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# THE OKLAHOMA BAR Journal

Volume 97 — No. 1 — January 2026



Meet 2026  
OBA President  
Amber Peckio

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Original Program Date: Dec. 9, 2025 - MCLE 0/1

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Original Program Date: Dec. 10, 2025 - MCLE 8/2

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Presented by the OBA Bankruptcy and Reorganization Law Section

Original Program Date: Dec. 11 and 12, 2025 - MCLE 5/1 each day

## **SNOW, TAILLIGHTS AND REASONABLE DOUBT: THE KAREN READ MURDER TRIAL**

Featured speaker: Joel Oster, Comedian of Law

Original Program Date: Dec. 15, 2025 - MCLE 2/0

## **COLLEGE MASCOTS AND LEGAL ETHICS**

Featured speaker: Stuart I. Teicher, Esq., The CLE Performer

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# THE OKLAHOMA BAR Journal

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Editor: Evan Taylor

**ON THE COVER:** 2026 OBA President Amber Peckio of Tulsa. Photo by Aimee Tietze Adams.

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# Make 2026 Your Year To Get Involved

By Amber Peckio

**IT IS MY PLEASURE TO EXTEND WARM GREETINGS** to each member of our bar association as we begin 2026. A new year offers a fresh beginning – an opportunity to reflect on the profession we share, our responsibilities as lawyers and the community we build together. It is also a fitting time to look ahead with optimism and purpose, especially as we anticipate the many opportunities for leadership and service that await us in the coming year.

I am personally very excited to serve as OBA president this year. Bar associations have long served as the backbone of the legal profession. They are the spaces where lawyers come together not as adversaries in litigation but as colleagues united by a common calling. Our association provides a forum for professional development, continuing legal education and thoughtful dialogue about the evolving landscape of the law. The OBA takes pride in creating opportunities for mentorship, collaboration and the exchange of ideas that strengthen our competence and enrich our professional lives.

The OBA does more than support individual lawyers. We are working to strengthen the legal profession at large. Through our committees and sections, educational opportunities and public outreach, we are helping to shape the conversation surrounding the rule of law, access to justice, fairness and the integrity of the legal system. When our association is active, informed and engaged, the entire community benefits. In these ways, the bar association serves to both guard professional standards and promote justice in a way that is consistent with our strategic plan.<sup>1</sup>

Central to this mission is the service of dedicated members who step forward to lead. Getting involved with your bar association is an act of stewardship. It is an opportunity to guide the direction of our association, to influence the programs and initiatives that shape our profession and to help ensure that the

legal community remains active and engaged. Whether through committee work, section leadership, mentoring or governance roles, your involvement is what transforms our association into a dynamic force to ensure the advancement of justice in our local communities and beyond.

As we prepare for 2026, I encourage each of you to consider taking on a leadership role. Leadership is not limited to those with decades of experience, nor is it reserved for those who already hold formal positions. Everyone, from newly admitted attorneys to seasoned practitioners, has something meaningful to contribute. The variety of our membership across practice areas, from big-firm lawyers to solo practitioners, is one of our greatest strengths, and our leadership should reflect the breadth of perspectives, backgrounds and experiences that define our community.

Becoming involved in leadership allows you to shape the future of the profession, deepen your connections and develop skills that enhance both your practice and your career. It provides a platform to champion issues you care about. Importantly, leadership in the bar association is an opportunity to give back to the profession that has given us so much.

As we embark on this new year, I hope you will join us in renewing your commitment to meaningful engagement. Attend events, participate in committees, reach out to colleagues, and look for opportunities to step into leadership. Together, we can build a stronger association, a more connected legal community and a more dynamic profession.

As we begin this new year, I wish you all health and happiness as well as personal and professional growth that will result in a positive outlook for 2026 and beyond.

#### ENDNOTE

1. [www.okbar.org/governance](http://www.okbar.org/governance).



A stylized, handwritten signature of Amber Peckio in dark ink.

Amber Peckio is a solo practitioner with the Amber Law Group of Tulsa. 918-895-7216 [amber@amberlawgroup.com](mailto:amber@amberlawgroup.com)

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# BAR NEWS IN A MINUTE

## NEW OBA BOARD OF GOVERNORS OFFICERS AND MEMBERS TO BE SWORN IN JAN. 16

Amber Peckio of Tulsa will be sworn in as 2026 OBA president on Jan. 16 in the Supreme Court Courtroom at the state Capitol. Other new officers to be sworn in will be President-Elect Jana L. Knott of El Reno and Vice President S. Shea Bracken of Edmond. D. Kenyon Williams Jr. of Sperry will be sworn in as immediate past president. New board members to be sworn in are Chris D. Jones of Durant, Blayne P. Norman of Wewoka, Kristy E. Loyall of El Reno, Molly A. Aspan of Tulsa and OBA Young Lawyers Division Chair Alexandra J. "Allie" Gage of Tulsa.

## SAVE THE DATE FOR LEGISLATIVE KICKOFF

The Oklahoma Legislature reconvenes in February, and hundreds of bills will be prefiled – many potentially affecting your practice or the administration of justice.

Join the OBA Legislative Monitoring Committee on Friday, Jan. 30, from 9 a.m. to 12:30 p.m. at the Oklahoma Bar Center as they identify top bills of interest to the OBA and your practice area. More details will be available soon!



