos) and emotionally (ethos). In building the argument, each chapter should continually be evaluated for clarity, weakness or inconsistency. With a foundation of facts and logic established, it allows for the emotional part of an argument to grow toward a powerful ending rather than end with a meek "thank you" with counsel quickly sitting down.

STEP 5: TIGHTEN UP AND POLISH THE PERSUASIVENESS

"If it doesn't fit, you must acquit." – Johnnie Cochran Jr.

An effective closing is an argument, not merely a summation. The art and science of how to effectively use the spoken word in advocacy has been documented historically to Aristotle and Cicero, who first discussed this understanding of ethos, logos and pathos in the artful delivery of a story. For the trial lawyer, it also requires the ability to deliver it with clarity and order. In developing the closing, an advocate should look for common experiences between the speaker and the listener to illustrate points. One basic way to build a memorable chapter is to weave jury instructions into a closing argument. The technique requires the statement of facts (testimony) immediately followed by those same instructions from the court.

In addition, there are several other ways to not only capture a juror's attention but also make counsel's words unforgettable. One often-taught example is the use of the "Rule of Three." This technique, the poetic use of words or phrases in threes, was used by Cicero, Abraham Lincoln, Winston Churchill and John F. Kennedy. This creative phrasing captivates an audience ("of the people, by the people and for the people," "blood, sweat and tears," "contaminated, compromised and corrupted").[60] It is the repetition of a word or short phrase that gives a memorable statement of the case that jurors may carry with them into their deliberations. For criminal defense counsel, a powerful example of concluding a closing could be: "He is not guilty. Not guilty by the physical evidence, not guilty by the mouths of the witnesses and not guilty by his own brave testimony."

In addition, there are several other verbal tools of rhetoric that counsel should consider using in a closing argument. One example is the use of analogies to help a jury grasp a concept or situation by analogizing to a relatable story that a juror may have from their own experiences. Another powerful example is the clever but careful use of metaphors or alliteration, such as using a series of words that begin with or include the same sound, *e.g.*, "a small-time snitch searching for someone to sacrifice."

Next, every trial lawyer should always be able to tap into well-known quotations at their disposal, as they provide a powerful way of making the point with long-accepted wisdom. These quotes are often found in historical events (*e.g.*,

"Oh, what a tangled web we weave when first we practice to deceive," or John Adams' "Facts are stubborn things"); historical literature; well known music lyrics ("You don't need a weatherman to tell you which way the wind is blowing"); or even movies. Another example includes emphasizing a witness caught in a lie without calling that witness a "liar."

Finally, counsel should not be afraid to use the power of silence (aka "the pregnant pause"). Naturally, most feel that any silence must be met with some verbal "filler." It may be random and meaningless words, the unintended "ok" or the nonwords of "um" or "uh." Silence builds tension in a courtroom, and it can also recapture and keep a juror's attention. The use of silence emphasizes a powerful moment, with a point being made or to let a significant statement hang in the air. This pregnant pause allows jurors to embrace and privately contemplate the moment. Finally, using deliberate pauses and silence in the final words of a closing argument while meeting the eyes of each juror evokes counsel's own belief and passion in the case. It is even more powerful to be met with a pause of silence after a passionate argument, emphasized with a softly said "thank you" before returning to the counsel table.

STEP 6: THE FIRST WORDS OF THE CLOSING ARGUMENT MUST BE IMPACTFUL

"It was a dark and stormy night ..." – Snoopy, World-Famous Author

The first few minutes of a closing argument will be when a juror is most attentive. Counsel should not waste time thanking the jury or apologizing for the time spent in trial. A strong and powerful closing is one that commands the attention of the entire courtroom. Those early statements can be quoting a witness, reinforcing the strategic theme that arose throughout the case, or it may be as simple as telling the story of the case in a creative and descriptive manner, with the powerful facts of the case that will drive a verdict.

STEP 7: HAVE AN 'EXIT STRATEGY' WITH THE FINAL WORDS OF THE CLOSING ARGUMENT

Attorneys may find themselves at the end of their closing arguments yet not know how to conclude it with impact and sit down. This is the last chance to give the jurors those words to remember by keeping it sincere and from the heart. One powerful verbal tool that is often used by preachers and comedians alike is the "call back" method. It is highly effective by bringing closure to the case by referencing a phrase (*e.g.*, "theme") invoked from the initial opening statement or a powerful statement made by a witness. Another powerful point of persuasion is when counsel can use opposing counsel's words to drive their own case to the verdict sought. Finally, counsel should ensure they have the "exit strategy," those "go-to" phrases counsel can always return to at the end the closing argument (*e.g.*, "Justice demands that you return a verdict that speaks the truth," or "The fair verdict, the just verdict and the right verdict is a verdict of ...").

STEP 8: REHEARSE IT OVER AND OVER

"How do you get to Carnegie Hall? Practice, practice, practice."[61]

An advocate must not only prepare what to say during the closing argument but also its delivery. A powerful closing calls for diligent practice. It must be done by speaking out loud. Whether in the shower, to a mirror, in a car while driving or to a spouse, colleague or pet, the argument must be verbalized. Do not memorize it, as it will lack sincerity. Each time

it's practiced, the argument will organically evolve to counsel's own style that will demonstrate counsel's personal sincerity and keep the case real to the listener.

STEP 9: BREAK IT DOWN TO A SINGLE-PAGE OUTLINE

An advocate is very unlikely to read a closing argument to a jury and be able to persuade them. Persuasiveness comes from an attorney's own passion, which derives from an attorney knowing every small detail of their case. As a final step in preparation, it is a worthy recommendation to have reduced the argument to a one-page outline that can be placed on the lectern. The outline will list no more than a word or two as a prompt. Seasoned trial lawyers will place a cup of water by the outline on the counsel table and, in the event they need to jog a memory, will simply pause, walk back to the counsel table, pick up the cup and take a sip with a quick glance at the outline. Another useful tool is that counsel may simply list those memory-jarring one- to two-word chapters on a PowerPoint presentation or on some "old school" butcher paper as demonstrative evidence to use during closing argument. Not only does it relieve counsel from looking down at any notes, but it also allows the jurors to more easily follow the argument. It is advisable to inform the court and opposing counsel of the intent to use such trial tools to avoid objections and interrupting the rhythm of the case.[62]

A POSTSCRIPT ON CLOSING ARGUMENTS

"An advocate can be confronted with few more formidable tasks than to select his closing arguments." – Robert H. Jackson, Chief Counsel for the United States at the Nuremberg Trial, 1946

It is in those final moments before a jury that the attorney must command the courtroom by seizing the attention of the jury and maintaining it. Every closing argument should be developed with the tools of storytelling. There are a myriad of techniques any lawyer can use to polish their performance in delivering a closing argument, but it should be a goal that counsel's words are carried by the jurors into the deliberation room. While there is no substitute for the actual experience of a jury trial itself, all attorneys can study both the art and science of persuasion and public speaking to become that true raconteur.

ABOUT THE AUTHOR

Robert Don Gifford II is a solo practitioner in Oklahoma City and the 2025 Oklahoma Criminal Defense Lawyers Association Clarence Darrow Award winner for his advocacy in and out of the courtroom.

ENDNOTES

1. Jerrold K. Footlick *et al.*, "Lawyers on Trial," *Newsweek*, Dec. 11, 1978, at 98, 99 (quoting New York lawyer Louis Nizer).
2. Michael S. Lief, H. Mitchell Caldwell and Ben Bycel, *Ladies and Gentlemen of the Jury,* p. 11-12 (June 2, 2000).
3. Frederick Levin, Mike Papantonio and Martin Levin, *Closing Arguments – The Last Battle* (June 1, 2003).
4. *See generally*, Gerry Spence, *How to Argue and Win Every Time* (Jan. 1, 1996).
5. *Herring v. New York*, 422 U.S. 853 (1975).
6. *Id*. at 858.
7. *Henry v. State*, 1913 OK CR 311, 10 Okla. Crim. 369, 136 P.982.
8. *Sanders v. State*, 2015 OK CR 11, ¶21, 358 P.3d 280, 286.
9. *Finley v. State*, 1981 OK CR 3, 623 P.2d 1031, 1035.
10. *Tart v. State*, 1981 OK CR 113, 634 P.2d 750, 751; *Maxville v. State*, 1981 OK CR 73, 629 P.2d 1279, 1283; *Cobbs v. State,* 1981 OK CR 60, 629 P.2d 368, 269.
11. *McCauley v. State*, 1988 OK CR 25, 750 P.2d 1124.
12. 12 Okla. Stat. 577.
13. *Missouri Nat'l Life Ins. Co. v. Mead*, 1964 OK 126, 393 P.2d 521, 524; *Crescent Oil Co. v. Brumley*, 1934 OK 593, 169 Okla. 462, 464, 37 P.2d 593, 595; *Barnes v. Benham*, 1904 OK 14, 13 Okla. 582, 75 P. 1130.
14. Robert Don Gifford, "Ethics and the Criminal Prosecutor: Guilt Shall Not Escape nor Innocents Shall Suffer," *OBJ* (December 2005).
15. *See* Mark Hansen, "If the Claim Doesn't Fit," *ABA Journal* (June 1997).
16. Sharisse O'Carroll, "When Does Offensive Speech Become Professional Misconduct," *OBJ* (October 1996); *see also* Robert Don Gifford, "Very Appealing Ethics," *OBJ* (December 2006).
17. *Satepeahtaw v. State*, 1979 OK CR 47, 595 P.2d 805, 808.
18. *Scott v. State*, 1945 OK CR 48, 158 p.2d 728 (1979).
19. *Hau v. State*, 1925 OK CR 175, 30 Okla. Crim. 24, 28, 234 P. 649, 650.
20. *Frick v. State*, 1981 OK CR 108, 623 P.2d 738, 743.
21. This would also include improper comments at side bar. *See Mayberry v. State*, 1979 OK CR 134, 603 P.2d 1150.
22. *Andrew v. White*, 604 U.S. ____(Jan. 21, 2025); *Wilson v. State*, 1998 OK CR 73, 983 P.2d 448.
23. *See* Rule 3.4, Fairness to Opposing Party and Counsel, Oklahoma Rules of Professional Conduct, 5 Okla. Stat., Ch. 1, App. 3-A.
24. *See* 12 Okla. Stat., Ch. 2, App., Rule 6 ("Counsel shall avoid repetition, shall not call jurors by their first names or indulge in other familiarities with individual jurors."); *McMahan v. State*, 1960 OK CR 22, 354 P.2d 476, 484; *Donaho v. State*, 1935 OK CR 148, 58 Okla. Crim. 198, 203, 51 P.2d 348, 349.
25. *See* ABA Standard for Criminal Justice Standards 4-7.8 and commentary.
26. *Omalza v. State*, 1995 OK CR 80, 911 P.2d 286 (Okla. Crim. App. 1995); *Newsted v. State*, 1986 OK CR 82, 720 P.2d 734; *see also* M. Shane Henry, "Objection: 'Shut Up!'" *OBJ* (2024); *see also* M. Shane Henry, "Slaying the Speaking Objection Dragon," *OBJ* (2016).
27. *Fitzgerald v. State*, 91 Okla. Crim. 437, 441, 219 P.2d 1024, 1026 (1950); *Sisk v. State*, 487 P.2d 1003, 1004 (Okla. Crim. App. 1971); *Payne v. State*, 520 P.2d 694, 697 (Okla. Crim App. 1974).
28. *Charm v. State*, 1996 OK CR 40, 924 P.2d 754.
29. *Jones v. State*, 1980 OK CR 28, 554 P.2d 830, 834.
30. Luke 6:30 ("And as ye would that men should do to you, do ye also to them likewise"); *see also Chicago, R.I. & Pac. R.R. v. American Airlines, Inc.*, 408 P.2d 789, 791 (Okla. 1965); *Lime v. State*, 479 P.2d 608, 609 (Okla. Crim. App. 1971); *Hays v. State*, 646 P.2d 1311.
31. *Brewer v. State*, 650 P.2d 54, 58 (Okla. Crim. App. 1982) (a prosecutor may not comment on increasing crime rates); *Coker v. State*, 26 Okla. Crim. 230 223 P. 711 (1924).

32. *Jones v. State*, 1983 OK CR 31, 660 P.2d 634.

33. *Caldwell v. Mississippi*, 472 U.S. 320, 325 (1985).

34. 22 Okla. Stat. §22-701.

35. In *Griffin v. California*, the U.S. Supreme Court held that under the Fifth and 14th amendments, a prosecutor at trial could not comment on an accused's silence. *See also Lime v. State*, 1971 OK CR 9, 479 P.2d 608.

36. "*Brady v. Maryland* – The Path to Truth and Fairness," Jack Fisher, *OBJ* (March 2016) ("The best example of a bad example occurred in two severed Oklahoma County death penalty trials ... [when] Bob Macy's assistant knowingly suborned perjury by bolstering the 'lynchpin' witness' testimony that he requested no 'help' with his drug case, then lauded his honesty and bravery during closing argument knowing the witness requested and the prosecutor agreed to provide assistance with his criminal cases.").

37. *Donnelly v. DeChristoforo*, 416 U.S. 637, 648-49 (1974) (quoting *Berger v. United States*, 295 U.S. 78, 88 (1935)).

38. *Donnelly v. DeChristoforo*, 416 U.S. 637, 643 (1974).

39. *Darden v. Wainwright*, 477 U.S. 168, 181-182 (1986); *Tafolla v. State*, 2019 OK CR 15, 446 P.3d 1248, 1260.

40. *Andrew v. State*, 2007 OK CR 23, 164 P. 3d 176 (2007).

41. *Brenda Evers Andrew v. Tamika White, Warden*, 604 U.S. ____ (Jan. 21, 2025).

42. *Henderson v. State*, 1963 OK CR 68, 695 P.2d 879, 883; *see also Cobbs v. State*, 1969 OK CR 188, 629 P.2d 368.

43. *Brewer v. State*, 1982 OK CR 128, ¶8, 650 P.2d 54, 58 (commenting on the possibility that a defendant may commit future crimes is highly improper).

44. *McWilliams v. State*, 1987 OK CR 203, 743 P.2d 666, 669.

45. *Ezell v. State*, 1995 OK CR 71, 909 P.2d 68 (1995).

46. *Smith v. State*, 1987 OK CR 235, 744 P.2d 1282 (1987).

47. *Id*.

48. Shelley L. Levisay and David T. McKenzie, "Ineffective Assistance of Counsel with the Modern Court and Tips for Effective Trial Advocacy," *OBJ* (December 2024).

49. 466 U.S. 668, 687 (1984).

50. *Id*., at 687.

51. *Id*., at 694.

52. Todd A. Berger, "A Trial Attorney's Dilemma: How Storytelling as a Trial Strategy Can Impact a Criminal Defendant's Successful Appellate Review," *Drexel Law Rev.* (Spring 2011, p. 297).

53. Stephen Oates, *With Malice Toward None: A Life of Abraham Lincoln*, 45 (Harper Perennial, 1994).

54. Richard Reeves, *President Kennedy: Profile of Power,* 41 (Simon & Schuster, 1994).

55. *See* Sunwolf, "Toxic Words Poison," *The Champion* (August 2001, p. 28).

56. W. Ross Foote, "Things That Bug Juries," *OBJ* (September 1996).

57. Melanie Ruhgani, "Keep It Simple, Stupid," *OBJ* (February 2015).

58. Roger Dodd and Larry Pozner, *Cross-Examination: Science and Techniques* (3rd ed., 2018).

59. Gary Wills, *Lincoln at Gettysburg: The Words that Remade America,* 27-28 (1992).

60. Barry Scheck's theme in his closing argument in *People v. Orenthal James Simpson* (1995).

61. Michael Pollak, "The Origins of that Famous Carnegie Hall Joke," *The New York Times*, Nov. 27, 2009, available at https://bit.ly/476SATn.

62. *See generally, Cheatham v. State*, 1995 OK CR 32, 900 P.2d 414.

The Right to Trial by Jury for Termination of Parental Rights

By Evan Humphreys

WHO WOULD YOU WANT TO DECIDE IF YOU COULD EVER SEE YOUR CHILDREN again? Or whether you could ever see your parents again? Would you want a group of six strangers to choose? What about a judge who may have already decided once before to keep your children or parents away from you?

There are no simple answers to these grim questions. But parents and children must frequently answer questions like these in juvenile deprived proceedings. When a court places custody of a minor with the state, a time may come when the government (or child) wishes to permanently sever the parent-child relationship. In the parlance of juvenile deprived law, this permanent severance is known as "termination."

This article will explore the foundations of – and limitations on – the right to trial by jury on the issue of termination. With this information, practitioners can better assist their clients in answering these difficult questions on an informed basis.

CONSTITUTIONAL FOUNDATION

The Seventh Amendment guarantees the right to a jury trial in common law actions if the amount in dispute is more than $20. However, the U.S. Supreme Court has not yet held that this amendment applies to the states.[1] As such, there is currently no precedential authority establishing a right to trial by jury in any kind of civil case in state court under the U.S. Constitution.

Despite the lack of federal authority, the right to a jury trial does exist under Oklahoma law. Article II, Section 19 of the Oklahoma Constitution says, "The right of trial by jury shall be and remain inviolate." But this right is not as boundless as it appears. It is limited to actions where the right to a jury trial was guaranteed by the U.S. Constitution or the common law at the time of its adoption. But this limitation itself has an important caveat. The guarantee of a right to trial by jury is so limited "except as modified by the Constitution itself."[2]

This exception is key to understanding the Oklahoma Supreme Court's ultimate application of Article II, Section 19 to termination proceedings. The court first wrestled with this application some 50-odd years ago.[3] The parent in that case argued that they were entitled to a jury trial on the issue of termination because parental rights are fundamental. They also cited the Oklahoma Constitution and the statute in effect at the time. The court rejected each argument and held that the parent was not entitled to have a jury determine whether their rights to their children should be permanently ended.