## LHL DISCUSSION GROUPS HOST FEBRUARY MEETINGS



The Lawyers Helping Lawyers monthly discussion group will meet Thursday, Feb. 5, in Oklahoma City at the office of Tom Cummings, 701 NW 13th St. The group will also meet Thursday, Feb. 12, in Tulsa at the office of Scott Goode, 1437 S. Boulder Ave., Ste. 1200. The Oklahoma City women's discussion group will

meet Tuesday, Feb. 17, 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](http://www.okbar.org/lhl) for more information, and keep an eye on the OBA events calendar at [www.okbar.org/events](http://www.okbar.org/events) for upcoming discussion group meeting dates.

## IMPORTANT UPCOMING DATES

The bar center will be closed Monday, Jan. 19, in observance of Martin Luther King Jr. Day and Monday, Feb. 16, in observance of Presidents Day.



## 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](mailto: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.





## COURT OF CIVIL APPEALS LEADERSHIP ELECTED FOR 2026



Judge Hixon



Judge Prince

Judge Stacie L. Hixon has been elected to serve as chief judge of the Court of Civil Appeals, and Judge Thomas E. Prince has been elected to serve as its vice chief judge for 2026.

The following have been selected to serve as presiding judges for their respective divisions: Judge Barbara G. Swinton, Oklahoma City, Division 1;

Judge Jane P. Wiseman, Tulsa, Division 2; Judge Timothy J. Downing, Oklahoma City, Division 3; and Judge Gregory Blackwell, Tulsa, Division 4. These positions began Jan. 1 and are one-year terms.

## SPECIAL JUDGES SWORN IN

Austin C. Browning was sworn in on Nov. 17 as special judge for the 19th Judicial District. He is replacing Judge Emily Redman, who stepped down to become a tribal court prosecutor for the Choctaw Nation. Judge Browning has worked for the district attorney's offices in Cleveland and Grady counties, as a tribal prosecutor for the Choctaw Nation and as a defense attorney for Swain Law Group. He graduated from the OCU School of Law.



Austin C. Browning



Johnny Loard

Johnny Loard was sworn in Dec. 5 as special judge for the 20th Judicial District, filling the position vacated by Judge Carson Brooks, who was appointed district judge by Gov. Stitt. Judge Loard practiced law for 24 years in Carter and McCurtain counties. He received his law degree from OCU School of Law.

## SAVE THE DATE FOR THE OBA MIDYEAR MEETING



Save the date for the OBA Midyear Meeting! This year's meeting, which will be held June 17-19 at the OKANA Resort in Oklahoma City, will focus on

CLE opportunities for all practitioners as well as programming for solo and small-firm practitioners. Just like the previous Solo & Small Firm Conference, the Midyear Meeting will take place in a casual, family-friendly resort setting. We can't wait to see you there!



## SAVE THE DATE FOR THE 2026 SOVEREIGNTY SYMPOSIUM

Save the date for the 38th annual Sovereignty Symposium. This event, presented by the OCU School of Law, will be held June 15-16 at the OKANA Resort in Oklahoma City.

The symposium is currently inviting proposals for panel presentations and writing and poster competitions. More information about the symposium will be announced soon. Visit [www.sovereigntysymposium.com](http://www.sovereigntysymposium.com) to learn more about the event.

## MCLE DEADLINE APPROACHING

Dec. 31 was the deadline to earn any remaining MCLE credit for 2025 without having to pay a late fee. The deadline to report your 2025 credit is Tuesday, Feb. 17. The annual ethics requirement is two credits per year. The 12 total annual credit requirement did not change.

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





# The Uniform Child Custody Jurisdiction and Enforcement Act and *In Re N.A.*: Some Thoughts on Subject Matter Jurisdiction

By Robert G. Spector

**T**HE OKLAHOMA SUPREME COURT RECENTLY DECIDED a case concerning the jurisdictional underpinning of the Uniform Child Custody Jurisdiction and Enforcement Act (hereinafter UCCJEA), which raises questions regarding the role of the act. The case is *In re N.A.*,<sup>1</sup> a proceeding under the Children and Juvenile Code (the children's code) to declare the children deprived. The children lived in Oklahoma, Kansas and Mexico. There was an issue as to whether Oklahoma was the children's home state, a necessary determination under the UCCJEA in order for the state to make a determination as to their deprived status.

After batting down preliminary questions,<sup>2</sup> the court turned to the issue of jurisdiction under the UCCJEA. The jurisdiction of Oklahoma trial courts is set out in the Oklahoma Constitution in Article 7, Section 7. That section provides, "[T]he District Court shall have unlimited original jurisdiction of all justiciable matter." Since deprived cases clearly fall within the normal standard of court cases, it follows that the court had subject matter jurisdiction.

The Supreme Court reasoned that since subject matter jurisdiction is controlled by the Oklahoma Constitution, it therefore could not

be governed by the UCCJEA, as the Legislature cannot limit the jurisdiction of the courts granted by the Oklahoma Constitution. It was then left with the question of what is the UCCJEA. The court decided that the UCCJEA is an act that simply determines which of two competing states with jurisdiction should make a custody determination.

It noted that among its stated purposes, the UCCJEA is intended to avoid jurisdictional competition and conflict with courts of other states, promote cooperation with the courts of other states and avoid relitigation of custody decisions made by other states.<sup>3</sup> The court

then said the UCCJEA does not confer subject matter jurisdiction on a state court, nor does it abrogate an Oklahoma district court's expansive, constitutionally conferred subject matter jurisdiction. The UCCJEA merely instructs the district court as to when it should and should not exercise its subject matter jurisdiction.

The court noted that prior UCCJEA cases have "loosely used the language of subject matter jurisdiction."<sup>4</sup> It then held, "Let us be clear today, jurisdiction under the UCCJEA is a statutory, procedural limitation that prescribes circumstances under which the

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State district court should yield to another State's exercise of subject matter jurisdiction, but it does not remove the Oklahoma district court's constitutionally-conferred subject matter jurisdiction to adjudicate the deprived status of children and custody matters."<sup>5</sup>

## THE PROBLEMS

If the UCCJEA is merely a matter of deciding between two competent jurisdictions, which one should proceed, then some very interesting problems arise. The act is clearly more than that, given the fact that the structure of the UCCJEA refers to jurisdiction, relinquishment of jurisdiction and enforcement of judgments of other states. Insofar as jurisdiction is concerned, the act raises a number of issues with regard to the Oklahoma Supreme Court's opinion.

Are the provisions of the UCCJEA waivable? Can the parties consent to appear in a forum that is not an appropriate forum under the UCCJEA? Can a judge raise the issue of noncompliance with the act if the parties do not? If the issue of noncompliance with the act is not raised at trial, can it be raised for the first time on appeal? Most importantly, if the case goes through to final order but is not appealed and is sought to be enforced in another state, can it be collaterally attacked in that state for lack of jurisdiction under the UCCJEA in the first state? All these issues are opened up by the *N.A.* opinion. Prior cases had clearly decided these issues by determining that the UCCJEA was an aspect of subject matter jurisdiction, but those cases did not consider the effect of the state constitution on the UCCJEA.

## PRIOR CASES

The opinion in *N.A.* departs from what has been the common understanding of the role of the UCCJEA in determining the court's jurisdiction. Those earlier cases were not so unclear. Despite the court's reference to earlier cases as "loosely using the language of subject matter jurisdiction," that language was at the heart of those cases. In *Joliff v. Joliff*,<sup>6</sup> the parties had two children. The mother moved from Idaho to Oklahoma with the parties' daughter. The father and son remained in Idaho. The mother initiated divorce proceedings in Oklahoma and sought custody of both children. The trial court determined that since the daughter had lived in Oklahoma for six months, it had jurisdiction over that child and over the divorce and, therefore, must have jurisdiction over both children. The Oklahoma Supreme Court reversed as to the child in Idaho. It noted that the Uniform Child Custody Jurisdiction Act (UCCJA), the predecessor of the UCCJEA, established mandatory prerequisites for determining subject matter jurisdiction in custody cases. It quoted the seminal case in Oklahoma of *Holt v. District Court*,<sup>7</sup> a case not cited in *N.A.*, where that court noted that the UCCJA went about the problem of the interstate child in a number of ways but primarily by "limiting the jurisdiction of courts to act in custody matters."<sup>8</sup>

Primarily, with regard to subject matter jurisdiction, there is the case of *Jones v. White*,<sup>9</sup> where the parties were originally from New Hampshire and Massachusetts. The husband returned to Oklahoma, where he had previously lived, and filed for divorce. He alleged that the children had been living

in Oklahoma for six months when they clearly had not. When the trial court held a special jurisdictional hearing, the parties indicated they simply wished to get the divorce over with. The trial court ultimately awarded joint custody with primary parenting responsibility to the father. The mother appealed the substantive custody determination.

The appellate panel, on its own, raised the question as to whether the case was properly tried in Oklahoma. It noted that the UCCJEA was a matter of subject matter jurisdiction and could not be waived by the parties. The decision in *Jones v. White* is fundamentally at odds with the decision in *N.A.* and would normally be considered overruled as a Court of Appeals decision inconsistent with a Supreme Court decision. Nonetheless, the Supreme Court, although it cited *Jones v. White*, did not expressly overrule it.

The *Holt* case noted there are always two questions in a child custody case: First, does an Oklahoma court have jurisdiction? Second, should an Oklahoma court exercise its jurisdiction? The court in *N.A.* seems to have eliminated the first question and limited the UCCJEA to only the second question. This appears to be in direct contravention of the UCCJEA itself.

## THE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT

The UCCJEA, as set out in Title 43 Section 551-201, provides:

- A. Except as otherwise provided in [Section 551-204] of this act, a court of this state has jurisdiction to make an initial child custody determination only if:

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1. This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six (6) months before the commencement of the proceeding and the child is absent from this state, but a parent or person acting as a parent continues to live in this state;
2. A court of another state does not have jurisdiction under paragraph 1 of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under Section 19 or 20 of this act, and:
  - a. the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence, and
  - b. substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships;
3. All courts having jurisdiction under paragraph 1 or 2 of this subsection have declined to exercise jurisdiction on the ground that a court of this state is the more

appropriate forum to determine the custody of the child under Section 19 or 20 of this act; or

4. No court of any other state would have jurisdiction under the criteria specified in paragraph 1, 2, or 3 of this subsection.
- B. Subsection A of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.
- C. Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

The UCCJEA is designed to bring order out of the chaos that had been the nature of interstate child custody litigation, which was first attempted to be resolved by the act's predecessor, the UCCJA. That act was revised by the UCCJEA to take account of the federal enactment of the Parental Kidnapping Prevention Act (PKPA).<sup>10</sup> The jurisdictional section of the UCCJEA is set out in two parts:

1) to tell a state court when it has the authority to adjudicate a child custody case and 2) when it should exercise that authority. This coincides with the decision of *Holt v. District Court*, which noted that there are two questions in any interstate case: 1) whether a state has jurisdiction and 2) whether it should exercise that jurisdiction.