A decade later, the court revisited this issue in *A.E. v. State*.[4] In this case, the court's analysis was informed by the fundamental nature of parental rights and a categorical rejection of the idea that parental conduct has any bearing on a pure question of law. With these principles in mind, the court zeroed in on the "except as modified by the Constitution itself" language it had previously avoided.

The court found this language to be critical because of a 1969 amendment to Article II, Section 19, which specifically provided for the right to trial by jury in "juvenile proceedings." The court held that this evidenced the intent of the framers of the amendment to grant a right to a jury in termination trials. As such, the court explicitly overruled its prior cases and concluded by stating, "Parental rights are too precious to be terminated without the full panoply of protections afforded by the Oklahoma Constitution."

It is worth noting that the people of Oklahoma amended Article II, Section 19 again in 1990. This latest amendment removed the specific reference to "juvenile proceedings" and other types of cases that were enumerated in this section at the time *A.E.* was decided. However, the state Supreme Court has already held that the 1990 amendment does not change its holding in *A.E.*[5] While the court did not explain its reasoning, its decision is sound based on the wording of the state question that created this amendment.

The state question framed Article II, Section 19 as providing for six-person juries "only in some civil trials." It went on to say that the measure would change the constitution to provide for 12-person juries in felonies and civil cases involving $10,000 or more, but a six-person jury would be required in "other trials." The state question placed no limitation on these "other trials." Indeed, it states that litigants may agree to a lesser number of jurors "in *any* case."[6] As such, it is reasonable to conclude that the framers of the 1990 amendment intended to expand the right to trial by jury rather than reduce it.

Finally, while the language of Article II, Section 19 is expansive, case law has only ever applied it to parents. It has never explicitly been held to guarantee a child's right to trial by jury. Nevertheless, children are full parties to deprived proceedings.[7] Children also enjoy constitutional rights.[8] As such, there should be no doubt that children have the same constitutional right to trial by jury that is guaranteed to their parents. Most importantly, children can assert this right independent of their parents' decisions.

STATUTORY FOUNDATION

The Oklahoma Constitution is not the only guarantee of this right. Article 1 of Title 10A: The Children and Juvenile Code (the children's code or the code) gives a parent, a child or the state the right to demand a jury trial. However, by statute, that demand is strictly limited to the issue of termination of parental rights.

The code says the issue of adjudication – essentially, whether the juvenile deprived case should continue at all – must be tried to the bench.[9] Even if the state files for immediate termination of parental rights, the code requires the bench to determine whether the children should be adjudicated as deprived while the jury only decides the issue of termination.[10] No published case from the Oklahoma Supreme Court addresses the application of Article II, Section 19 to these statutes. One published case from the Court of Civil Appeals held that there was no right to a jury trial at a "dispositional hearing" – an informal proceeding where the rules of evidence do not apply – but did not engage in a robust constitutional analysis as to why.[11]

If nothing else, the statutory right to trial by jury remains as to the issue of termination. Once the demand for a jury trial has been made, it must be granted unless waived. This language indicates that a party who initially demands such a trial may later waive a jury, and the court is not bound by the prior demand. Absent a waiver, the trial court must then issue a scheduling order within 30 days, and the trial must begin within six months of the filing of that scheduling order. The court may go beyond this six-month period if it issues written findings of fact that there are exceptional circumstances to do so or if all the parties agree.[12] Starting Nov. 1, 2025, bench trials must begin within 90 days of the scheduling order's filing, although that time may be extended in the same manner as jury trials.[13]

But can the district court still hold a jury trial if all the parties agree to waive their right to one? There are no published cases answering this question. However, the language of the statute seems to indicate that the answer is yes. The relevant language states that a jury trial must be granted unless waived, "or the court on its own motion may call a jury to try any termination of parental rights case." The quoted language is an independent clause that does not need to rely on any preceding part of the sentence to stand as a complete thought. It is also joined by the conjunction "or," indicating a choice among options. Finally, the quoted language says the court can bring in a jury to try "any" termination case, which would presumably include one in which all other parties have waived a jury. As such, there are reasons to believe the court can force a jury trial even if none of the parties desire one.

LIMITATIONS ON THE RIGHT TO JURY TRIAL

While *A.E. v. State* affirmed the constitutional right to trial by jury in Oklahoma, the court noted that this right may be given up "by voluntary consent or waiver."[14] Exactly what qualifies as "voluntary consent or waiver" is an ongoing issue in the appellate courts.

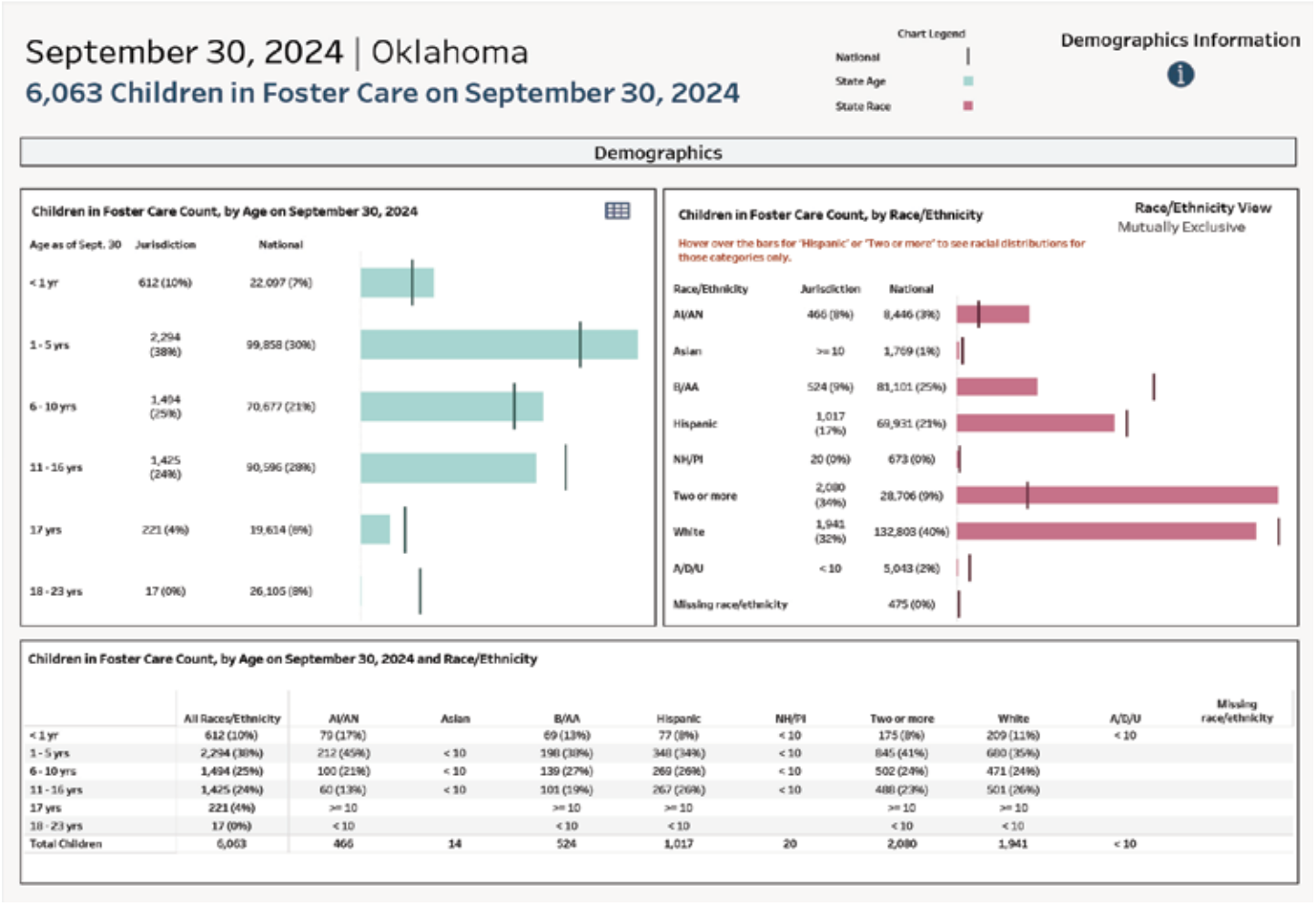
Inaction often qualifies. For example, in *Matter of E.J.T.*, the Oklahoma Supreme Court explored whether the mother's failure to act waived her right to a jury trial.[15] After the state moved to terminate her rights, a court minute was filed claiming the mother waived trial by jury and requested a bench trial. The mother was served with a copy of this minute but never asserted that its contents were incorrect. When a bench trial was later held, the mother never objected to proceeding this way or otherwise demanded a trial by jury until she raised the error on appeal. By failing to demand a jury at the trial level in any way, the court held that the mother waived her right to the same.

Nevertheless, the right to a jury trial can be lost even when it has been demanded.

Currently, the Oklahoma children's code empowers trial courts to deem a party's right to a jury-trial waived if they fail to appear "for such trial."[16]

Previously, as decided by the Oklahoma Supreme Court in *Matter of H.M.W.*, failing to appear "for such trial" only waived the right to be present and required a trial by jury *in absentia*.[17] However, the Oklahoma Legislature subsequently amended that part of the children's code and removed the language that created this result. As such, jury trials *in absentia* in termination cases are no longer permitted under that particular statute.[18]

While *Matter of H.M.W.* is no longer good law on this issue,



Demographics of children in foster care, as of September 2024. Source: U.S. Department of Health and Human Services. View at http://bit.ly/47amIT4.

There is no concrete set of factors that must be considered when advising a client on whether they should proceed with a bench or jury trial on the issue of termination.

another section of the children's code still states that a parent's failure to appear in person, "or to instruct his or her attorney to proceed in absentia at the trial," is equivalent to consenting to the termination.[19] The Supreme Court did not address this language allowing a person "to instruct their attorney to proceed in absentia" when it overruled *Matter of H.M.W.* It remains to be seen how the courts will interpret the ability to demand a jury trial *in absentia* in light of this statute.

In analyzing the revised statute, the Oklahoma Supreme Court held that it was constitutional for the Legislature to create a process where a party's failure to appear for a jury trial may be considered a waiver of their right to that form of trial. Still, the court required that a party receive some form of notice that their failure to appear "for such trial" could result in the loss of that right.[20] While the court did not delineate what that notice must look like, the children's code requires petitions and motions for termination of parental rights to be served in essentially the same manner as initial pleadings in other civil cases.[21]

But failing to appear for just any hearing does not result in the loss of the right to a jury trial. The phrase "for such trial" has been examined by one division of the Court of Civil Appeals in a published opinion. In *Matter of J.B.*, the mother demanded a jury trial on the state's motion to terminate her parental rights.[22] A jury trial was set but then continued multiple times. The mother failed to appear at a subsequent hearing, which was not for the purpose of holding a jury trial. Nevertheless, the trial court took the mother's failure to appear as her consent to the termination of her rights. Division IV found that her absence from a nonjury trial setting did not waive her right to trial by jury. Under this rationale, a party should only lose this right if they fail to appear for their scheduled jury trial. Skipping any other setting in front of the court does not create a consent termination.

CONSIDERATIONS IN DEMANDING OR WAIVING A JURY TRIAL

There is no concrete set of factors that must be considered when advising a client on whether they should proceed with a bench or jury trial on the issue of termination. Nevertheless, there are some common considerations an attorney should discuss when the client is making this difficult decision.

The first consideration is the judge. Usually, the judge sitting as the trier of fact in a termination bench trial is the same judge who has presided over the case since the beginning.

Therefore, the attorney and the client should have a sense of the judge's perception of the case. If it seems like the judge may be open to the client's position, then proceeding to a bench trial can be a viable option. But if there is some reason to believe that the judge has a less favorable view of the client's desired outcome, then a jury trial may be the better alternative.

The second consideration is the potential jury pool itself. According to the U.S. Department of Health and Human Services, the majority of Oklahoma children in foster care in September 2023 were nonwhite.[23] However, across the country, "people of color are significantly underrepresented in the jury pools from which jurors are selected."[24] Financial barriers

to jury duty may also mean that your pool of jurors may not have experienced the same hardships a client in a termination case may have faced.[25]

All of this is to say that the jury in a termination trial may not truly be the client's peers. The client will have to consider the potential jury pool and whether they prefer to have their case judged by this likely group of individuals or the court.

Finally, it must be noted that parents and children may have options other than proceeding to trial. If reunification is not possible or not what the client wants, Title 30 guardianships, permanent guardianships and adoptions with visitation may be more palatable resolutions.

Of course, the decision ultimately belongs to the client. Even if the local practice is to waive jury trial in every case, practitioners must advise their clients of their constitutional and statutory right to a jury trial as well as the ways in which that right can be lost. It will always be a difficult choice, but with good advice and information, at least it can be an informed choice.

ABOUT THE AUTHOR

Evan Humphreys is the managing attorney of appellate practice for the Oklahoma Office of Family Representation, which contracts with private attorneys to provide high-quality legal representation to parents and children in juvenile deprived cases at trial and on appeal.

ENDNOTES

1. *Minneapolis & St. L.R. Co. v. Bombolis*, 241 U.S. 211, 217 (1916).
2. *Keeter v. State ex rel. Saye*, 1921 OK 197, ¶5, 198 P. 866.
3. *J.V. v. State Dep't of Insts., Social & Rehab. Servs*., 1977 OK 224, 572 P.2d 1283.
4. *A.E. v. State*, 1987 OK 76, 743 P.2d 1041.
5. *Gray v. Upp*, 1997 OK 98, ¶2, 943 P.2d 592.
6. State Question No. 623, available at http://bit.ly/46Fy8tF (last accessed July 22, 2025).
7. 10A O.S. §1-4-306(A)(2)(c).
8. *Planned Parenthood of Cent. Mo. v. Danforth*, 428 U.S. 52, 74 (1976).
9. 10A O.S. §1-4-601(D)(3).
10. 10A O.S. §1-4-502(A).
11. *Matter of K.S.*, 1990 OK CIV APP 106, ¶8, 807 P.2d 292.
12. 10A O.S. §1-4-502(B).
13. Children, 2025 *Okla. Sess. Law Serv.* Ch. 375 (H.B. 1965).
14. *A.E.*, at ¶22.
15. *Matter of E.J.T.*, 2024 OK 14, 544 P.3d 950.
16. 10A O.S. §1-4-502(B).
17. *Matter of H.M.W.*, 2013 OK 44, ¶7, 304 P.3d 738.
18. *Matter of F.B.*, 2025 OK 25, P.3d.
19. 10A O.S. §1-4-905(A)(5).
20. *F.B.*, at ¶19.
21. 10A O.S. §1-4-905(A).
22. *Matter of J.B.*, 2024 OK CIV APP 22, 558 P.3d 39.
23. *See* The Adoption and Foster Care Analysis and Reporting System (AFCARS) Dashboard 2025, Admin. for Children & Families, U.S. Dept. of Health and Human Servs., available at http://bit.ly/47amIT4 (last accessed Oct. 14, 2025).
24. "Race and the Jury," Equal Justice Initiative website, http://bit.ly/4gWWCC6 (last accessed Sept. 25, 2025).
25. Jule Pattison-Gordon, "How Courts Are Trying To Make Jury Duty More Appealing," Governing website, March 25, 2025, http://bit.ly/4mYeSfU.

Strong Case, Heavy Cost: The Emotional Weight of Trial Law

By Scott Goode

LET'S BE HONEST. Being an attorney is tough. We have chosen to help others with some of the most important issues in their lives. Whether in their professional lives, with business contracts, consulting, finance or taxes; their personal lives, with relationships, divorce, paternity, guardianships, adoptions, protective orders or the eventual deaths of loved ones through estate planning and probate; or even their own personal freedom, when they are charged with a crime. The list goes on and on.

In most situations, the individuals we help are going through very atypical times and circumstances. They are hypervigilant and aware. In short, these circumstances create a perfect storm that harms our own mental health, not even accounting for whatever we may be going through in our personal lives at the time.

For trial lawyers, these circumstances can be even worse, especially for those of us who try cases before juries. At least with bench trials, the fact finder (the judge) will usually sift through unnecessary evidence and emotion to reach the core issue. Bench trials bring more legal precision because of the judge's training in law, and they involve fewer theatrics. They are typically faster, more streamlined and come with fewer procedural delays. There is also predictability: Trial lawyers often feel they can anticipate a judge's reasoning based on legal experience and past rulings.

A jury trial, however, is an entirely different challenge. The lawyer's ability to predict the outcome or the evidence the jury might latch onto is greatly reduced. Storytelling matters. A compelling narrative with strong witnesses and emotionally impactful evidence becomes crucial. It's no longer just about the law; the lawyer's ability to persuade is paramount. And above all, jury selection is critical. As trial lawyers often say, "Before a judge, I argue the law. Before a jury, I argue a story."

I've been a practicing trial lawyer for almost 20 years. For the first seven or eight, I only tried jury cases, either in the Tulsa County Public Defender's Office as an Oklahoma Indigent Defense System subcontractor or in my own private practice. In the last 12 or 13 years, I have expanded into divorce, paternity, guardianships, protective orders, adoptions and other areas of law typically tried by the court instead of a jury. Despite the extremely high level of stress and anxiety in both types of trials, I can honestly say I've never once thrown up in the courthouse bathroom before a bench trial.