Section 551-201 uses the term "jurisdiction." It means the authority or ability of a court to make a custody determination. It is not personal jurisdiction, since that is explicitly not required by Subsection C of Section 551-201. If, indeed, subject matter jurisdiction flows from the Oklahoma Constitution, then what is the purpose of Section 551-201 of the UCCJEA? It is not simply a matter of determining which of two competent forums should proceed, as the court in *N.A.* noted. There are explicit sections of the UCCJEA that deal with that issue, including Section 551-207 on inconvenient forum and Section 551-208 on declining jurisdiction due to conduct.

The UCCJEA itself does not say that the ability of the court to decide a case is subject matter

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The *Holt* case noted there are always two questions in a child custody case: First, does an Oklahoma court have jurisdiction? Second, should an Oklahoma court exercise its jurisdiction?

jurisdiction, although the official comment does say so.<sup>11</sup> However, the official comment cannot override the state constitution. Section 551-201 can probably, at best, be thought of as a limitation on the ability of the court to exercise its full power under its subject matter jurisdiction or a legislative limitation on the ability of the court to exercise its full jurisdictional power.

## ENFORCEMENT OF JUDGMENTS

The problem of *In re N.A.* has come up in other states besides Oklahoma.<sup>12</sup> The question really becomes what the effect of these cases, like *In re N.A.*, is on the UCCJEA. As a matter of interstate enforcement of interstate custody determinations, the effect of these cases should be minimal. While it is true in Oklahoma that, as a matter of state constitutional law, a state statute cannot limit the constitutionally conferred grant of judicial power on state trial courts, the Legislature can surely legislate concerning the effect in its state of foreign judgments. The UCCJEA attempts to eliminate the problems of the interstate child by limiting both jurisdiction in state courts and by limiting the enforcement of custody determinations to those made in accordance with its jurisdictional bases. The first is the attempted solution undermined by *N.A.* The second, however, resolves the problem of determining the effect of interstate custody determinations, even if it does nothing to affect the issue of intrastate jurisdiction.

The UCCJEA was written as a revision of the UCCJA. As such, it was stuck with much of the language of the original act, including the jurisdictional language of



state courts. It certainly would have been much easier if the authors, in drafting the UCCJA, had written something like this:

### Section 1

1. A court has authority to make a child-custody determination only if:
  - a. A determination made in violation of Section 1 can be collaterally attacked at any time.

Nobody would have a problem with this. Unfortunately, they used the word “jurisdiction.” Since they could not possibly be using the word in terms of “personal jurisdiction,” courts assumed they were talking about “subject matter” jurisdiction. They should have invented another term since, as Barbara Atwood warned us long ago,<sup>13</sup> the importation of the rules on subject matter jurisdiction could only, in the long run, create confusion. And that is what has finally happened.

As far as interstate enforcement of custody determinations is

concerned, the UCCJEA is not really concerned with whether the subsidiary issues associated with subject matter jurisdiction are followed or not. By this, I mean questions like whether UCCJEA jurisdiction can be raised for the first time on appeal and whether the provisions of the UCCJEA can be waived. However, for interstate enforcement, Section 551-301 of the UCCJEA uses the jurisdictional bases of Section 551-201 to determine which custody determinations made in one state are enforceable in other states and which are not.

Cases based on status jurisdiction leave it open to the individual states to determine which judgments from other states they will recognize, even if the full faith and credit clause of the U.S. Constitution does not require recognition. In *May v. Anderson*,<sup>14</sup> Justice Frankfurter’s concurrence was to the effect that even though the full faith and credit clause did not require Ohio’s recognition of Wisconsin’s custody decree, Ohio could recognize it if it wished. Professor Bodenheimer built the

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entire UCCJA around Justice Frankfurter's concurrence, since she found that no workable statute could be written around Justice Burton's plurality opinion, which viewed custody determinations as requiring personal jurisdiction. The Legislature can then determine whether it should enact a law that decides which custody determinations will be recognized and which will not be recognized. That is what the UCCJEA does. That is also what the federal PKPA does. Further, the UCCJEA was written in such a way that it requires recognition in those cases where the PKPA would also require recognition.

Cases like *In re N.A.* are not interstate cases. They are intrastate cases, and for intrastate purposes, Oklahoma could have whatever jurisdictional rules it chooses. But the bottom line for an Oklahoma attorney who has a custody case that is or may become an interstate case is that the UCCJEA cannot be ignored. It must be complied with. If the UCCJEA is not complied with, no other state will enforce that Oklahoma custody determination, since other states will only enforce custody determinations that are made in compliance with the jurisdictional standards of the UCCJEA. Further, if another state renders a UCCJEA-compliant determination contrary to an Oklahoma determination, Oklahoma will have to recognize it because the Oklahoma UCCJEA does require recognition of other states' custody determinations made in accordance with the jurisdictional standards of the UCCJEA, even if the previous determination of Oklahoma had decided that the parties could "waive" the UCCJEA.

For example, in *Jones v. White*, discussed above, the Court of Civil Appeals decided the trial court had no jurisdiction under the UCCJEA and dismissed the case, even though the parties attempted to waive the applicability of the UCCJEA. The decision is now perhaps questionable under the doctrine of *N.A.*, as the court did have subject matter jurisdiction under that case. However, had the court decided that the parties succeeded in waiving the UCCJEA, as the parties attempted to do, it would have been very problematic in the event of post-decree custody litigation.

The parties were actually from New Hampshire and Massachusetts. There seemed to be no question that this was an acrimonious divorce and that there would be post-divorce proceedings, which would take place in either New Hampshire or Massachusetts. Given that the Oklahoma determination in *Jones v. White* was not in accordance with the UCCJEA, it would not be enforceable in either state. However, whichever custody decree would be next rendered in accordance with the UCCJEA would be enforceable in Oklahoma. In that case, even though it might be proper as a matter of internal state law for the parties to waive the UCCJEA jurisdictional rules, as a matter of interstate enforcement of the custody determination, they should not do so.

The matter can be seen more starkly in the Illinois case of *McCormick v. Robertson*.<sup>15</sup> In that case, Joshua McCormick and Alexis Robertson met in Missouri in 2008. Mr. McCormick was a resident of Illinois. Ms. Robertson was a resident of Missouri. A brief relationship between the two resulted in a child, L.M., who was

born in Missouri on April 23, 2009. In early 2010, Mr. McCormick filed a complaint in the circuit court of Champaign County, Illinois, pursuant to the Illinois Parentage Act.<sup>16</sup> Shortly after Ms. Robertson was served, she filed a written entry of appearance. That document, prepared by Mr. McCormick's attorney and signed by Ms. Robertson, stated that Ms. Robertson was waiving "all manner of summons and process" and submitting to the court's jurisdiction. The parents agreed they would have joint custody, although the child would live with the mother. The Illinois court approved the parties' agreement and incorporated it into the decree. The decree thus contained a provision that they had submitted to the jurisdiction of Illinois and that the agreement should be construed according to the law of Illinois.

Two years later, Ms. Robertson moved to Las Vegas with L.M. Mr. McCormick cited her for contempt for violating the terms of the decree and ultimately filed a motion to modify custody of the child in Illinois. Ms. Robertson, in the meantime, initiated a custody proceeding in Nevada, arguing that the Illinois proceeding was invalid because it was conducted in violation of the UCCJEA in that L.M. was born in Missouri and was never in Illinois. At the same time, Ms. Robertson asked the Illinois court to dismiss Mr. McCormick's modification proceeding on the ground that Illinois did not have jurisdiction to enter the original custody order. After a conference between the Nevada and Illinois judges, the Illinois case was dismissed for lack of subject matter jurisdiction in that the provisions of the UCCJEA were not satisfied.

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The term ‘jurisdiction’ under the UCCJEA is a rather slippery term. Since it clearly does not refer to personal jurisdiction, it is unclear what it actually refers to, since the law knows only one other type of jurisdiction: subject matter jurisdiction.

Mr. McCormick appealed, and the intermediate Illinois appellate court reversed.<sup>17</sup> The Illinois Supreme Court granted a petition to appeal and affirmed the intermediate appellate court.<sup>18</sup> It found that subject matter jurisdiction is conferred by the Illinois Constitution, and the Legislature did not have the power to contract it.<sup>19</sup> Subject matter jurisdiction, the court said, “refers to the power of a court to hear and determine cases of the general class to which the proceeding in question belongs.” With few exceptions, a circuit court’s subject matter jurisdiction is conferred by the state’s constitution. Thus, while the Legislature may create new matters for the judiciary to decide, its ability to do so does not extend or contract the court’s jurisdiction.<sup>20</sup>

The UCCJEA, the Illinois court found, was a different matter. It is a statutory command concerning when a court may decide a certain case. In this case, it is clear that the trial court failed to meet the criteria of the UCCJEA with respect to initial child custody determinations. That means the decision was

erroneous. However, that did not mean the trial court was without jurisdiction to make the erroneous determination. The court decided that the jurisdictional language of Section 201 of the UCCJEA “must be understood as simply a procedural limit on when the court may hear initial custody matters, not a precondition to the exercise of the court’s inherent authority.”<sup>21</sup> It concluded that the appellate court was correct, and the trial court erred in dismissing the case due to a lack of subject matter jurisdiction.

Again, it is important to distinguish between jurisdiction to decide a case and recognition of judgments. Determining which decisions can be enforced and which cannot is clearly a matter within the competence of the Legislature, unlike state subject matter jurisdiction. Therefore, the question on remand in the Illinois case is: Which determination should be recognized: Illinois or Nevada? Section 303 of the UCCJEA mandates recognition of custody determinations if the court exercised jurisdiction in substantial conformity with the

UCCJEA or the determination was made under factual circumstances meeting the jurisdictional standards of the UCCJEA, and the determination has not been modified in accordance with the UCCJEA. One of the defenses to registration, recognition and enforcement of a custody determination in sections 551-305, 551-306 and 551-308 of the UCCJEA is that the order sought to be enforced has been modified or superseded by a decision of a court with jurisdiction under the UCCJEA.

Here, it is absolutely clear. Nevada’s determination is made in accordance with the UCCJEA and is entitled to be enforced. Illinois’ determination was not made in accordance with the UCCJEA, and because of the UCCJEA-compliant Nevada order, it is therefore not enforceable, even in Illinois. The enforcement issue did not come up in the Illinois appellate opinions because it was not put at issue. If the issue had been phrased in terms of whether Illinois had to enforce the Nevada judgment as opposed to whether Illinois had jurisdiction to enter the original order, the case would have come out differently.

This issue did not arise in the Oklahoma case of *N.A.* because the court ultimately determined there had been compliance with the UCCJEA. Thus, the takeaway for attorneys practicing in states like Illinois and Oklahoma, which follow the position taken on subject matter jurisdiction in *McCormick* and *N.A.*, is that the attorney had better be sure that the child custody determination conforms to the UCCJEA and, as a result thereof, the PKPA. Otherwise, it will not be enforced in any other state, and a contrary

determination from another state made in accordance with the UCCJEA will be enforceable in the state granting the prior non-UCCJEA-compliant determination.