THE PRETRIAL STRAIN

The time between setting a case for trial and beginning jury selection is the worst. Once a jury trial is set, my anxiety climbs with each passing day. As the date nears, I sometimes suffer migraines, nausea, stomach issues or even periods when my immune system seems to shut down, bringing on colds, flu, hives or other physical conditions I don't normally experience. Insomnia is constant and, for me, the hardest part.

The pretrial period is filled with fear: the fear of being unprepared,

the fear of forgetting an important issue, the fear of failure. I obsess over what I still have to do, over every detail of evidence and over how to present it. Even after all these years, I still feel utterly unprepared and terrified before each trial.

It is also important to note that this cycle repeats. I may have to go through this emotional rollercoaster several times before a case actually reaches a verdict. Some cases are delayed, postponed or dismissed, forcing me to restart the process. That means late nights with banker's boxes of files, demonstratives, a laptop and constant neck and back pain.

INSIDE THE TRIAL

Once a trial begins, something changes. Any trial attorney will tell you that after jury selection, when the judge finishes questioning, the prosecutor sits down, and I finally begin my opening, I suddenly feel at home. Despite the anxiety, stress and hyperawareness, the courtroom becomes my stage. My back and neck still ache, but now it's because I'm on the edge of my seat, ready to object at a moment's notice.

My mind is focused on every question and response. My client is overwhelmed by the circumstances, and I know my control is essential. I cannot allow even a sigh or frown in front of the jury. Every inconsistency must be tracked perfectly. Saying "there is a lot going on" during trial is an understatement.

And the day doesn't end when court adjourns. Unless the jury has already reached a verdict, I'm back at the office preparing for the next day, reviewing witnesses, exhibits, openings, closings or motions. Sleep comes only when I barely remember my own name and somehow manage to eat something before waking at 5 a.m. to do it all over again.

THE TOLL ON FAMILY

The trial attorney's spouse and family often bear the heaviest burden. My wife would say that while pretrial is tough, I can still manage

to help with errands and kids' activities. During trial, that stops completely. I am physically present at home but mentally absent – staring into space, consumed by the case. This understandably causes resentment.

This burden explains why trial attorneys face so many occupational hazards: divorce, substance abuse, smoking, drinking, obesity, insomnia. Imagine being a trial attorney who, on top of the trial itself, is still expected to maintain household routines. It is crushing.

> Trial attorneys, especially public defenders and prosecutors, must remember that acknowledging and asking for help is not a weakness; it is survival.

AFTER THE VERDICT

Reaching a verdict is a relief but not an end to the emotional strain. I typically still cannot sleep. My family, friends, staff and other cases have been neglected for days, if not weeks. Emails pile into the thousands. I obsess over every detail of the trial: *Did I ask that question correctly? Did I look bad to the jury? Should I have called that witness? Was my theme strong enough?*

Even after a win, I replay everything in my head. After a loss, the self-doubt is overwhelming. And the brutal truth is that prosecutors, public defenders and Oklahoma Indigent Defense System attorneys are often expected to start preparing a new jury trial the very next Monday, regardless of when the last one ended.

THE BIGGER PICTURE

The statistics are alarming. The 2022 ALM Intelligence, Mental Health and Substance Abuse Survey of 3,400 practicing lawyers found:

- *44%* agreed that attorneys' mental health and substance abuse problems are at a crisis level.
- *55%* believed those issues are worse in law than in any other profession (only 9% disagreed).
- *35%* reported severe depression (versus 9% in the general population).
- *64%* felt their marriages or personal relationships had suffered due to law practice.
- *75%* said their practice of law harmed their mental health over time.
- *66%* suffered from high anxiety (versus 18% in the general population).
- *19%* had contemplated suicide (versus 5% generally).
- *One in three lawyers* reported substance abuse problems (versus 5% generally).

These numbers are staggering, though sadly not surprising. I've lost colleagues to suicide, drugs and alcohol. Many lawyers quit entirely. In just one month, I knew of two attorneys who left the profession altogether.

WHAT HELPS

So what can we do? Personally, I've found that splitting cases with co-counsel helps immensely. Sharing the weight, playing devil's advocate and having another set of eyes and shoulders reduces the burden.

I've also learned to be selective with clients. If I sense a conflict during the initial consultation, I decline. Not every case is worth the personal toll. I advise potential clients to seek second opinions and remind myself that no retainer fee is worth sacrificing my health.

I am also mindful of why I take certain cases. If I personally identify with an issue because of my life experiences, I risk secondary trauma or compassion fatigue, which can mirror PTSD symptoms: nightmares, irritability, headaches, isolation. I now pause and check my motivations before accepting a case.

Cooling down between trials is essential. I take days off, spend time with family, and most importantly, I openly ask for help. What I once saw as shameful – admitting I needed support – has now become the foundation of a healthier, more fulfilling life.

Finally, I debrief after trials. I journal thoughts, fears and lessons

learned. About 10 years ago, I sought help through the Lawyers Helping Lawyers Assistance Program Committee, which paid for six therapy sessions. With skepticism, I called the mental health service provider, A Chance to Change in Oklahoma City, and found that it helped immensely. Discussing my fears, family struggles and emotions with a therapist allowed me to avoid repeating mistakes.

CLOSING THOUGHTS

Attorneys must look out for each other. This profession allows us to help people in unique and powerful ways, but it also exposes us to unique dangers. Trial attorneys, especially public defenders and prosecutors, must remember that acknowledging and asking for help is not a weakness; it is survival.

As the saying goes, "No man is an island." We are stronger when we recognize our limits and support one another.

I'll take a person who has been broken, accepted it and put themselves back together any day of the week. Those cracks are how the light gets in. That's courage.

> "Courage is the most important attribute of a Lawyer. It is more important than competence or vision ... and it should pervade the heart, the halls of justice and the chambers of the mind."
>
> – Robert F. Kennedy

If you or anyone else would like to receive your free therapy sessions provided to you through your bar membership and the Lawyers Helping Lawyers Assistance Program Committee, you can contact A Chance to Change at 405-840-9000. Simply state you are a member of the OBA and would like to begin using your free therapy sessions. Also, if you or any other lawyer needs any assistance of any kind, please contact the 24-hour Lawyers Helping Lawyers hotline at 1-800-364-7886. Calls do not go to the bar association and are completely confidential.

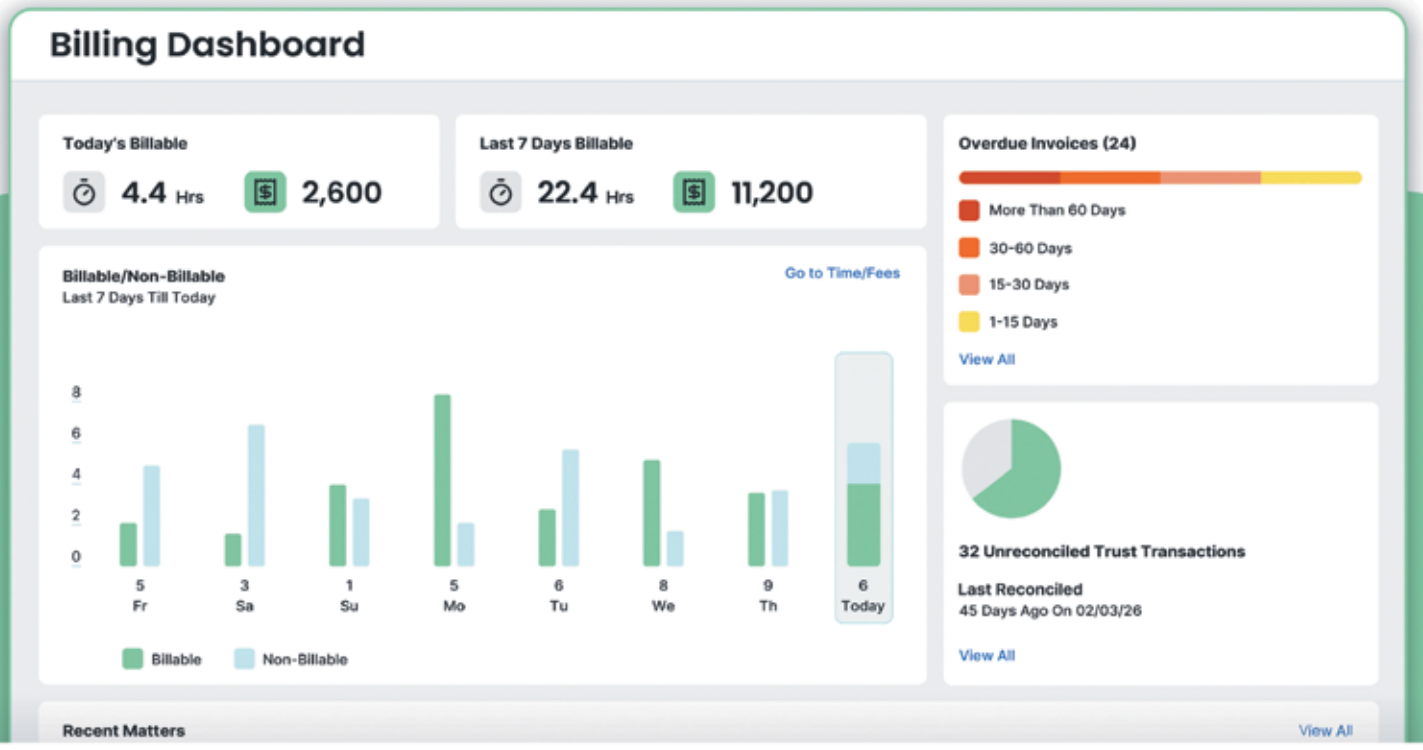
ABOUT THE AUTHOR

Scott Goode is a partner with the Military Law Group in Tulsa, which focuses on family law for active-duty, reserve, retired and disabled veterans. He has served as chair of Lawyers Helping Lawyers since 2022 and was appointed as the at-large member on the Oklahoma Board of Licensed Alcohol and Drug Counselors in 2024. He is the district/trial court judge for the Miami and Ottawa tribes and the municipal judge for Hulbert. A U.S. Navy veteran, Mr. Goode earned his J.D. and Indian law certificate from TU in 2005.

SMOKEBALL.

Claim Your FREE Trust Accounting & Billing Software

Now included in your **OBA** membership, Smokeball Bill helps law firms manage trust accounting compliantly, bill easily, and get paid faster.



OKLAHOMA BAR ASSOCIATION

Scan to get FREE Smokeball Bill

*Or visit **smokeball.com/oklahomabill***

Smokeball is the trusted provider of legal practice management software to small and mid-size firms.

OBA CLE
Continuing Legal Education

OKLAHOMA CITY

THURSDAY & FRIDAY,
DECEMBER 4 & 5, 2025
Beginning at 9 a.m.
Oklahoma Bar Center, OKC

Live Webcast Available

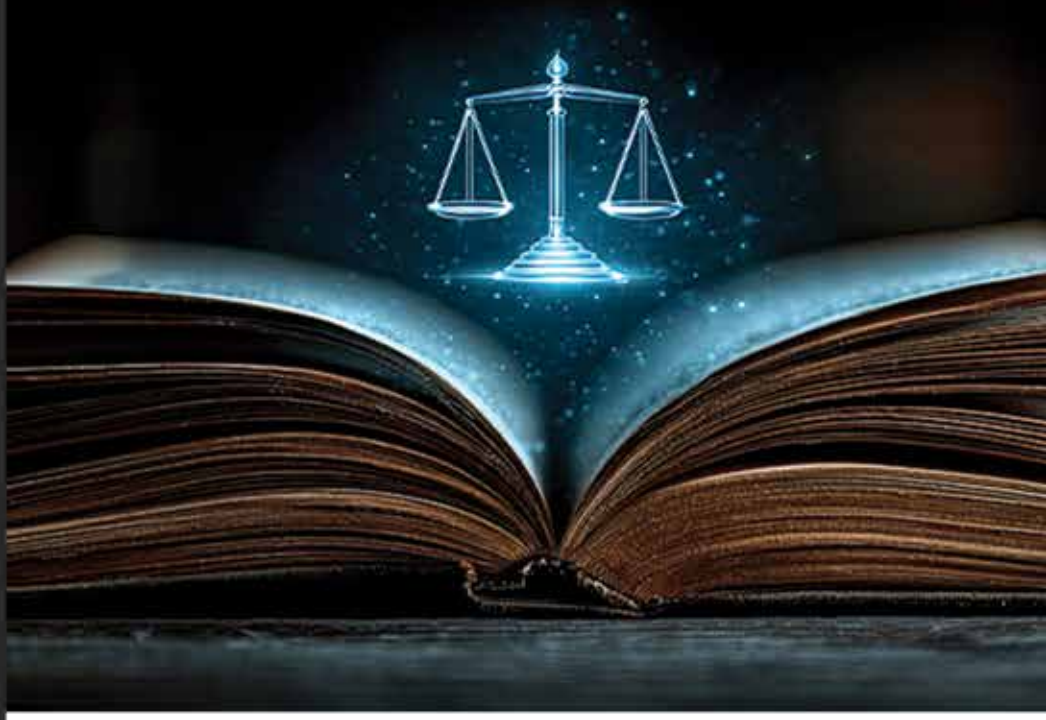
MCLE 5/1 EACH DAY

TULSA

THURSDAY & FRIDAY,
DECEMBER 18 & 19, 2025
Beginning at 9 a.m.
DoubleTree by Hilton Tulsa Warren PL
6110 South Yale Avenue, Tulsa

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*

REGISTER AT: HTTPS://OK.WEBCREDENZA.COM



2025 YEAR END REVIEW

DAY ONE - OKC

Health Law
Maggie Martin, Oklahoma Hospital Association
Bankruptcy Law
David Herber, GableGotwals
Real Property Law
Kraettli Epperson, Nash, Cohenour & Giessmann
Criminal Law
Barry L. Derryberry,
First Assistant Federal Defender
Mental Health (Ethics)
Gina Stafford, A Chance to Change
Animal Law
Charis Ward

DAY TWO - OKC

Business & Corporate Law
Gary Derrick, Derrick & Briggs, LLP
Law Office Management and Technology
Julie Bays, Director, Management Assistance Program, OBA
Cannabis Law
Felina Rivera, Renaissance Legal Solutions
Family Law
Stacy Acord, McDaniel Acord, PLLC
Estate Planning and Probate Law
Terrell Monks, Oklahoma Estate Attorneys
Ethics
Gina Hendryx, General Counsel, OBA

DAY ONE - TULSA

Health Law
Maggie Martin, Oklahoma Hospital Association
Bankruptcy Law
Brandon Bickle, GableGotwals
Real Property Law
Kraettli Epperson, Nash, Cohenour & Giessmann
Criminal Law
Barry L. Derryberry,
First Assistant Federal Defender
Mental Health (Ethics)
Gina Stafford, A Chance to Change
Animal Law
Charis Ward

DAY TWO - TULSA

Business & Corporate Law
Gary Derrick, Derrick & Briggs, LLP
Law Office Management and Technology
Julie Bays, Director, Management Assistance Program, OBA
Cannabis Law
Amber Peckio, Amber Law Group
Family Law
Stacy Acord, McDaniel Acord, PLLC
Estate Planning and Probate Law
Terrell Monks, Oklahoma Estate Attorneys
Ethics
Gina Hendryx, General Counsel, OBA

New Lawyers Take Oath

BOARD OF BAR EXAMINERS CHAIRPERSON J. ROGER RINEHART announces that 271 applicants who took the Oklahoma Bar Examination on July 29-30 were admitted to the Oklahoma Bar Association on Thursday, Oct. 2, or by proxy at a later date. Oklahoma Supreme Court Chief Justice Dustin P. Rowe administered the Oath of Attorney to the candidates at a swearing-in ceremony at St. Luke's Methodist Church in Oklahoma City. A total of 362 applicants took the examination.

Other members of the Oklahoma Board of Bar Examiners are Vice Chairperson Tomas M. Wright, Muskogee; Tommy R. Dyer Jr., Jay; Micah Knight, Durant; Robert Black, Oklahoma City; Juan Garcia, Arapaho; Amanda Mullins, Chickasha; Karissa Cottom, Tulsa; George Wright, Shawnee; and J. Roger Rinehart, El Reno.

THE NEW ADMITTEES ARE:

Zachary Dwain Acosta
Philip Ernest Adams
Neena Alievna Alavicheh
Samer Jihad Alawar
Michael Jay Albright
Mahrle Madison Angel
Kimberly Ann Arland
John Allen Bachelor
Maddison Marie Bacon
Destiny Elizabeth Balch
Isabella Roegiers Barrett
Brandon Paul Berry
Hannah Elaine Bigbee
Jessica Skye Bishoff
Jackson Paul Bobst
Benjamin Franklin Brackett
Rhema Mansa Brodie-Mends
Colin Samuel Broermann
Janeyce Alea Brown
Kahleah Stephanie Brown
Trisha Eillene Bunce
Garrett Wayde Butler
Gabrielle Bennett Byrne
Lisa Maritza Campbell
Amelia Rose Campbell
Essence Charne Carter
Melisa Guadalupe Castillo
Reese Hadley Charles
Thatcher Braxton Chonka
Blake Anthony Chrismer
Brett Lassetter Clark
Alisha Camacho Clegg
Garrett Lee Coats
Spencer Bruce Coffey
Cecelia Louise Cole
Brooklyn Paige Collins
Katelyn Marie Conner
Christopher Javier Contreras
Derek Douglas Cook
Camryn Lachelle Cornelius
John Wesley Corwin
Lauren Sisson Costello
Katelynn Jayna Crain
Andrew Thomas Crain
Callie Faith Crone
Seth Rogers Cross
Isabella Rose Danzi
Ty Matthew Davis
Gionna Elise Davis
Madison Jade Davis

New admittees were joined by friends and family at St. Luke's Methodist Church in Oklahoma City on Oct. 2

Oklahoma Supreme Court Chief Justice Dustin P. Rowe (standing) administers the Oath of Attorney. He is joined by (seated, from back) Oklahoma Supreme Court Justices Douglas Combs, James Winchester, Vice Chief Justice Dana Kuehn, Noma Gurich and Travis Jett.