## CONCLUSION

The term “jurisdiction” under the UCCJEA is a rather slippery term. Since it clearly does not refer to personal jurisdiction, it is unclear what it actually refers to, since the law knows only one other type of jurisdiction: subject matter jurisdiction. In state constitutional law, subject matter jurisdiction flows from the state constitution. While UCCJEA “jurisdiction” is not technically subject matter jurisdiction, it does refer to the trial court’s ability to hear and determine a custody case, whatever it might be called. For lack of a better term, the drafters of the original UCCJA called it jurisdiction. Both subsequent enactments (the PKPA and the UCCJEA) were stuck with that term. It still refers to the same thing: the ability of a court to hear and determine a child custody determination and the interstate enforcement of such a determination.

The UCCJEA is not concerned with the subsidiary issues of subject matter jurisdiction, such as waiver, raising the issue for the first time on appeal, etc. It is, however, concerned with the enforcement of interstate custody determinations that are not made in accordance with its terms. Such determinations are not enforceable. Thus, compliance with the UCCJEA is still mandatory for interstate enforcement of any custody determination. Therefore, even though the UCCJEA might not be able to limit the jurisdiction of state courts, it may indeed limit

which determinations from other states are enforceable. It behooves an attorney to be sure that the custody determination does indeed comply with the UCCJEA so that it will be enforced in another state, should one party later relocate.

*Author’s Note: The views in the article are solely those of the author and should in no way be attributed to the National Conference of Commissioners on Uniform State Laws. The author would like to acknowledge and thank Monica Dionisio and Carolyn Thompson for all their efforts and hard work in reviewing, editing and improving this article.*

## ABOUT THE AUTHOR



Robert G. Spector is an internationally recognized expert in family law. He served as the reporter for the Uniform Child Custody Jurisdiction and Enforcement Act and on the Family Law Joint Editorial Board for the National Conference of Commissioners on Uniform State Laws. He has written several books on Oklahoma family law, and for many years, he served as a consultant to the OBA Family Law Section. He has received numerous awards from the OBA and the Family Law Section, including a lifetime achievement award.

## ENDNOTES

1. 2025 OK 22, 567 P.3d 374.
2. Issues concerning mootness since the children had already been returned to their mother on the basis of the collateral consequences doctrine and that the UCCJEA jurisdictional issues did not apply to the juvenile case.
3. See 43 O.S., §§51-101, cmt.
4. See, e.g., *Rader*, 2020 OK 106, ¶17, 478 P.3d at 441 (“Whether a trial court has subject matter jurisdiction under the UCCJEA is a question of law this Court reviews de novo.”); *White v. Adoption of Baby Boy D.*, 2000 OK 44, ¶38, 10 P.3d 212, 220 (quoting *In Interest of L.S.*, 1997 OK 109, ¶16, 943 P.2d 621, 622) (the UCCJEA’s predecessor, “[t]he

UCCJA is the exclusive method in Oklahoma to determine subject matter jurisdiction in all custody proceedings.”); *Joliff v. Joliff*, 1992 OK 38, ¶16, 829 P.2d 34, 36 (“The Uniform Child Custody Jurisdiction Act (UCCJA) established mandatory prerequisites for determining subject matter jurisdiction in custody cases in Oklahoma.”). Recently, the Oklahoma Court of Civil Appeals declared, “The UCCJEA pertains to the court’s subject matter jurisdiction.” *H.M.A.*, 2025 OK CIV APP 2, ¶10, 563 P.3d at 317; see also *Jones v. White*, 2018 OK CIV APP 68, ¶¶28-34, 430 P.3d 544, 550-551 (finding the parties may not agree, consent, acquiesce or stipulate to subject matter jurisdiction for purposes of an initial child custody determination).

5. The court then applied the UCCJEA to hold that Oklahoma was the child’s home state and that, under the children’s code, the child was deprived. I have no quarrel with the court’s holding on these issues. My concern extends only to the court’s discussion of the jurisdictional underpinning of the UCCJEA.

6. 1992 OK 38, 829 P.2d 34.

7. 1992 OK 38, 829 P.2d 34.

8. 1981 OK 39, 626 P.2d 1336.

9. 2018 OK CIV APP 68, 430 P.3d 544.

10. 28 U.S.C. §1738A. This section was enacted to bring full faith and credit enforcement to child custody determinations that had been lacking since child custody determinations were not considered final at common law. The PKPA differed in significant ways from the UCCJA, thus necessitating a revision of that act into the now UCCJEA, which was drafted to fit within the PKPA. Thus, for interstate purposes, complying with the UCCJEA ensures that the PKPA will also be complied with. The UCCJEA has been adopted in 49 of the states and most territories.

11. As the reporter for the UCCJEA, I was loath to insert the comment. However, the drafting committee of the UCCJEA specifically wanted this comment inserted and indeed that is the law in most states that view the issue in the traditional sense of the UCCJEA as an aspect of subject matter jurisdiction. Those states, however, have not considered the role of their state constitutions in determining whether the UCCJEA can indeed limit the subject matter jurisdiction of state courts.

12. *Hightower v. Myers*, 304 S.W. 3d 727 (Mo. 2010). See also *In re J.W.* 267 Cal. Rptr.3d 347 (2020); *Williams v. Williams*, 555 N.E.2d 142 (Ind. 1990); *Interest of D.S.*, 602 S.W.3d 504 (Tex. 2020); *McCormick v. Robertson*, 28 N.E.3d 795 (Ill. 2015).

13. Barbara Atwood, “Child Custody Jurisdiction and Territoriality,” 52 *Ohio St. L. J.* 369.

14. 345 U.S. 528 (1953).

15. 28 N.E.3d 795 (Ill. 2015).

16. 750 ILCS 45/1 et seq.

17. *McCormick v. Robertson*, 15 N.E.3d 968

(Ill. Ct. App. 2014).

18. *McCormick v. Robertson*, 28 N.E.3d 795 (Ill. 2015).

19. Ill. Const. 1970, art. VI, §9.

20. *People ex rel. Graf v. Village of Lake Bluff*, 795 N.E.2d 281 (Ill. 2003).

21. 28 N.E.3d, 795, at 803.



# Thirty Years of *Thielenhaus*: The Dubious Origins of That Case's Burden of Proof Requirement

By Ryan J. Reaves

**T**HERE ARE FEW, IF ANY, CASES IN OKLAHOMA FAMILY LAW more frequently cited than *Thielenhaus v. Thielenhaus*.<sup>1</sup> This decision was published (as modified) on Sept. 1, 1995 – just over 30 years ago. While *Thielenhaus* may be cited for a great many issues, its central and most enduring holding is the one related to in-marriage enhancement of a separate asset. After 30 years, it seemed only fitting to take a fresh look at *Thielenhaus* and consider whether there might be a need for a different approach.

In *Thielenhaus*, the late Justice Marion Opala synthesized existing case law to create a clear and ostensibly workable rule governing the division of premarital property that has increased in value during the marriage:

Where, as here, a spouse brings separate property to the marriage, its increased or enhanced value, produced by investment managed by neither spouse or by appreciation, inflation, changing economic conditions, or circumstances beyond the parties' control, cannot be treated as a divisible marital asset unless, of course, there be proof that the increase resulted from efforts, skills or funds of either spouse. The non-owning spouse's interest in the increased separate estate of the

other, when established through efforts, skills or expended funds, stands confined to the enhanced value of that separate property.<sup>2</sup>

The rule set forth in *Thielenhaus* was largely a combination of the rules set out in *Templeton v. Templeton*,<sup>3</sup> *Moyers v. Moyers*<sup>4</sup> and *May v. May*.<sup>5</sup> In that sense, it was largely a restatement of existing law.

However, the *Thielenhaus* opinion included a far more significant departure from existing law when it advised, "The burden is upon the non-owning spouse to show that the enhancement is the result of either spouse's endeavors."<sup>6</sup> Further, *Thielenhaus* held that this burden of proof extended to the "three critical value-assessment elements," which are: 1) the value at the date of marriage, 2) the

increase in value due to market forces and 3) the increase in value related to the funds, skills and efforts of the parties.<sup>7</sup> This, in effect, created a presumption that the increase in the value of separate property during marriage is separate property. Since this rule was pronounced 30 years ago, it has become the foundation of Oklahoma's law on in-marriage enhancement of separate assets.

However, placing the burden of proof in a manner designed to protect the separate estate from marital claims is highly unusual. Oklahoma marital property law contains a number of evidentiary presumptions, and virtually every one of those supports the acquisition of marital property rather than the protection of separate property.<sup>8</sup> Oklahoma law presumes that

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property acquired during marriage is marital.<sup>9</sup> The burden to show otherwise is on the party claiming a separate property interest.<sup>10</sup> The transfer of separate property into shared ownership with a spouse is presumed to create marital property.<sup>11</sup> The burden to prove otherwise is on the spouse claiming that the property retained its separate character.<sup>12</sup> The spouse seeking to trace a separate property interest bears the burden to trace such property and prove that it remains separate.<sup>13</sup> Looking at these presumptions, the rule announced in *Thielenhaus* is wholly inconsistent with the remainder of Oklahoma's equitable distribution law.

By assigning the burden of proof to the nonowning spouse

in this fashion, *Thielenhaus* has, in practical effect, created a unique presumption that all growth of separate property is separate property, which in many cases is determinative. This suggests the obvious question: Why does this rule of law exist, given its inconsistency with the remainder of Oklahoma domestic property law? Research into the origins of that rule suggests it is inconsistent because it is not based on careful judicial consideration but instead upon a series of unintended alterations.

#### **DUBIOUS ORIGINS OF AN UNUSUAL RULE**

The *Thielenhaus* opinion cites two cases, *Templeton v. Templeton*<sup>14</sup> and *Estate of Hardaway*,<sup>15</sup> as the

basis for imposing the burden of proof against the nonowning spouse and treats the matter as settled Oklahoma law.<sup>16</sup> The *Estate of Hardaway* opinion, likewise, cites *Templeton* as its support, again treating the issue as settled law.<sup>17</sup> However, looking to the origin of this rule suggests that imposing the burden of proof on the nonowning spouse was not the settled law of Oklahoma prior to *Thielenhaus*.