Keighley Grace Dean
Alyssa De La Garza
Alec De La Garza
Gage Allen Dickenson
Austin Scott Dodd
Ishaq Saleem Dotani
Hanna Mae Doudican
James Thomas Doughtie
Devin Lynn Doutaz
Annie Frances Dunn
Whitney Christine Dutton
Preston Thomas Earls
Jay Paul Eischen
Daisy Beth Eklund
Kenneth Lee Mekko Factor
Amber Alyssia L A Ferguson
Karly Lynn Fisher
Jeffrey Blake Foshee
Ashlee Kane Fox
Hunter Mycah Fraley
Savannah Sahahwahititi Francis
Winchell Woods Gallardo
Evan Jacob Gamble
Sadie Jayne Gardner
Kate Allison Garner
Jase Tallon George
Samuel David Gerdts
Rylie Marie Gibbs
Heidi Elisabeth Gibson
Daniel Scott Gilliam
Adam Charles Gin
Chloe Noelle Glass
Lea Rodger Glossip
Kimri Patton Goerke Williams
Susanna Sarah Goewey
Nicholas Taylor Gresham
Meredith Marie Gunner
Amanda Nicole Hall
Dalton Samuel Hallum
Chase Anthony Hamilton

New admittees take the Oath of Attorney.

OBA President D. Kenyon Williams Jr. of Sperry welcomes new bar admittees during the ceremony. In his address, he discussed civility, professionalism, returning to small counties for work and tackling the issue of legal deserts across our state.

Travis Donald Handler
Caitlyn Marie Harman
Jerrell Bruce Harris
Daylan Wayne Hawkins
Ryan Charles Henneke
Catherine Clayton Hensley
Conrad Russel Herda
Ruth Ivon Hernandez
Joseph Daniel Hicks
Nicholas Malik Hines
Jay Alan Hitt
Scott Douglas Hjelm
Lauren Vy Hoang
Laura Katherine Hoehner
Madelise Kay Holloway
Madison Lee Homer
Jessica Brooke Hooker
Haley Lauren Hostetler
Shawna Renee Hudson
James Remington Huffman
Emily Grace Hurt
Andrew Michael Ilemsky
Andrew Mark Jackson
Mitchell Leigh Jacob
William Gunner Janes
Jacob Andrew Johnson
Jordan Marie Jones
Margaret Grayce Joyce
Jinah Jung
Alexandra Kristine Jury
Mary Anna Keeling
Jonathan Franklin Keeling
Benjamin Louis Keller
Amy M. Keller
Lacy Colleen Kelly
Chesley Payton Kelly
Christina Marie Kelly
Claire Isabel Kerr
Jason Wayne Kersey
Collin John Ketelsleger
Lucia Marie Kezele
Colten Shawn Kidd
Olivia Grace Kilby
Natalie Grace Kinder
Kain Rayous Klish
Randy James Knight
Beth Ann Knight
David Michael Knox
Martin Heath Konsure
Erin Ashley Kravchick
Maria Helga Elizabeth Lake
Samantha Renee Lara
Cooper Michael Larson
Robert Kohl Lester
Jacob Alan Lewis
Alicia Renee Limke-McLean
Tyler James Livingston
Dane Stuart Lyman
Austin David Manley
Seth Andrew Marler
Riley Michelle Martin
Alexis Conner Martin
Reagan Chase Martinez
Lexi Lynn Maynard
Hannah Douglas McAnallen
Riley Scott McDaniel
Sawyer Glenn McKinnis
Kelsey Lauren McLaughlin
Howard Christopher McMurry
Hunter Kenton McPhail
Connor Kent McPherson
Aspen Renae Medley
Alyssa Gabriela Mejia
Duncan Antonio Merchan-Breuer
Rachel Elizabeth Miller
El Fairo Antonio Mitchell
Parker Ray Mobbs
Cassidy Anne Monroe
Jonathan Wade Morgan
Ammon Edward Motz
George Donovan Myring

New lawyer Caroline Rowland signs the roll of attorneys following the swearing-in.

Once new attorneys sign the roll, they receive their wall certificates.

Lelan Hamilton Namy
Brandon Trevor Nation
Berkeley Erin Newhouse-Velie
Gabriel Phong Ngo
Logan Pierce Norton
Philip Joseph Novak
Alexa Elyse Old Crow
Shelby Jade Olivas
Savanna Constance Page
Leah Renee Parker
Zach Douglas Parker
Jamie Christopher Peck
Anastasia Grace Pence
Jared Michael Pendergrass
Taylor Kathryn Pepperworth
Madison Marie Perigo
Morgan Diane Perry
Cole Michael Peters
Gordon Francis Pignato
Carlos Alberto Pimentel
Lacey Danielle Pogue
Courtney Damon Pollins
Justin Thomas Pons
Tanner Leslie Pool
Madison Jewel Porter
Scott David Porter
Reid Bailey Powell
Rylee Christine Pressgrove
Julianne Kathleen Price
Garrett Will Proctor
Joshua Dean Pumphrey
Grant Michael Quinn
Ariana Quirino
Jesse Lee Rake
Payson Gage Ramirez
Trent Lee Ratterree
Luke Christopher Rice Ratzlaff
Payton Alexandra Rhodes
Nicholas Daniel Richardson
Dylan James Riddle
Adelaide Catherine Risberg
Darbi Elle Robertson
Katelyn Ann Romeike
Caroline Elizabeth Rowland
Camryn Bailey Runyan
Cade Ryan Russell
Avishan Saroukhani
Ezekiel James Sarver
Alyssa Michelle Savage
Devyn Joseph Saylor
Garrett Brantley Schmidt
Austin Charles Schreiber
Abigail Michelle Selzer
Evan Wade Shaw
Candace Hope Shown
Jaylen Philip Shriver
Trenton James Siever
Abrielle Bliss Sigler
Kylie Alise Simpson
Douglas-Ann Simth
Stephanie Ann Smith
Alexander Jon Smithley
Tyler Alan Speir
Alyssa Lynne Sperrazza
Hamilton Lee Spicer
Emma Lunell Spotanski
Elizabeth Victoria St. John
MacKenzie Sue Stallings
Nathaniel Hunter Steidley
Christopher James Stevens
Louden James Stockton
Jacob Michael Stork
Robert Paul Stout
Cole Alexander Taubel
Madison Nichole Young Taylor
Nolan Robert Taylor
Evan Rhett Taylor
Benjamin Asmamaw Tesema
Abigail Harp Thomas
Jessica Marie Thomas
Taylor Madison Thompson
Ariel Yazmine Torres
Christian Alton Tullos
Brayden Berry Vaughan
Dylan Mark Voorhis
Benjamin Harris Waldren
Jordan Denmark Wallace
Riley Day Walsh
Alexandra Marie Walsh
Eliza Katherine Watford
Alexis Hope Weisleder
Theodore Anthony Wilcox
Dustin Lance Williams
Todd Benjamin Williams
Jamie Lea Winbury
Holly Marie Wyers
Annabelle Lee Yoder
Amanda Ann Zboril
Brianna Megan Zenzen
Gracemary Rose Zizzo

View the full photo gallery on the OBA's Facebook page at https://bit.ly/4hhGUl4.

2025 Oklahoma Bar Association

Annual Meeting

Nov. 6-7 | Sheraton Oklahoma City Downtown Hotel

2025 Oklahoma Bar Association Annual Meeting

NOTICE OF MEETINGS

CREDENTIALS COMMITTEE

The OBA Credentials Committee will meet Thursday, Nov. 6, from 9-9:30 a.m. in the Frontier Room at the Sheraton Oklahoma City Downtown Hotel, 1 N. Broadway Ave., Oklahoma City, OK 73102, in conjunction with the 121st Annual Meeting. The committee members are Chairperson Luke Gaither, Henryetta; Jeffery D. Trevillion, Oklahoma City; Jennifer Fischer Walford, Edmond; and Ann Keele, Tulsa.

RULES AND BYLAWS COMMITTEE

The OBA Rules and Bylaws Committee will meet Thursday, Nov. 6, from 9:45-10:15 a.m. in the Frontier Room at the Sheraton Oklahoma City Downtown Hotel, 1 N. Broadway Ave., Oklahoma City, OK 73102, in conjunction with the 121st Annual Meeting. The committee members are Chairperson Nathan Richter, Oklahoma City; Kara Rose Didier, Oklahoma City; William Morgan Maxey, Vinita; Judge Richard A. Woolery, Sapulpa; and Ronald M. Gore, Tulsa.

RESOLUTIONS COMMITTEE

The OBA Resolutions Committee will meet Thursday, Nov. 6, from 10:30-11 a.m. in the Frontier Room at the Sheraton Oklahoma City Downtown Hotel, 1 N. Broadway Ave., Oklahoma City, OK 73102, in conjunction with the 121st Annual Meeting. The committee members are Chairperson Molly Aspan, Tulsa; M. Courtney Briggs, Oklahoma City; Peggy Stockwell, Norman; Clayton M. Baker, Jay; Kimberly Kristin Moore, Tulsa; and D. Mitchell Garrett Jr., Tulsa.

TELLERS COMMITTEE

The OBA Tellers Committee will meet Friday, Nov. 7, at 10 a.m. in the Century Ballroom at the Sheraton Oklahoma City Downtown Hotel, 1 N. Broadway Ave., Oklahoma City, OK 73102, in conjunction with the 121st Annual Meeting. The committee members are Chairperson Bryan Ross Lynch, Oklahoma City; April Moaning, Oklahoma City; Thomas Lee Grossnicklaus, Oklahoma City; and Kaia Kathleen Kaasen Kennedy, Tulsa.

2025 Oklahoma Bar Association Annual Meeting

2026 OBA BOARD OF GOVERNORS VACANCIES

Nominating petition deadline was 5 p.m. Monday, Sept. 8.

OFFICERS

President-Elect
Current: Amber Peckio, Tulsa
(One-year term: 2026)
Ms. Peckio automatically becomes OBA president Jan. 1, 2026
Nominee: **John E. Barbush, Durant**
Nominee: **Jana L. Knott, El Reno**

Vice President
Current: Richard D. White Jr., Tulsa
(One-year term: 2026)
Nominee: **S. Shea Bracken, Edmond**

BOARD OF GOVERNORS

Supreme Court Judicial District 2
Current: John E. Barbush, Durant
Atoka, Bryan, Choctaw, Haskell, Johnston, Latimer, LeFlore, McCurtain, McIntosh, Marshall, Pittsburg, Pushmataha and Sequoyah counties
(Three-year term: 2026-2028)
Nominee: **Chris D. Jones, Durant**

Supreme Court Judicial District 8
Current: Nicholas E. Thurman, Ada
Coal, Hughes, Lincoln, Logan, Noble, Okfuskee, Payne, Pontotoc, Pottawatomie and Seminole counties
(Three-year term: 2026-2028)
Nominee: **Blayne P. Norman, Wewoka**

Supreme Court Judicial District 9
Current: Jana L. Knott, El Reno
Caddo, Canadian, Comanche, Cotton, Greer, Harmon, Jackson, Kiowa and Tillman counties
(Three-year term: 2026-2028)
Nominee: **Kristy E. Loyall, El Reno**

Member at Large
Current: Timothy L. Rogers, Tulsa
Statewide
(Three-year term: 2026-2028)
Nominee: **Molly A. Aspan, Tulsa**

NOTICE

Pursuant to Rule 3 Section 3 of the OBA bylaws, the nominees for uncontested positions have been deemed elected due to no other person filing for the position. The election for the president-elect position will be held at the House of Delegates meeting on Nov. 7, during the Nov. 6-7 OBA Annual Meeting. Terms of the present OBA officers and governors will terminate Dec. 31, 2025.

OKLAHOMA BAR ASSOCIATION
NOMINATING PETITIONS

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

OFFICERS

President-Elect
John E. Barbush, Durant

Nominating resolutions have been filed by three county bar associations nominating John E. Barbush, Durant, for president-elect of the Oklahoma Bar Association Board of Governors for a one-year term beginning Jan. 1, 2026.

A total of three county bar associations appear on the resolutions.

President-Elect
Jana L. Knott, El Reno

Nominating petitions have been filed nominating Jana L. Knott, El Reno, for president-elect of the Oklahoma Bar Association Board of Governors for a one-year term beginning Jan. 1, 2026.

A total of 66 signatures appear on the petitions.

Vice President
S. Shea Bracken, Edmond

Nominating petitions have been filed nominating S. Shea Bracken, Edmond, for vice president of the Oklahoma Bar Association Board of Governors for a one-year term beginning Jan. 1, 2026. Fifty of the names thereon are set forth below:

Kate Naa-Amoah Dodoo, Jana Lee Knott, Taylor Christian Venus, Chad Alexander Locke, Philip D. Hixon, Benjamin James Barker, Cody Jarrett Cooper, John Eric Barbush, William Ladd Oldfield, Amber Nicole Peckio, Jeffery Darnell Trevillion, Perry Luther Adams, Shiny Rachel Pappy, Alison Ann Cave, Brenda Lyda Doroteo, Sherman Travis Dunn, Craig W. Thompson, Brent Andrew Hawkins, Allison Joanne Martuch, Justin Don Meek, Cody Austin Reihs, Ryan Lee Dean, John Derek Cowan, Thomas Andrew Paruolo, Derrick Lee Morton, Ismail Marzuk Calhoun, Michael Patrick Garcia, Kenneth Glenn Cole, Kyle Reed Prince, Joseph Pickett Dowdell, Myriah Seyon Downs, Timothy Lee Martin, Benjamin Ryan Grubb, Jacob Travis Sherman, Daniel Reading Ketchum II, John Frederick Kempf Jr., Ashley Ann Warshell, Jon Michael Payne, Mason Blair McMillan, Mark Banner, Pamela Sue Anderson, Pamela H. Goldberg, Dale Kenyon Williams Jr., Margo Elizabeth Shipley, Taylor Rose Bagby, Kristen Pence Evans, Jerrick L. Irby, Bryan Joseph Nowlin, Logan Lawrence James and Christopher Joe Gnaedig.

A total of 62 signatures appear on the petitions.

BOARD OF GOVERNORS

Supreme Court Judicial District 2
Chris D. Jones, Durant

A nominating resolution has been filed by one county bar association nominating Chris D. Jones, Durant, for election of Supreme Court Judicial District No. 2 of the Oklahoma Bar Association Board of Governors for a three-year term beginning Jan. 1, 2026. The association is set forth below:

Bryan County Bar Association

Supreme Court Judicial District 8
Blayne P. Norman, Wewoka

Nominating petitions have been filed nominating Blayne P. Norman, Wewoka, for election of Supreme Court Judicial District No. 8 of the Oklahoma Bar Association Board of Governors for a three-year term beginning Jan. 1, 2026. Twenty-five of the names thereon are set forth below:

Krystina Elizabeth Phillips, William Donald Kirkpatrick, Erik Christopher Johnson,

Lacie DeLaine Lawson, John Weston Billingsley, Ethan Lee Byrd, Leslie Diane Taylor, Jason David Christopher, Joshua Allen Edwards, Jonathan Blake Balderas, Bryan Wayne Morris, Nicholas Edwin Thurman, Tara Melissa Portillo, Jeffrey Benjamin Whitesell, Brett Butner, Christopher Blake Hauger, Zachary Lynn Pyron, Richard E. Butner, Ryan Harley Pitts, Roger Rhett Butner, Jack Austin Mattingly, Jack Austin Mattingly II, Erika Mattingly, Matthew Craig Peters and Clay Bruce Pettis.

A total of 26 signatures appear on the petitions.

Supreme Court Judicial District 9
Kristy E. Loyall, El Reno

Nominating petitions have been filed nominating Kristy E. Loyall, El Reno, for election of Supreme Court Judicial District No. 9 of the Oklahoma Bar Association Board of Governors for a three-year term beginning Jan. 1, 2026. Twenty-five of the names thereon are set forth below: Magdalena Anna Way, Jennifer M. King, Micheal Steven Oglesby, Paul Arthur Hesse, Mary Ruth McCann, David Patrick Henry, John Albert Alberts, Nathan Daniel Richter, Jana Lee Knott, Chance Logan Deaton, Luke Cody McClain, Tommie Craig Gibson, Tammy Sellers Boling, David H. Halley, John A. Bass, Joseph Patrick Weaver Jr., Bob W. Hughey, Harold G. Drain, Charles Wayne Gass, Stephanie Ann Younge, Andrew Mark Van Paasschen, Kirk Alan Olson, Eric Matthew Epplin, Austin Tyler Murrey and Cathryn Milner Lind.

A total of 31 signatures appear on the petitions.

Member at Large
Molly A. Aspan, Tulsa

Nominating petitions have been filed nominating Molly A. Aspan, Tulsa, for election of member at large of the Oklahoma Bar Association Board of Governors for a three-year term beginning Jan. 1, 2026. Fifty of the names thereon are set forth below:

Dale Kenyon Williams Jr., Amber Nicole Peckio, Michael Alan Souter, Kimberly Hays, Philip D. Hixon, Barrett Lynn Powers, Robert Wallace Hill, Rebecca Marie Kamp, Bruce E. Roach Jr., Tosha Lee Ballard (Sharpe), Trevor Ray Henson, Adam Keith Marshall, William Robert Grimm, John Edward Harper Jr., Abigail Emma Bauer, Melissa Ann Bell, John Charles Gotwals, Mary Lou Gutierrez, William Edward Farrior, Caitlin Jane Murphy Johnson, Kasey Kyle Fagin, John Seaton Wolfe, James Robert Gotwals, David Andrew Sturdivant, Timothy Lee Rogers, Michael Paul Taubman, Kobi D'Anne Cook, Catherine Zilahy Welsh, James Travis Barnett, Jim Charles McGough Jr., Tara Gayle Lemmon, Jeffrey Sean Waters, Benjamin Rogers Hilfiger, Janet Bickel Hutson, Chad Alexander Locke, Matthew Ryan Price, James Eric Jones, Richard Dale White Jr., Adrienne Nichole Cash, Joe Martin Fears, Robert J. Bartz, Kara Marisa Vincent, Stephanie Rickman Mitchell, William Todd Holman, Dusty Darlene Weathers, Kelsey T. Pierce, Kurtis Ryan Eaton, Robert Lee Bearer, Tammy D'Ahn Barrett and Jennifer Marie Castillo.

A total of 60 signatures appear on the petitions.

The Oklahoma Bar Journal

Courts & More

DELIVERED TO YOUR INBOX EVERY WEDNESDAY!

The Oklahoma Bar Association's digital court issue, *Courts & More*, highlights Oklahoma appellate court information and news for the legal profession.

READ IT ONLINE NOW AT WWW.OKCOURTSANDMORE.ORG

2025 Oklahoma Bar Association Annual Meeting

2025 HOUSE OF DELEGATES

Delegate certification should be sent as soon as possible to Mark Schneidewent at marks@okbar.org or 405-416-7014. The list below was up to date as of the time of press.

COUNTY	DELEGATE	ALTERNATE
Adair Co.	Carrie Griffith	Ralph F. Keen II
Alfalfa Co.		
Atoka Co.		
Beaver Co.	Christopher Todd Trippet	Cole Jordan Trippet
Beckham Co.		
Blaine Co.	Erik Girard Roscom	Jenna Brown
Bryan Co.	Christopher Dwight Jones	Haley Renee Cook
Caddo Co.		
Canadian Co.	Mary Ruth McCann	Rene'e Diann Little
	Magdalena Anna Way	Harold G. Drain
	Micheal Steven Oglesby	Austin Chase Walters
	Jana Lee Knott	Luke Cody McClain
	Kristy Ellen Loyall	John Albert Alberts
	Judge Khristan K. Strubhar	David Patrick Henry
Carter Co.		
Cherokee Co.	Judge Jerry Scott Moore	Crystal Raelynn Jackson
	Bill John Baker II	
Choctaw Co.	John Frank Wolf III	Jon Edward Brown
Cimarron Co.	Judge Christine Marie Larson	Judge Ronald L. Kincannon
Cleveland Co.	Judge Thad Haven Balkman	Elizabeth Stevens
	Peggy Stockwell	Cheryl Ann Clayton
	Retired Judge Rod Ring	John Hunt Sparks
	Judge Bridget M. Childers	Abilene Suzanne Slaton
	Rebekah Chisholm Taylor	Mallory Grace Stender
	Gary Alan Rife	Betsy Ann Brown
	Jama Haywood Pecore	Tyson Thomas Stanek
	Lucas Michael West	Tyler Rogers Barrett
	Jillian Tess Ramick	Edward William Wunch IV
	Jeanne Meacham Snider	Jordan Danielle Hutchison
	Jan Meadows	Joshua Sebastian Bex
	Richard Joseph Vreeland	Claire C. Bailey
	Cindee Pichot	Ashley Jane Baldwin
	Holly Kay Jorgenson Lantagne	Bailey Danielle Barber
	Julia Catherine Mills Mettry	Charles Alexander Earley
	Kristina Lee Bell	Kristi Michelle Gundy
	Judge Jequita Harmon Napoli	Joshua David Simpson
	Micheal Charles Salem	Heather Marie Cook
	Amelia Sue Pepper	
	Evan Andrew Taylor	

COUNTY	DELEGATE	ALTERNATE
	Benjamin Houston Odom	
	Tina Jean Peot	
	Cindy Loree' Allen	
Coal Co.		
Comanche Co.	Kathryn Rodgers McClure	Kade A. McClure
	Tyler Christian Johnson	Ana Hernandez Basora
Cotton Co.		
Craig Co.		
Creek Co.	Charles Cameron McCaskey	Ashley Nicole Ailey
	Keri Denman Palacios	
Custer Co.	Blake Cary Blanchard	
Delaware Co.	Clayton Matthew Baker	.Kenneth Earl Wright III
Dewey Co.		
Ellis Co.		
Garfield Co.	Michael David Roberts	Randolph Lee Wagner
	Amanda Nichole Lilley	
	Regan Larissa Wagner	
Garvin Co.	Jacob Koal Baird Yturri	
Grady Co.		
Grant Co.		
Greer Co.	Judge Eric Grant Yarborough	Corry Kendall
Harmon Co.		
Harper Co.	G. Wayne Olmstead	Judge Aric Ammaron Alley
Haskell Co.		
Hughes Co.		
Jackson Co.	Brian David Bush	Preston Michael Gunkel
Jefferson Co.		
Johnston Co.		
Kay Co.	Grace Katharine Yates	Casey Jack Osborn III
Kingfisher Co.	Jonathan Ford Benham	Katherine Ann Schneiter
Kiowa Co.		
Latimer Co.		
LeFlore Co.	Amanda Vernell Grant	Nicholas Eugene Grant
Lincoln Co.		
Logan Co.	Marvel Edward Lewis	
	James Dorroh Bennett	
Love Co.	Katlyn Marie Lantrip	Richard A. Cochran Jr.
Major Co.		
Marshall Co.		
Mayes Co.		
McClain Co.	George Wm. Velotta II	

COUNTY	DELEGATE	ALTERNATE
McCurtain Co.	Ronica Raquel Roberts	Justin Richard Pratt
McIntosh Co.		
Murray Co.		
Muskogee Co.	Parker Lee Wilkerson	Lowell Glenn Howe
	Austin Lane Witt	
Noble Co.		
Nowata Co.		
Okfuskee Co.		
Oklahoma Co.	Mariano Acuna	Jeffery Darnell Trevillion
	Angela Ailles Bahm	Shanda Marie McKenney
	William Todd Blasdel	Curtis J. Thomas
	Judge Anthony Lorinzo Bonner Jr.	Chance Lynn Pearson
	Michael Wayne Brewer	Merideth Bentley Herald
	M. Courtney Briggs	Michelle Lynn Edstrom
	Cody Jarrett Cooper	Lisa Marie Black
	Judge Heather Elizabeth Coyle	Rachel Stoddard Morris
	Jeffrey Allen Curran	John Handy Edwards III
	Seth Aaron Day	Bart Jay Robey
	Genni Dawn Ellis	Gary Wayne Wood
	Kyle Wayne Goodwin	Justin P. Grose
	William Henry Hoch	Zane Tyler Anderson
	Richard Wayne Kirby	Chad William Philip Kelliher
	Fred Albert Leibrock	Robert Parrish Powell
	Judge Natalie Nhu Mai	Reign Grace Sikes
	Mack Kelly Martin	Daniel Joseph Thompson
	Amber Brianne Martin	Wyatt Daniel Swinford
	Katherine Ruth Mazaheri	Barrett Ford Fuller
	Justin Don Meek	Aimee Lynn Majoue
	Andrew Scott Mildren	Kayli Lynn Gillespie
	Judge Richard C. Ogden	Chelsi Nicole Chaffin Bonano
	Judge Kathryn Ruth Savage	
	Coree L. Stevenson	
	Barbara Carol Stoner	
	Collin Robert Walke	
	Courtney Kay Warmington	
	Monica Ybarra Weedn	
	Clyde Russell Woody	
	Andrew E. Henry	
Okmulgee Co.	Luther Raymond Gaither	
Osage Co.	Bradley Eugene Hilton	Aubra Ann Drybread
Ottawa Co.	Becky R. Baird	
Pawnee Co.		
Payne Co.		
Pittsburg Co.		
Pontotoc Co.	Nicholas Edwin Thurman	Ethan Lee Byrd
	Austin Ryan Little	
Pottawatomie Co.		
Pushmataha Co.	Jana Kay Wallace	James Thomas Branam
Roger Mills Co.		
Rogers Co.	Colton Grant Scott	
Seminole Co.		

COUNTY	DELEGATE	ALTERNATE
Sequoyah Co.	Kent S. Ghahremani	
Stephens Co.	Jackson Thomas Stone	Joshua Allen Creekmore
Texas Co.	Taos Caleb Smith	Cory Brandon Hicks
Tillman Co.		
Tulsa Co.	Molly Anne Aspan	Lexie Erinn Allen
	Beverly Ann Atteberry	Joel Daniel Auringer
	Kenneth Leonard Brune	Isaiah Nathaniel Brydie
	Shena Elaine Burgess	Trevion Tyree Freeman
	Madison Danielle Cataudella	Bruce Alvin McKenna
	Michael Ellis Esmond	Lauren Elizabeth Peterson
	Julie Ann Evans	Emilee Justine Morris Ratcliff
	Kasey Kyle Fagin	Alexander Robert Telarik
	Natalie Kathryn Frost	William Zane Duncan
	D. Mitchell Garrett Jr.	Kyle Matthew Trice
	James Robert Gotwals	Erica Lynn Grayson
	John Charles Gotwals	Alan Neal Barker
	Philip D. Hixon	Natalie Suzanne Sears
	Stephanie Renae Jackson	Michael Edward Nesser
	Deborah Lynn Bartel Johnstone	Mbilike Mwafulirwa
	Keith Allen Jones	Michael Paul Taubman
	Kaia Kathleen Kaasen Kennedy	
	Marvin Geovanny Lizama	
	James Craig Milton	
	Justin B. Munn	
	Amber Nicole Peckio	
	Kara Elizabeth Pratt	
	Deborah Ann Reed	
	Pierre DeAnte Robertson	
	Morgan Taylor Lee Smith	
	Rhiannon Kay Thoreson	
	Tana Fredrick Smith (Van Cleave)	
	Ashley Roberts Webb	
	M. Travis Williams	
	S. Eric Yoder	
Wagoner Co.	Judge Douglas Alan Kirkley	
	Judge Rebecca Wood Hunter	
Washington Co.	Stephanie Jane Clifton	James Michael Elias
	Scott Buhlinger	Cana Brianne Mize
Washita Co.	Avery A. “Chip” Eeds Jr.	Judge Stephanie Brooke Gatlin
Woods Co.		
Woodward Co.		

	DELEGATE	ALTERNATE
Oklahoma Judicial Conference	Dist. Judge Stuart Lee Tate	Dist. Judge Natalie Nhu Mai
	Assoc. Dist. Judge Russell Coleman Vaclaw	Dist. Judge Abby Carol Rogers
	Special Judge Deborah Ann Reheard	Special Judge Tina Diane Vaughan

PAST PRESIDENTS – DELEGATES AT LARGE

William J. Baker.....James Rouse Hicks
Stephen D. Beam .....Garvin Isaacs Jr.
Michael Burrage.....Michael Charles Mordy
Charles W. Chesnut .....Charles Donald Neal Jr.
Cathy M. Christensen.....Judge Jon Keith Parsley
Gary Carl Clark.....David K. Petty
Andrew M. Coats .....David Allen Poarch Jr.
M. Joe Crosthwait Jr. .....Miles Pringle
Melissa Griner DeLacerda .....Judge Deborah Ann Reheard
Renee DeMoss.....Douglas W. Sanders Jr.
Sidney George Dunagan.....Susan Stocker Shields
John A. Gaberino Jr. .....Allen M. Smallwood
William Robert Grimm.....James Thomas Stuart
Kimberly Hays .....Judge Linda Suzanne Thomas
Brian T. Hermanson .....Paul Miner Vassar

Always stay connected.

Follow the Oklahoma Bar Association on LinkedIn, Facebook and Instagram to stay up to date with your association.

@okbarassociation

LinkedIn

Facebook

Instagram

OKLAHOMA BAR ASSOCIATION

Lead and Serve Your Bar Association in 2026

As we look ahead to 2026, the Oklahoma Bar Association invites you to make a meaningful impact by joining one of our many volunteer committees. There's no better time than the present to connect, contribute and grow. Join your fellow lawyers in serving on an OBA committee to help shape the future of the legal profession.

With more than 20 active committees to choose from, different opportunities and connections are waiting for you. Whatever your passion, there's a committee that needs your voice and perspective. This is your chance to get involved with the OBA, meet new lawyers and make a difference in your community.

From promoting access to justice and legal education to supporting lawyers facing personal challenges, OBA committees are making a difference. You'll also build your professional network and work on meaningful projects that align with your values.

Ready to get involved? Look at the committee list and fill out the form at https://bit.ly/3SjMzcE. Appointments for 2026 will be made soon, so don't wait!

Amber Peckio
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 Awards 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

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

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

ONE ASSOCIATION MANY OPPORTUNITIES

JOIN AN OBA COMMITTEE TODAY!

Get more involved in the OBA, network with colleagues and work together for the betterment of our profession and our communities. More than 20 active committees offer you the chance to serve in a way that is meaningful for you.

Now is your opportunity to join other volunteer lawyers in making our association the best of its kind!

Giving Thanks

By Janet Johnson

As we bring this year to a close, I want to pause and express heartfelt gratitude to every lawyer, volunteer, staff member, and member of the judiciary who has worked so diligently to advance and strengthen our profession. The successes of this past year, both large and small, are a direct reflection of your dedication, professionalism, and service.

The legal profession endures because people like you give it life and meaning every day. Whether through advocacy in courtrooms, guidance in boardrooms, quiet counsel to clients, or outreach in our communities, lawyers uphold the values that ensure our system of justice remains strong and accessible. You demonstrate that the practice of law is not only a profession but also a public trust.

To our *lawyer members*, thank you for your steadfast commitment to justice and professionalism. This has been another year of challenges and opportunities, and you have met them with resilience, integrity, and grace. Whether you practice solo or in a large firm, serve in public office or private counsel, teach, or judge, I want you to know that you have made a difference. Your work builds public confidence in the law and reminds us of the power of ethical advocacy and thoughtful leadership.

To our *volunteers*, thank you for the gift of your time and expertise. You serve on committees, organize events, teach, mentor, and provide representation to clients. You are the heartbeat of our association. Your efforts remind us that service is at the core of our professional identity and that we are stronger when we lift one another up.

To our *staff*, your contributions often take place behind the scenes, but your impact is felt everywhere. You keep the association running smoothly by planning programs, supporting members, managing communications, and ensuring every detail aligns with our core purpose. You bring professionalism, creativity, and care to all you do. I am deeply grateful for your dedication, and I am most thankful to have you as my colleagues.

And to our *judiciary*, thank you for your steadfast service and leadership. Your work embodies the principles of fairness, impartiality, and wisdom. Each decision rendered, each courtroom managed with dignity and respect strengthens the public's trust in our legal system. You remind us daily that justice is not an abstract concept. In fact, it is a lived experience that depends on the integrity and diligence of those who administer it.

This year, our collective efforts have continued to promote access to justice, enhance civic education, and strengthen professional civility. From access to justice initiatives to continuing education programs, from mentoring new lawyers to embracing technology innovations in our practice, we have demonstrated once again that when we work together, we elevate not only our profession but also the society we serve.

As we look toward a new year, let us carry forward the same spirit of collaboration and purpose. The challenges before us are real but so is our shared commitment to the ideals that guide us. With professionalism, civility, and service as our compass, we can continue to make meaningful progress together.

Thank you for your hard work, partnership, and commitment to the practice of law. It is a privilege to serve alongside such dedicated professionals who believe, as I do, that the law remains one of our greatest tools for building a just and equitable society.

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

(continued from page 4)

Each of you has an individual and unique opportunity to make a real difference in the world.

With regard to doing good in your new career, I want to encourage you to look to the less populated areas of our state for such opportunities. Oklahoma has at least 14 counties with six or fewer attorneys. Coming from a rural county and a small community, I can speak from personal experience when I tell you that there are many professional advantages to being one of a very few attorneys in a county. A smaller community is also a great place to raise a family, have a less stressful life and be connected to that community in a way that is difficult in a large community. If you come from such a community, please consider returning. If you are not, please consider it. The OBA is looking for ways to incentivize attorneys to serve the underserved communities and would love to hear from you.

On a different but related topic, it is absolutely necessary that we have civility and professionalism in our profession. We live in a society that sometimes seems to be broken or fractured when it comes to civility. The default for many citizens today is to be offensive in their speech and attitude when responding to those with whom they disagree. Attorneys live with disagreement every day – we thrive on disagreement! Disagreement is what we do; we debate, and we argue, and for litigators, we try cases in front of judges if we cannot reach a resolution by agreement. The important difference between us and our society is that we walk away from these debates, arguments and trials having listened to those who oppose us, having learned from our opponents and having conducted ourselves in a civil and professional manner. I cannot stress enough the importance of your adoption early in your career of a personal commitment to be both civil and professional in all that you do.

I would like to share some thoughts provided by members of the OBA Board of Governors at a recent meeting. I asked the governors for advice that, if they could go back in time, they would give to their younger selves at the start of their careers. Here are a few of those thoughts:

- Believe in yourself.
- Spend more time with your family.
- Take time to reflect before responding.
- Enjoy each stage of your career.
- Take it on faith that there are many paths to the career you can find rewarding.
- Be patient.
- Fight the urge to respond in anger.
- Sometimes it is better to listen and say nothing.
- Try to understand your audience when framing your message.
- Do not let your soul die.
- Do not be tacky.
- Be civilized in your speech – not strident.
- Be willing to stand up to your clients.
- It is ok to not know the answer – do not be embarrassed to ask someone who does.
- If a client wants to bring suit on principle, get a large retainer.
- Where appropriate, socialize more with opposing counsel and judges.
- Let your word be your bond – character matters.
- Your career and life will go by quickly.
- Recognize that right now, you do not know how to practice law. Become educated in subject matter and procedure!
- Practice in an area where you have talent.
- One of the few perquisites of private practice is your ability to fire a client.
- Keep your priorities straight. Consider this order: faith, family, country and clients.

I congratulate each of our association's new admittees who entered practice in 2025, and to them and all OBA members, I wish each of you a very long and satisfying career. Thank you all for your service to the legal profession!

When the Jury Trial Is Rare: Learning To Be Unpredictable, Human and Adaptable

By Julie Bays

DURING MY 17 YEARS AS A white-collar crime prosecutor, I can count on one hand the number of jury trials I actually conducted. Most cases were resolved through plea negotiations, motions or other settlements. As a result, when a jury trial finally arrived, I never felt entirely prepared.

Recently, my friend, Steve Embry, captured this point in an article urging lawyers to "be unpredictable, look out the window, and turn off ChatGPT."[1] His words reminded me that persuading a jury is not about rigid adherence to a script. It is about connection, adaptability and authenticity.

ROUTINE MEETS REALITY

Lawyers are naturally drawn to structure and routine. We create outlines, prepare demonstratives and rehearse arguments. These practices are important, but jurors are not evaluating us on technical precision alone. While our training and experience emphasize careful preparation and organization, the heart of a jury trial lies in something less tangible. Jurors are searching for authenticity and human connection; they want to sense the story beneath the structure and see the lawyer as a credible guide instead of a scripted performer.

What the jury cares about is trust. They want to know whether they can believe the story we are telling. A lawyer who rigidly follows a script risks missing the cues jurors are giving in real time. By contrast, the lawyer who adapts to a witness's hesitation or acknowledges a juror's reaction is the one who earns credibility.

LESSONS FROM RARE JURY TRIALS

Consider a typical moment that often arises during a trial – when a witness begins to struggle under questioning and is unable to recall specific dates or details with complete accuracy. This situation, in which the witness hesitates and searches for the right information, highlights the unpredictability of courtroom proceedings and underscores the importance of adaptability and authenticity on the part of the attorney.

The prepared outline rarely anticipates these stumbles. The instinct may be to redirect quickly or gloss over the gaps. Yet, when counsel pauses to ask clarifying questions in plain language, something important happens. Jurors lean forward. They see an advocate working through the problem in front of them, not merely running a script.

These unscripted exchanges reveal a deeper truth: The courtroom is not a theater for flawless delivery but a forum where credibility is earned through transparency. When a lawyer engages openly with a witness's uncertainty, jurors are invited into the process. They recognize that the attorney is committed to uncovering the truth, even if it means navigating ambiguity or discomfort.

Jurors are remarkably perceptive. They notice when an attorney slows down, listens carefully and treats a witness with patience rather than frustration. Far from eroding authority, this approach strengthens it. Authenticity, demonstrated through humility and adaptability, often resonates more strongly than a seamless performance.

These are the moments jurors remember. They become markers of integrity, serving as signs that the lawyer is not hiding behind a script or technology but is willing to engage honestly with the realities of trial. In the end, it is this willingness to adapt and show

humanity that transforms a rare trial into a memorable one, building trust in both the advocate and the case itself.

TECHNOLOGY AS SUPPORT, NOT A CENTERPIECE

The past two decades have transformed the courtroom. Trial presentation software, digital exhibits and interactive timelines can now be pulled up with a click. Visuals are cleaner, evidence is easier to organize, and complex information can be displayed in ways that would have been impossible with paper exhibits alone. Jurors benefit from these tools because they reduce confusion and help create order in an otherwise overwhelming stream of testimony and evidence.

However, technology is not persuasion by itself. Jurors are not present to evaluate graphics, admire polished transitions or watch a perfectly timed animation. What they are judging is the credibility of the case and the lawyer presenting it. A closing argument packed with dynamic slides may dazzle, but if the attorney never makes eye contact or responds to the jurors' reactions, the substance is lost behind the screen.

The lawyers who use technology most effectively are those who know when to step away from it. A well-timed demonstration can bring clarity to a financial transaction or a timeline of events. Yet, when the proceedings reach an emotional climax, such as a witness reliving trauma or a victim's family sharing their grief, it is often the lawyer's deliberate silence that speaks the loudest. In these moments, the absence of words paired with attentive presence can create a space for genuine emotion and connection that no technological display can match. Jurors are far more likely to remember the impact of a lawyer's respectful quiet than any animated graphic or visual aid.

There is also the danger of overreliance. Anyone who has practiced in court knows the anxiety of the frozen laptop or the exhibit that refuses to load. Technology failures not only disrupt flow but can also undercut juror confidence in the lawyer's preparation. Having a simple backup, such as a printed timeline, a whiteboard sketch or even a handout demonstrates foresight and steadiness under pressure.

Practical takeaways include:

- Choose demonstratives that are simple and flexible. A cluttered slide distracts; a clean visual clarifies.
- Always have a backup plan. Jurors respect preparedness when technology stumbles.
- Build in flexibility. Organize visuals so that they can be shown out of order if testimony shifts.
- Know when to stop. Step away from the screen and speak directly to the jury when the moment demands authenticity.

- Technology should serve as scaffolding, not the structure itself. The strongest impression is left not by the tools a lawyer uses but how a lawyer connects with the jurors while using them.

GUIDANCE FOR LAWYERS WITH LIMITED JURY EXPERIENCE

Many lawyers rarely see the inside of a jury box. For those attorneys, the following practices are especially useful:

- Keep a beginner's mindset. Fewer trials can actually make you more attentive to jurors' cues.
- Practice adaptability. Rehearse not only your lines but also potential pivots.
- Watch and listen. Jurors communicate constantly through body language and attention.
- Embrace imperfection. A pause or stumble can come across as authentic rather than weak.
- Do not let technology control you. Use it but remain present with the jurors.
- Reflect afterward. Study juror reactions and evaluate what worked or fell flat.

CONCLUSION

Few of us have the opportunity to try dozens of jury cases. That scarcity can create anxiety, but it can also sharpen our awareness. When trial comes, it is important to remember that jurors are persuaded less by rigid perfection and more by genuine engagement.

Steve Embry's reminder to be unpredictable is not an argument against preparation. It is an invitation to leave space for the human element. Prepare thoroughly, but also be ready to adjust, listen and connect. In the end, jurors decide cases not just on the facts presented but also on the advocate's ability to meet them as people.

Ms. Bays is the OBA Management Assistance Program director. Need a quick answer to a tech problem or help solving a management dilemma? Contact her at 405-416-7031, 800-522-8060 or julieb@okbar.org. It's a free member benefit.

ENDNOTE

1. Steve Embry, "Want to Be a Good Trial Lawyer? Be Unpredictable. Look out the Window. Turn Off ChatGPT," *TechLaw Crossroads* (Sept. 30, 2025), www.techlawcrossroads.com.

Meeting Summary

The Oklahoma Bar Association Board of Governors met Sept. 17.

REPORT OF THE PRESIDENT

President Williams reported he participated in a 50-year pin presentation for Retired Judge Lee Card hosted by the Carter County Bar Association, participated in multiple work sessions with Executive Director Johnson regarding October and November Board of Governors meeting agendas, reviewed and approved matters relating to outstanding litigation, conferred with Executive Director Johnson and approved a written request seeking admission into the Western Conference of Bar Presidents, coordinated arrangements for the OBA Annual Meeting, worked on state-level appointments and finalized his October president's message for the *Oklahoma Bar Journal*. He discussed organizational issues with Executive Director Johnson, President-Elect Peckio and Past President Pringle; prepared a "State of the OBA" presentation for the Boiling Springs Legal Institute; and attended the institute and joint reception with the Woodward County Bar Association.

REPORT OF THE PRESIDENT-ELECT

President-Elect Peckio reported she attended meetings of the Budget Committee and Strategic Planning Committee, as well as the OBF Board of Trustees meeting. She also reviewed and conferred with Executive Director Johnson and Administration Director Brumit regarding the association's proposed 2026 budget, appointed committee members for the upcoming 2025 House of Delegates at the Annual Meeting and appointed House of Delegates tellers. She also reviewed and approved matters relating to outstanding litigation; conferred with Executive Director Johnson regarding proposed admission into the Western Conference of Bar Presidents; discussed organizational issues with Executive Director Johnson, President Williams and Past President Pringle; worked on state-level appointments; and attended the Boiling Springs Legal Institute and joint reception in Woodward.

REPORT OF THE VICE PRESIDENT

Vice President White reported he attended a Carter County Bar Association event in Ardmore honoring Retired Judge Lee Card for 50 years of service.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Johnson reported she attended the Sheep Creek event as well as the Boiling Springs Legal Institute and joint reception in Woodward. She attended the Strategic Planning Committee meeting and worked on strategic planning methodology, met with vLex and Fastcase representatives to discuss possible future changes with the buyout from Clio, attended a budget meeting with directors as well as the Budget Committee and attended the Carter County Bar Association event honoring Retired Judge Lee Card for 50 years of service. She also ensured the newly approved plain-language eviction forms were posted on the OSCN website and connected the Bench and Bar Committee with the Arnall Family Foundation to facilitate educational sessions about the new forms. She met with the new Oklahoma County Bar Association executive director, reviewed and made edits to the proposed contract with Wicket for association management software, worked on the new OKLawforAll page with the Access to Justice Foundation, discussed upcoming network changes with Information Technology Director Watson, reviewed and approved matters relating to outstanding litigation and met with OBA communications and IT staff to discuss website retention as the association prepares for transition to the new and improved OBA website.

REPORT OF THE IMMEDIATE PAST PRESIDENT

Past President Pringle reported he reviewed the association's proposed 2026 budget and attended the Budget Committee meeting; drafted a new investment policy for executive review; discussed organizational issues with Executive Director Johnson,

President Williams and President-Elect Peckio; and reviewed and approved legal bills relating to outstanding litigation. He also attended the joint reception with the Woodward County Bar Association in conjunction with the Boiling Springs Legal Institute.

BOARD MEMBER REPORTS

Governor Barbush reported he attended the Lawyers Helping Lawyers Assistance Program Committee meeting, the Sheep Creek event in Pontotoc County and the joint reception with the Woodward County Bar Association in conjunction with the Boiling Springs Legal Institute. He worked with the Cannabis Law Committee chair to finalize materials for its proposed transition to an OBA section, presented a CLE on legal malpractice to the Cleveland County Bar Association and spoke with members of various county bar associations regarding changes to the 2025 Annual Meeting and the submission of delegates. At the invitation of the Law Day Committee co-chairs, he joined the working group crafting materials to be made available for attorneys speaking in schools on Law Day, and he provided them with the outline he used in 2025. **Governor Barker** reported he attended the Garfield County Bar Association meeting, where Chief Justice Rowe was in attendance. He also contacted all District 4 county bar association presidents regarding Annual Meeting delegates and the Boiling Springs Legal Institute. **Governor Cooper** reported by email he attended the Oklahoma County Bar Association Board of Directors meeting and Executive Committee meeting. He reviewed and suggested revisions to the pending contract with Wicket for association management software, and he participated in continuing discussions related to bar facilities. **Governor Dodoo** reported she attended the Bench and Bar Committee meeting, a U.S. Department of Homeland Security stakeholder meeting in coordination with the OBA Immigration Law Section, the Sheep Creek event in Pontotoc County and the joint reception with the Woodward County Bar Association in conjunction with the Boiling Springs Legal Institute. **Governor Hixon** reported he attended the Law Day Committee meeting and the joint reception with the Woodward County Bar Association in conjunction with the Boiling Springs Legal Institute. **Governor Knott** reported she attended the Sheep Creek event in Pontotoc County, the Canadian County Bar Association August meeting and the joint reception with the Woodward County Bar Association in conjunction with the Boiling Springs Legal Institute. **Governor Locke** reported he attended the Muskogee County Bar Association meeting. **Governor Oldfield** reported by email he contacted all District 1 county bar association presidents regarding Annual Meeting delegates. **Governor Rogers** reported he attended the TU College of Law Alumni Association board meeting and the joint reception with the Woodward County Bar Association in conjunction with the Boiling Springs Legal Institute. **Governor Thurman** reported he attended the Pontotoc County Bar Association officers' meeting, the Sheep Creek event and golf tournament and the Pontotoc County Joint Response first responders' meeting. **Governor Trevillion** reported by email he attended the Oklahoma County Bar Association Board of Directors meeting. **Governor West** reported by email he attended meetings of the Bar Association Technology Committee and Budget Committee. He also reviewed Budget Committee materials and contacted all District 5 county bar association presidents regarding Annual Meeting delegates and solicited input regarding local support needs.

REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported on the status of a requested change to the Oklahoma Rules of Professional Conduct that has been brought forth by a state agency. She also discussed the status of pending litigation involving the OBA. A written report of PRC actions and OBA disciplinary matters for the month was submitted to the board for its review.

The board approved a motion to approve the proposed request to join the affinity bar group as a benefit to the association.

BOARD LIAISON REPORTS

Governor Barbush reported that the **Cannabis Law Committee** is requesting to transition into an OBA section. He also said the **Lawyers Helping Lawyers Assistance Program Committee** has shared its findings that more calls to the assistance hotline are coming in from Tulsa, more calls are received from women than men, and more calls for assistance during times of severe crisis are being received. Governor Hixon reported the **Law Day Committee** met and discussed potential themes for the 2026 celebration of Law Day. Governor Dodoo said the Law Schools Committee is discussing reports of rapid hiring of law school 3Ls and recent graduates for high-level government jobs.

RATIFICATION OF EMAIL VOTE

The board unanimously passed a motion to ratify the electronic vote to approve a proposed contract pertaining to Wicket's proposal for updated association management software.

PRESIDENT WILLIAMS' APPOINTMENT

The board passed a motion to approve the submission of the following three names to Oklahoma Commission on Children and Youth Director Annette Jacobi as suggestions for appointment to a term beginning Oct. 1, 2025: Lizzie Riter, Tulsa; Shawn Douglas Fulkerson, Oklahoma City; and Lynn Lane Williams, Oklahoma City.

PETITION TO CREATE CANNABIS LAW SECTION AND PROPOSED BYLAWS

The board passed a motion to approve the Cannabis Law Committee's request to transition to a section effective Jan. 1, 2026, as well as the section's proposed bylaws.

PROPOSED UPDATE TO TIME AND LEAVE POLICY

The board passed a motion to approve a proposed change to the association's personnel manual that would effectively mirror the state of Oklahoma's leave accrual policy for its employees.

REQUEST TO JOIN WESTERN STATES BAR CONFERENCE

The board approved a motion to approve the proposed request to join the affinity bar group as a benefit to the association.

UPCOMING 2025 OBA AND COUNTY BAR EVENTS

President Williams reviewed upcoming bar-related events and activities involving the Board of Governors, including the swearing-in ceremony for new admittees at St. Luke's Methodist Church in Oklahoma City on Oct. 2, a joint reception with the Pottawatomie County Bar Association in Shawnee on Oct. 16, a legal assistance clinic aimed at veterans at the Oklahoma Bar Center in November and the OBA Annual Meeting Nov. 6-7 in 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 in Oklahoma City on Thursday, Nov. 6, in conjunction with the Annual Meeting.

NOTICE OF HEARING ON THE PETITION FOR REINSTATEMENT OF MELISSA ANN LIPE, SCBD # 7966 TO MEMBERSHIP IN THE OKLAHOMA BAR ASSOCIATION

Notice is hereby given pursuant to Rule 11.3(b), Rules Governing Disciplinary Proceedings, 5 O.S., ch. 1, app. 1-A, that a hearing will be held before the Professional Responsibility Tribunal on **DECEMBER 10, 2025,** at 9:30 a.m. at the Oklahoma Bar Center, 1901 N. Lincoln Boulevard, Oklahoma City, OK 73105, to determine if Melissa Ann Lipe should be reinstated to active membership in the Oklahoma Bar Association.

Any person desiring to be appear at the hearing and be heard in opposition to or in support of the petition should contact Gina Hendryx, General Counsel, Oklahoma Bar Association, at P.O. Box 53036, Oklahoma City, Oklahoma 73152, or by telephone at (405) 416-7007.

PROFESSIONAL RESPONSIBILITY TRIBUNAL

OBA CLE
Continuing Legal Education

WEDNESDAY,
DECEMBER 10, 2025
9 a.m. - 4:30 p.m.
Oklahoma Bar Center

Live Webcast Available

MCLE 8/2

PRESENTED BY:
Oklahoma Employment Lawyers Association

OBA Labor and Employment Law Section

REGISTER AT: HTTPS://OK.WEBCREDENZA.COM

2025 EMPLOYMENT LAW SEMINAR

- **Tips from the Bench with Honorable Judge Charles B. Goodwin**
- **Ethical Conflicts: Tips from the OBA's Ethics Counsel**
- **Mediation in Employment Cases: Evaluating Risk and Value from All Sides**
- **Faith at Work: The New Landscape of Religious Accommodation Claims**
- **Federal and State Case Law Update: What's New in 2025**
- **And More!**

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 warranty, express or implied, relating to the accuracy or content of these materials.*

OBF: Advocating for Oklahoma's Most Vulnerable Youth

By Renee DeMoss

CHILDREN NAVIGATING abuse, neglect or instability often have little opportunity to ensure their voices are heard in legal proceedings. The Oklahoma Bar Foundation recognizes this profound gap and directs significant grant support to organizations that fill this role. Whether it is a volunteer advocate speaking for a child in court or a child advocacy center providing safety and healing, OBF funding ensures that children in crisis are not alone.

Across Oklahoma, multiple life-changing grantees focus on providing children with legal representation, care and stability during their most challenging moments. Their work is an essential extension of the legal system, providing services and insights that would otherwise go unheard.

THE STRATEGIC CONNECTION

Findings from the 2024-2025 OBF Legal Needs Survey reinforce the importance of child advocacy programs:

- 47% of responding attorneys statewide identified family law matters as an unmet legal need.
- One of the most significant barriers is the lack of affordable legal services. 47% of respondents said this is a high barrier. These financial/legal access obstacles disproportionately affect families and children in crisis.
- 50% of respondents believe adults and youth are not very aware of their legal rights and responsibilities.

Access the full survey report at https://bit.ly/48H0DIY.

CANADIAN COUNTY CASA: ADVOCACY IN THE COURTROOM

CASA programs across the state recruit and train volunteers to speak for children involved in the foster care system. Canadian County CASA, supported by the OBF, ensures that children who have been removed from their homes due to abuse or neglect have someone focused solely on their best interests. Volunteers meet regularly with children, attend school conferences and provide judges with fact-based recommendations that inform life-altering decisions about safety, placement and permanency.

The Canadian County CASA team emphasizes that OBF funding sustains training and supervision for these advocates, equipping them to provide consistent support. Judges rely on CASA reports because they reflect the child's voice directly, which is an element that might otherwise be missing in the legal process.

THE CARE CENTER: A SAFE PLACE TO SPEAK

In Oklahoma County, The CARE Center provides a safe environment for children who must disclose their stories for use in legal proceedings. Forensic interview specialists, supported in part by OBF funding, meet with children in a child-friendly environment designed to reduce fear and trauma. These interviews are structured so that children tell their stories once, eliminating the need to relive painful experiences in multiple settings.

The CARE Center also offers therapy and connects families with resources that promote long-term healing and recovery. By funding this work, the OBF ensures that children have a voice in legal investigations and receive the comprehensive care they need to move forward.

A BROADER COMMITMENT

The OBF is honored to support many child-focused organizations from a legal standpoint. From Marie Detty Youth and Family Services to the Mary Abbott Children's House and from the Guardian Ad Litem Institute to Oklahoma Lawyers for Children, these programs reach across urban and rural communities to serve children at risk of abuse, neglect and system disenfranchisement. Together, they create a network of advocates and professionals who act swiftly and compassionately to protect children and uphold justice.

From the courtroom to the counseling room, OBF-funded programs provide children in crisis with the opportunity to be seen, heard and protected. By supporting these organizations, the OBF helps ensure that the promise of justice in Oklahoma extends to its youngest and most vulnerable residents.

Ms. DeMoss is the executive director of the Oklahoma Bar Foundation.

Thank you TO OUR COMMUNITY PARTNERS

$5,000 DONORS

Bob G. Burke

Ben & Beth Russ

David Van Meter

DEWITT PARUOLO MEEK ATTORNEYS

HALL ESTILL ATTORNEYS AT LAW

OKLAHOMA BAR ASSOCIATION LITIGATION SECTION

$2,500 DONORS

OKLAHOMA BAR ASSOCIATION BUSINESS & CORPORATE LAW SECTION

CHEEK & FALCONE, PLLC ATTORNEYS & COUNSELORS AT LAW

CROWE & DUNLEVY ATTORNEYS AND COUNSELORS AT LAW

DURBIN LARIMORE BIALICK

ELIAS, BOOKS, BROWN & NELSON, P.C.

OKLAHOMA BAR ASSOCIATION ENERGY AND NATURAL RESOURCES LAW SECTION

OKLAHOMA BAR ASSOCIATION ESTATE PLANNING, PROBATE & TRUST SECTION

OKLAHOMA BAR ASSOCIATION FAMILY LAW SECTION

Joe Hampton | ADR

OAMIC

Polston Tax Resolution & Accounting

PROFESSIONAL REPORTERS

Tisdal & O'Hara Attorneys at Law

$1,000 DONORS

Appellate Practice Law Section
Bank of Oklahoma
Barrow & Grimm
Baum Glass Jayne & Carwile
Beyond Square One
Caroline Marie Shaffer Siex
Deanna Hartley-Kelso
Fellers Snider
Government & Administrative Law Section
Gungoll Jackson Box & Devoll
Health Law Section
Karen Berry Mediation
Labor & Employment Law Section
Phillips Murrah
Real Property Law Section

SCAN TO *give*

Or give online any time at
www.okbarfoundation.org/donate

OKLAHOMA BAR FOUNDATION
Law. Education. Justice.

IN RE: AMENDMENTS TO RULE 24 – VOLUNTARY RETIRED CERTIFICATE STATUS AND INACTIVE STATUS OF THE RULES OF THE STATE BOARD OF EXAMINERS OF CERTIFIED SHORTHAND REPORTERS

2025 OK 70

Decided: 10/13/2025

Corrected Order: 10/14/2025

THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: Amendments to Rule 24 – Voluntary Retired Certificate Status and Inactive Status of the Rules of the State Board of Examiners of Certified Shorthand Reporters

ORDER

Rule 24 – Voluntary Retired Certificate Status and Inactive Status of the Oklahoma Rules of the State Board of Examiners of Certified Shorthand Reporters, Title 20, Chapter 20, Appendix 1, is hereby amended as shown on the attached Exhibit "A." The remainder of Rule 24 is unaffected by the amendment. The amended rule shall be effective immediately upon the date of issuance of this order.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 13th DAY OF OCTOBER, 2025.

/S/ _____

CHIEF JUSTICE

ALL JUSTICES CONCUR.

TO CONTINUE READING, VISIT https://bit.ly/4oBIGQM.

ON THE MOVE

Trisha Bunce, **Logan Norton**, **CJ Pollins** and **Madison Taylor** have joined the law firm of GableGotwals as litigation associates. They all previously served as summer associates. Ms. Bunce is an associate in the Oklahoma City office. She practices in the areas of commercial litigation, bankruptcy law and Native American law. Mr. Norton is an associate in the firm's Tulsa office. He practices in the areas of commercial litigation, employment law, energy law and health care. Mr. Pollins is an associate in the firm's Oklahoma City office. He practices in a wide range of matters involving commercial and energy law, sports, media and entertainment. Ms. Taylor is an associate in the firm's Tulsa office. She practices in the areas of medical malpractice, oil and gas law, commercial law and Native American law.

Caleb Evans, **Tristan Reagan** and **Francesca Walentynowicz** have joined the law firm of GableGotwals as associates. Mr. Evans is a litigation associate in the firm's Oklahoma City office. He practices in the areas of business and commercial litigation. Prior to joining the firm, Mr. Evans served as a judicial law clerk to Judge David L. Russell of the U.S. District Court for the Western District of Oklahoma. Mr. Reagan is a litigation associate in the firm's Tulsa office. He practices in the areas of general commercial and business litigation. Before joining the firm, he served as a law clerk to Judge Jodi F. Jayne, U.S. magistrate judge for the Northern District of Oklahoma. Ms. Walentynowicz is a transactional associate in the firm's Tulsa office. She practices in banking and commercial law matters. She previously worked as an associate at a Tulsa-based law firm, where she handled a wide variety of commercial law and financial services matters. She also served as a legal intern to Judge Gregory K. Frizzell of the U.S. District Court for the Northern District of Oklahoma and a legal extern with the U.S. Attorney's Office for the Northern District of Oklahoma while attending the TU College of Law.

Nathan H. Atkins has joined the law firm of GableGotwals as a shareholder in the Oklahoma City office. His experience includes advising corporate clients regarding private market mergers and acquisitions, commercial finance, joint ventures, securities, investor relations and general corporate governance. Prior to joining the firm, Mr. Atkins practiced at major international law firms headquartered in New York and Silicon Valley, where he advised private equity and venture capital sponsors and investors in connection with fundraising, operational and wide-ranging transactional matters. He has also served as in-house general counsel to a global investment firm and an SEC-registered investment adviser.

Rhema Brodie-Mends, **Reese H. Charles**, **Christopher J. Contreras**, **Callie F. Crone**, **Haley L. Hamilton** and **Tanner L. Pool** have joined the law firm of McAfee & Taft as associates following their spring 2025 law school graduations. Ms. Brodie-Mends is a corporate attorney who represents clients in a broad range of business and transactional matters and counsels banks and other financial institutions on corporate governance, compliance and operational matters. She received her J.D. from Georgetown University Law Center. Ms. Charles is a corporate and transactional lawyer whose practice encompasses a broad range of business and commercial matters. She received her J.D. with distinction from the OU College of Law. Mr. Contreras is a corporate attorney whose broad-based business practice includes representing clients operating in the oil and gas and renewable energy industries with a myriad of transactional, risk management and operational issues. He received his J.D. with honors from the OCU School of Law. Ms. Crone is a trial lawyer whose practice is focused on the resolution of complex business disputes, the defense of manufacturers and distributors in products liability lawsuits and the representation of national insurance companies in coverage disputes and lawsuits alleging first-party contractual and extra-contractual claims. She received her J.D. with highest honors from the TU College of Law. Ms. Hamilton is a trial and appellate lawyer whose practice encompasses a broad range of complex business disputes, including those involving professional liability claims, condemnation and eminent domain proceedings and real estate disputes. She received her J.D. *magna cum laude* from the OCU School of Law. Mr. Pool is a corporate lawyer who represents clients in a broad range of business transactions and real estate matters. He received his J.D. *magna cum laude* from the OCU School of Law.

Brian Keester and **McKenzie Corley** have joined the law firm of Hall Estill. Mr. Keester is special counsel, and his practice focuses on commercial and insurance litigation, including construction litigation, personal injury, construction defect, premises liability, wrongful death and transportation litigation. He received his J.D. *cum laude* from the University of Arkansas School of Law. Ms. Corley is an associate in the firm's litigation practice. She previously served as a law clerk to Judge Claire V. Eagan and as both a financial analyst and an investment analyst before attending law school. She received her J.D. with highest honors from the TU College of Law. During law school, Ms. Corley served as the notes and comments editor for the *Tulsa Law Review*.

Holly M. Wyers has joined the Tulsa law firm of Atkinson, Brittingham, Gladd, Fiasco & Edmonds as an associate. She received her J.D. with highest honors from the TU College of Law in 2025. While in law school, Ms. Wyers was the founder and president of the Education and Oklahoma Policy Law Club, an executive director of the Public Interest Board and vice president of Phi Alpha Delta. She practices in civil litigation.

Amelia Campbell has joined the Oklahoma City law firm of Lytle Soulé & Felty as an associate attorney. She practices in the areas of insurance defense and civil litigation. Ms. Campbell previously worked for the firm during law school as a legal intern. She received her J.D. from the OU College of Law in 2025. During law school, she interned at the OU Legal Clinic, where she worked on criminal defense cases.

Chloe N. Glass has joined the Norman law firm of Glass & Tabor LLP. She received her J.D. from the OCU School of Law in May 2025. Ms. Glass is a trial lawyer who focuses on personal injury, medical malpractice, civil rights and wrongful death litigation.

Brennan T. Barger has joined the law firm of McAfee & Taft as an associate. He is a trial attorney, a former federal law clerk and a member of the firm's Labor and Employment Practice Group. His practice focuses on representing employers and management in all phases of labor and employment law, including litigation in state and federal courts, arbitration proceedings and before regulatory and administrative agencies. Mr. Barger began his career as a civil litigation associate in private practice and most recently served for more than two years as a law clerk to District Judge Scott L. Palk of the U.S. District Court for the Western District of Oklahoma. Mr. Barger received his J.D. from the OU College of Law in 2020. He is also a member of the Oklahoma County Bar Association.

Kimberly Richey has been confirmed by the U.S. Senate to serve as the assistant secretary for civil rights at the U.S. Department of Education. In this role, Ms. Richey will oversee the office responsible for enforcing federal civil rights laws. This is Ms. Richey's third term at the U.S. Department of Education. She previously served as principal deputy assistant secretary and acting assistant secretary in the Office for Civil Rights from 2018 to 2021, deputy assistant secretary and acting assistant secretary in the Office of Special Education and Rehabilitative Services from 2017 to 2018 and counsel to the Assistant Secretary from 2005 to 2009.

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
405-416-7033
barbriefs@okbar.org

Articles for the January issue must be received by Dec. 1.

KUDOS

Robert Don Gifford has been selected by the president of the National Association of Criminal Defense Lawyers to serve as the 10th Circuit representative of the Lawyers' Assistance Strike Force, which will represent and counsel criminal defense lawyers who face contempt, disqualification or subpoena for privileged information. It is the first time an Oklahoma lawyer has served on the force since 2004. In June, Mr. Gifford was also selected as the 2025 winner of the Oklahoma Criminal Defense Lawyers Association Clarence Darrow Award.

Cara Hair and **Debra Stockton** have received the Law.com Women, Influence & Power in Law Award for In-House Mentor & Mentee Collaboration. This award celebrates the power of mentorship and partnership in the legal industry. Ms. Hair is senior vice president of corporate services and chief legal and compliance officer at Helmerich & Payne. Ms. Stockton is vice president of human resources and general counsel at Helmerich & Payne.

AT THE PODUIM

Paul R. Foster was a featured speaker at the recent Community Bankers Association of Oklahoma Annual Convention held in Oklahoma City in September. Mr. Foster coordinated and moderated the presentation of the bank regulatory panel, consisting of regulators from the Oklahoma Banking Department, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corp. and the Federal Reserve. The presentation covered current bank regulatory developments, recent legislation and regulations and other trending regulatory issues.

YOUR STORIES. YOUR INSIGHTS. YOUR BACK PAGE.

We want to feature your work on "The Back Page" of the *Oklahoma Bar Journal*! All entries must relate to the practice of law and may include articles, reflections or other insights. Poetry, photography and artwork connected to the legal profession are also welcome.

Email submissions of about 500 words or high-resolution images to OBA Communications Director Lori Rasmussen at lorir@okbar.org.

In Memoriam

Jose Gonzalez of Norman died Sept. 21. He was born Nov. 11, 1950. Mr. Gonzalez graduated from Laredo High School in 1969. **He served in the U.S. Army, entering active duty in 1970 in El Paso, Texas, where he became a field medic. His honors included the National Defense Service Medal, the Vietnam Service Medal, the Republic of Vietnam Campaign Medal, the Army Commendation Medal, the Good Conduct Medal (three times) and recognition as an expert with the M-16 rifle. He was honorably discharged from Fort Sill, having attained the rank of specialist six (E-6) and serving as both a medical specialist and a respiratory specialist.** Following his service, Mr. Gonzalez became a respiratory therapist, earned his undergraduate degree and received his J.D. from the OU College of Law in 1986. He practiced in McClain, Cleveland and Oklahoma counties and handled a wide range of cases, from criminal defense to domestic law and medical malpractice. With his wife, he founded Gonzalez & Rogers Law in Purcell. He took countless pro bono cases and worked with clients who couldn't afford legal fees.

Charles W. Park of Chickasha died April 2. He was born Jan. 11, 1951, in Chickasha. Mr. Park graduated from Chickasha High School in 1969 as a salutatorian and from OU in 1973 with grants and scholarships for his achievements. He received his J.D. from the OU College of Law in 1976. After graduation, he began practicing at his father's law firm, which became Park, Nelson, Caywood & Jones LLP. Mr. Park practiced for 47 years before retiring in 2023. He served as a Chickasha municipal judge in the late 70s and early 80s and as president and treasurer of the Grady County Bar Association. His community involvement included serving as a member of the Chickasha Public School Foundation and a board member of the Sooner Girl Scout Council in southwest Oklahoma.

EDITORIAL CALENDAR

2025 ISSUES

DECEMBER
Ethics & Professional Responsibility
Editor: David Youngblood
david@youngbloodatoka.com

2026 ISSUES

JANUARY
Family Law
Editor: Evan Taylor
tayl1256@gmail.com

FEBRUARY
Criminal Law
Editor: Becky Baird
beckyrenebaird@gmail.com

MARCH
Business & Corporate Law
Editor: Magdalena Way
magda@basslaw.net

APRIL
Health Law
Editor: Melissa DeLacerda
melissde@aol.com

MAY
Insurance Law
Editor: Evan Taylor
tayl1256@gmail.com

AUGUST
Taxation
Editor: Melissa DeLacerda
melissde@aol.com

SEPTEMBER
Civil Procedure & Evidence
Editor: David Youngblood
david@youngbloodatoka.com

OCTOBER
Government & Administrative Law Practice
Editor: Martha Rupp Carter
mruppcarter@yahoo.com

NOVEMBER
Appellate Practice
Editor: Melanie Wilson Rughani
melanie.rughani@crowedunlevy.com

DECEMBER
Law Office Management
Editor: Norma Cossio
ngc@mdpllc.com

If you would like to write an article on these topics, please contact the editor.

Classified Ads

SERVICES

Briefs & More – Of Counsel Legal Resources – Since 1992 – Exclusive research and writing. Highest Quality. State, Federal, Appellate, and Trial. Admitted and practiced United States Supreme Court. Dozens of published opinions. Numerous reversals on certiorari. **MaryGaye LeBoeuf, 405-820-3011, marygayelaw@cox.net.**

EXAMINER OF QUESTIONED DOCUMENTS
Board Certified State & Federal Courts
Diplomate - ABFE Former OSBI Agent
Fellow - ACFEI FBI National Academy
Arthur Linville 405-736-1925

TREE EXPERT WITNESS
Bill Long, Consulting Arborist

35 Years of Experience, ISA Certified Arborist, Statewide and Regional

- Site Visits
- Border Crossings
- Tree Damage
- Wildfires
- Herbicide Damage
- Tree Value Appraisal
- Depositions
- Court Appearance

405-996-0411 | blongarborist@gmail.com
BillLongArborist.com

PERFECT LEGAL PLEADINGS works on Microsoft Word and contains automated Oklahoma pleadings and forms for divorce, paternity, probate, guardianship, adoption, real property, civil procedure, criminal procedure, and personal injury. We also provide access to thousands of other state and federal pleadings and forms. PerfectlegalPleadings.org.

REAL PROPERTY & OIL/GAS LEGAL ASSISTANCE – Expert Consultation and Testimony, Trial and Appellate Briefs, and Mediations – Practicing since 1979 – Adjunct Law Professor (30+ years); Title Examination Standards Chair (30+ years) – KRAETTLI Q. EPPERSON – Email: kqe@nashfirm.com, and Website: EppersonLaw.com.

SERVICES

DENTAL EXPERT WITNESS/CONSULTANT

Since 2005
(405) 823-6434
Jim E. Cox, D.D.S.
Practicing dentistry for **35** years
4400 Brookfield Dr., Norman, OK 73072
www.jimecoxdental.com
jcoxdds@pldi.net

OFFICE SPACE

OFFICE SPACE FOR RENT IN NW OKC/EDMOND. Modern office with shared use of internet access, lobby, and conference room $495-$695 a month. Referrals are likely. First month 50% discount. Call Joy at 405-733-8686.

MIDTOWN TULSA OFFICE BUILDING AVAILABLE for immediate occupancy. Three stories, approximately 2,590 square feet, 12 parking spaces. Call Katie Sawyer with Keller Williams Realty Advantage (918) 510-9860 for more information. Agent related to owner.

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

POSITIONS AVAILABLE

WALKER FERGUSON FERGUSON & DEROUEN, an AV-rated firm, is seeking an attorney with two to five years of experience to join its Oklahoma City workers' compensation defense and civil litigation practice. Experience in workers' compensation and civil litigation is required. Excellent benefits. Salary commensurate with experience. Please send cover letter, resume and writing sample to Jon L. Derouen, Jr., 941 E. Britton Rd., Oklahoma City, OK 73114 or jdero@wffatty.com.

POSITIONS AVAILABLE

Position Available: Associate Attorney – Civil Litigation
Location: Edmond/Oklahoma City, Oklahoma
Experience Required: Minimum 5 Years in Civil Litigation

We are a well-established law firm currently seeking a highly motivated and skilled Associate Attorney to join our civil litigation practice. This is an excellent opportunity for a dedicated legal professional who is looking to further their career in a collaborative and client-focused environment.

Key Responsibilities

- Manage civil litigation matters from inception through resolution
- Draft and respond to pleadings, motions, discovery, and other legal documents
- Represent clients in court hearings, mediations, and trials
- Conduct legal research and analysis to support case strategy
- Communicate effectively with clients, opposing counsel, and courts
- Collaborate with partner attorneys and support staff to achieve favorable outcomes

Qualifications

- Juris Doctor (J.D.) from an accredited law school
- Active license to practice law in the State of Oklahoma
- Minimum of five (5) years of civil litigation experience (preferably in insurance defense, professional liability defense, or general civil defense litigation)
- Exceptional written and verbal communication skills
- Strong legal research skills
- Organizational skills and attention to detail
- Ability to manage multiple priorities in a fast-paced environment

What We Offer

- Competitive salary commensurate with experience
- Opportunities for professional development and advancement
- Supportive and collegial work environment

Please submit your resume, cover letter, and a recent writing sample to bsaunier@ok-counsel.com.

POSITIONS AVAILABLE

RARE OPPORTUNITY

Discover the simplicity of small-town life and the joys of being your own boss!
EASY COMMUTE!
SET YOUR OWN HOURS!
KEEP WHAT YOU EARN!

What: Thriving practice for sale. This well-established practice has been serving several counties in rural north central Oklahoma for over 28 years, providing legal services primarily in the areas of: real estate title examination and transactions; curative real estate litigation; trusts and estate planning; probate; banking law; foreclosure; and commercial transactions.

Where: Charming small town with numerous parks, good schools, and public library, pool, and golf course strategically located in north central Oklahoma, with easy interstate access to Wichita, Oklahoma City, and Tulsa.

Firm Highlights:

- Long-standing relationships with clients and other professionals
- Strategic location with MINIMAL COMPETITION in small town where practice is located and in surrounding communities
- Consistent revenue and strong cash flow, with a history of profitability
- Sale includes 28 years of plat files and title opinion records
- Sale also includes office building with adjacent rental space, all furnishings, and equipment

Profit Potential: Opportunity to expand practice through increased marketing efforts, broadened service offerings and areas of law, and increased community outreach.

Reason for Sale: After nearly 50 years of successfully practicing law, the owner plans to retire in the near future. Seller is open to providing continuing support and consultation during the transition period to ensure continuity and to encourage success.

Flexible Terms: Seller open to earnout/seller financing for qualified purchasers.

Contact: Send replies to Box NC, Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

POSITIONS AVAILABLE

Regulatory Compliance Officer

The Oklahoma Department of Wildlife Conservation (ODWC) is seeking an experienced professional to serve as Regulatory Compliance Officer. This is a rare opportunity to apply your legal expertise in service of conservation while working across unique and challenging areas of law that extend beyond a traditional practice setting.

The Position
The Regulatory Compliance Officer, reporting to the Director, ensures ODWC operates in compliance with state and federal laws and provides guidance on a wide range of issues, including contracts, conservation easements, oil and gas, real estate transactions, labor and employment, ethics, grants, and purchasing. The role also assists in drafting and interpreting legislation and administrative rules, directly shaping conservation policy in Oklahoma.

Responsibilities Include:
- Conducting legal research and compliance analysis.
- Serving as liaison with outside counsel.
- Advising leadership on administrative, operational, and personnel matters.
- Drafting and reviewing contracts, leases, and easements.
- Serving as ODWC's Open Records Act Administrator.
- Supporting rulemaking and legislative activities and may serve as Legislative Liaison for public affairs.
- Assisting Department in compliance with Ethics Commission rules.
- Assisting in the promulgation and enforcement of agency administrative rules.

Qualifications
Applicants must hold advanced college degree, preferably a Juris Doctor degree from an accredited law school and current Oklahoma Bar license and have at least five years of legal or compliance experience. Familiarity with state legislative and rulemaking processes preferred.

For questions about the position, call (405) 521-4640. Apply at wildlifedepartment.com/careers. Applications accepted until filled.

POSITIONS AVAILABLE

THE LAW FIRM OF COLLINS, ZORN & WAGNER, P.L.L.C. is currently seeking an associate attorney with a minimum of 7 years' experience in litigation. The associate in this position will be responsible for court appearances, depositions, performing discovery, interviews and trials in active cases filed in the Oklahoma Eastern, Northern, and Western Federal District Courts and Oklahoma Courts statewide. Collins, Zorn and Wagner, P.L.L.C., is primarily a defense litigation firm focusing on civil rights, employment, constitutional law and general insurance defense. Salary is commensurate with experience and includes an excellent benefits package. Please provide your resume, references and a cover letter including salary requirements in c/o hiring attorney at info@czwlaw.com.

Mid-size Tulsa AV, primarily defense litigation, firm seeks an experienced lawyer for our Tulsa office. If interested, please send confidential resume, references, and writing sample to kanderson@tulsalawyer.com.

Civil Litigation Defense Attorney
Represent clients in civil disputes, including trucking, personal injury, property damage, contract claims, and professional liability. Manage cases from inception through appeal, delivering strategic counsel and courtroom advocacy.

Responsibilities
- Lead all phases of litigation: pleadings, discovery, depositions, motions, trial prep, and resolution
- Develop tailored defense strategies and negotiate settlements
- Draft legal documents and conduct research
- Represent clients in hearings, mediations, and arbitrations
- Collaborate with internal teams and maintain strong client communication

Qualifications
- JD from an accredited law school; active OBA license
- 2+ years in civil defense litigation preferred
- Strong deposition, writing, and advocacy skills
- Proficient in Westlaw/LexisNexis; solid grasp of civil procedure
- Ability to manage multiple cases and deadlines independently

POSITIONS AVAILABLE

COURT REPORTER
ADAIR COUNTY DISTRICT COURT

Position: Certified Shorthand Reporter – Full Time

Location: Adair County Courthouse, Stilwell, OK

Hiring Official: Judge Liz Brown

Salary: Pursuant to Statute

Benefits: State Employment (includes paid annual and sick leave, insurance benefits, retirement)

Necessary Qualifications: Certified by Oklahoma CSR board and pursuant to Oklahoma State Statute

Applications: Resumes should be sent to:
Judge Liz Brown
W. Division
Stilwell, OK 74960
Email preferred: elizabeth.brown@oscn.net

Start Date: December 1, 2025

Assistant City Attorney – City of Lawton
Salary: $79,584.04 - $135,507.96 Annually
Dependent Upon Qualifications and Experience

Make a difference with a rewarding legal career in public service! This full-time position will defend and prosecute high-profile complex civil lawsuits; draft legal documents; advise City officials as to legal rights, obligations, practices and other phases of applicable local, state and federal law; draft resolutions, ordinances and contracts and prepare legal opinions.

Applicants for the position must have graduated from an accredited law school, be a member in good standing in the Oklahoma Bar Association and be admitted to or eligible for immediate admission to practice in the U.S. District Court for the Western District of Oklahoma and the Tenth Circuit Court of Appeals. Applicants must possess a valid Oklahoma driver's license. Interested applicants should apply and submit a resume, law school transcript, and two (2) samples of legal writing filed in legal proceedings. See job announcement at https://bit.ly/3TYTPvF. Open until filled. EOE.

POSITIONS AVAILABLE

FOUNDING CRIMINAL DEFENSE ATTORNEY. Law firm seeks experienced defense attorney for first hire. Competitive pay and manageable caseloads. Send resume to Scot@gettalentmagnet.com.

Experienced Litigation Attorney & Brief Writer

Our firm is seeking two seasoned professionals to join our dynamic team:

- An Experienced Litigation Attorney
- An Experienced Brief Writer

We are looking for candidates with 7-15 years of experience who are ready to contribute their skills to challenging, high-quality defense work. Our firm serves a broad range of public and private entities, handling matters that are complex, unique, and meaningful.

We take pride in our team-based practice model and our unwavering commitment to excellence in client service. The ideal candidates will bring strong analytical ability, exceptional writing and advocacy skills, and a collaborative spirit.

If you are looking to practice law in an environment that values teamwork, professional growth, and substantive, impactful work, we'd love to hear from you.

Job Type: Full-time

Benefits:

- 401(k)
- Flexible spending account
- Health insurance
- Life insurance
- Paid time off
- Retirement plan

Please submit your resume, writing sample, and cover letter to rescoe@rfrlaw.com.

Fighting for Those Who Fought for Us: Veterans and the Legal System

By John P. Cannon

EVERY NOVEMBER, we pause to honor those who have worn our nation's uniforms. Veterans Day is a time to reflect on their service and sacrifice, but it's also a moment to recognize the challenges they face at home. Service members are not separate from the communities we serve; they are our neighbors, co-workers and clients. And just like any other Oklahoman, they unexpectedly face legal problems that affect their daily lives.

Military life brings extraordinary pressures – deployments, separations from family and the invisible burdens of trauma and reintegration. But it also shapes a mindset and lifestyle centered on discipline, readiness and mission above self. These internal and external stressors compound the legal issues veterans face, which are often the same as any other citizen: divorce, bankruptcy, landlord-tenant conflicts, debt collection, employment issues, criminal charges and estate planning, to name just a few.

What makes legal challenges more complex for veterans isn't the nature of the issue but the barriers to getting help. The military fosters a deep sense of self-reliance, and many service members hesitate to seek assistance. Some are unaware of their rights or the legal support available. Others choose to suffer in silence rather than reach out, even to a trusted "battle buddy."

Although today's military leadership has made commendable progress in addressing the stress of service – such as expanding mental health care, family support and VA access – many veterans served in generations when support was limited or seen as weakness. That's where attorneys can make a difference, even those who don't concentrate their practice in military law. Sometimes, answering a question or offering 30 minutes of guidance in a particular area of expertise is more legal support than that veteran may otherwise receive. A brief consult on a lease dispute, assistance understanding a custody order or reviewing a will can be life-changing when done with empathy and clarity.

While some parts of Oklahoma are fortunate to have specialized resources, such as veterans treatment courts or legal clinics, access to veteran-specific legal support can vary widely depending on where someone lives. That's why real impact often begins at the individual level, with a conversation, a consultation and a willingness to help.

This year, I encourage every attorney in Oklahoma to consider taking one meaningful step toward serving veterans in your community. It doesn't need to be complex. Possibilities include reaching out to local veterans service organizations (VSOs) or volunteering time at a legal clinic. Another option is supporting the work of the OBA Military Assistance Committee, which I proudly co-chair with S. Shea Bracken.

If you're willing to help but are unsure where to begin, please mark your calendar for Veterans Day 2026. The OBA will be hosting *Heroes Day*, a coordinated effort to connect service members and veterans with attorneys who can provide brief legal advice in their areas of expertise. It's a simple yet powerful way to give back. More details will be shared as the date approaches, and I hope many OBA members will consider becoming part of this initiative.

This Veterans Day, let's remember those who raised their hands and swore to make the ultimate sacrifice if called to do so. Their legal struggles should not go unanswered. Whether it's divorce, an eviction or something else, a lawyer's knowledge, time and presence could change the course of a veteran's life. Our nation's heroes deserve nothing less.

Mr. Cannon is the owner and founder of Cannon & Associates, a law firm with offices in Oklahoma City, Edmond and Norman focused on criminal defense and family law. He serves as co-chair of the OBA Military Assistance Committee and is a judge advocate in the Oklahoma Army National Guard.

OBA CLE
Continuing Legal Education

THURSDAY & FRIDAY,
DECEMBER 11 & 12, 2025
Beginning at 9 a.m.
Oklahoma Bar Center, OKC

Live Webcast Available

MCLE 5/1 EACH DAY

A BONUS 1 HOUR BASIC BANKRUPTCY PROGRAM IS INCLUDED WITH YOUR REGISTRATION.
THE PROGRAM WILL BE LOADED TO YOUR WEBCREDENZA ACCOUNT FOR ON-DEMAND VIEWING.

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*

REGISTER AT: HTTPS://OK.WEBCREDENZA.COM

2025 ADVANCED BANKRUPTCY SEMINAR

When Practices Collide: The Intersection of Bankruptcy and Bar

Presented by the OBA Bankruptcy and Reorganization Section

AGENDA - DAY ONE

Bankruptcy Ethics
Jack Williams, Professor of Law, Georgia State University
Bankruptcy and Healthcare Law
Layla Dougherty, Attorney, Oklahoma City
Consumer Law Panel
Greggory T. Colpitts, Attorney, Colpitts Law Firm, Oklahoma City
Jerry Brown, Attorney, Jerry D. Brown, P.C., Oklahoma City
How to Advise a Struggling Small Business
Lacey Bryan, Markus Williams Young & Hunsicker, LLC
Tax Considerations in Bankruptcy
Michael Deeba, CIRA, Baker Tilly Virchow Krause, LLP

AGENDA - DAY TWO

Bankruptcy Law Update
Brandon Bickle, Shareholder, GableGotwals, Tulsa
David Herber, Associate, GableGotwals, Tulsa
Chapter 13 Trustee Panel
John Hardeman, Attorney, Oklahoma City
Lonnie Eck, Attorney, Tulsa
Mark Bonney, Attorney, Muskogee
Ethics
Susan Freeman, Womble Bond Dickinson, Phoenix, AZ
Bankruptcy and Family Law
Craig Abrahamson, Attorney, Tulsa
Judges' Panel
Judge Janice Loyd, USBC, Western District of Oklahoma
Chief Judge Sarah Hall, USBC, Western District of Oklahoma
Chief Judge Paul R. Thomas, USBC, Eastern and Northern Districts of Oklahoma

FREE CONFIDENTIAL 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. Call 800-364-7886 for a free counselor referral.

If you are in crisis or need immediate assistance, call or text 988, Oklahoma's Mental Health Lifeline.

Oklahoma Bar Association
Lawyers Helping Lawyers
Assistance Program

WWW.OKBAR.ORG/LHL