The *Templeton* opinion, upon which *Thielenhaus* relies, cites two sources as authority: *Williams v. Williams*<sup>18</sup> and a 1979 *Oklahoma Law Review* note on jointly acquired property.<sup>19</sup> However, the *Williams* opinion does not place the burden of proof for in-marriage enhancement on the nonowning spouse,

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nor do any of the cases cited by *Williams*.<sup>20</sup>

In-marriage enhancement is addressed in *Williams*. The *Williams* opinion reversed the trial court with respect to the parties' homestead, part of which "was separate property inherited by defendant, but which appreciated substantially in value by reason of changing economic conditions and through these parties' joint industry," while other portions were acquired jointly during the marriage.<sup>21</sup> The *Williams* court held that "the lack of evidence" on the issue made it impossible to resolve.<sup>22</sup> The court remanded the issue for a new trial and directed that "any enhancement in value of the separate property resulting from joint efforts of the parties should be adjudicated by the trial court."<sup>23</sup> The *Williams* court did not place the burden to show such enhancement on either party. Thus, the "burden of proof" rule ultimately cited in *Thielenhaus* does not have its origins in *Williams*.

The other source cited by *Templeton*, a note from the *Oklahoma Law Review*, includes a discussion of case law with respect to in-marriage enhancement. The note contains a passing comment (without citation to legal authority) that provides, "When inflation or other circumstances beyond the parties' control cause an increase in value of separate property, or income or profits from it, there is no jointly acquired property, unless the non-owning spouse can prove that his or her contributions were also a causal factor."<sup>24</sup> This comment was later included, almost verbatim, in *Templeton* and appears to be the origin of the burden of proof rule, although it differs significantly from the rule in *Thielenhaus*.<sup>25</sup>

Later in the note, the author suggests that the source of this rule may be the case of *Kirkland v. Kirkland*.<sup>26</sup> However, again, *Kirkland* does not allocate the burden of proof to the nonowning spouse. In that case, the court relied almost exclusively on evidence presented by the owning spouse, who testified that he did not invest any marital earnings in stocks inherited from his father and that the gains were purely from passive and market forces, while the wife presented little, if any, evidence on this issue.<sup>27</sup> The *Kirkland* opinion does not suggest that the wife, as the nonowning spouse, was required to meet any particular burden.

This shifting burden approach is not a strictly accurate interpretation of the then-existing case law. None of the cases cited in the discussion of in-marriage enhancement place any special burden upon the nonowning spouse.<sup>28</sup> Rather, taken as a whole, the cases teach that while there must be

evidence to support the in-marriage enhancement, the amount of any jointly acquired increase is an issue of fact and within the discretion of the trial court.<sup>29</sup> Further, this note suggests (as was echoed in *Templeton*) that the owning spouse must first show that the cause of the increase is due to "inflation or other circumstances beyond the parties' control," and only then must the nonowning spouse demonstrate that their efforts were "also a causal factor."<sup>30</sup> This formulation suggests a shifting burden of proof with respect to primarily passive separate assets.

This state of law was recognized in *Templeton*, which advises:

In order for a spouse to successfully prove that enhanced value is the result of joint endeavors, it must be shown that the net worth of the property increased during the marriage as the direct result of substantial contribution by the spouse of effort, skill or funds.<sup>31</sup>





The language of the opinion is phrased neutrally, using “it must be shown” rather than language suggesting that it must necessarily be shown by the nonowning spouse. Thus, the language of *Templeton* does not assign the burden of proof to the nonowning spouse. At most, *Templeton* suggests a shifting burden approach, where the owning spouse must first demonstrate that the increase is the result of passive forces before the nonowning spouse must present evidence of joint efforts. While the shifting burden was not necessarily set out in prior case law, it was attributed to the *Williams* case and was adopted as if it were settled law by the *Templeton* opinion.

At the time *Templeton* was decided, there does not appear to have been any recognition that the opinion intended to apply a particular presumption or burden of proof to in-marriage enhancement. Supreme Court cases following *Templeton* did not interpret *Templeton* as placing the burden of proof on the nonowning spouse.<sup>32</sup> In 1988, following *Templeton* in 1982 but prior to *Thielenhaus* in 1995, Professor Robert G. Spector wrote that existing Oklahoma law favored a presumption that in-marriage enhancement was marital, but treating the issue as undecided in Oklahoma law:

Many states apply a presumption that property acquired during the marriage is marital. Therefore, in the absence of evidence that inflation or other natural market conditions caused the increase in value of the separate property, the entire amount is presumed to be marital. This approach clearly favors the marital estate

and furthers modern policy approaches to the marriage relation. Under the source of funds rule, the process of acquisition of property is an ongoing process. Therefore, the increase in property acquired during marriage seems to require this placing of the burden of proof.<sup>33</sup>

Thus, the shifting burden set forth in *Templeton*, which applied only where there was evidence of primarily passive appreciation, appeared to be the law, but the presumption with respect to non-passive increases remained unresolved. In the absence of evidence that the increase in value was created by passive growth, such increases should – consistent with Oklahoma law – be treated presumptively as jointly acquired.

In 1994, the Oklahoma Supreme Court released *Estate of Hardaway*.<sup>34</sup> The shifting burden set out in *Templeton* was significantly truncated; rather than expressing the shifting burden outlined in *Templeton*, the *Hardaway* court simply stated, “The burden of proof is upon the non-owning spouse to prove such enhancement is the result of joint endeavors,” relying on *Templeton* as authority for this rule.<sup>35</sup> This pronouncement significantly changed the prior rule, as it does not require proof of passive increases and does not shift the burden but instead places the entire burden on the nonowning spouse from inception. Notably, the *Hardaway* opinion does not suggest any intent to depart from *Templeton*’s passive asset/shifting burden approach.<sup>36</sup> This apparently inadvertent reframing would have significant consequences for Oklahoma family law.

The next year, the *Hardaway* “burden of proof” formulation,

which placed the burden of proof on the nonowning spouse from inception, became the version adopted in *Thielenhaus*, rather than the more nuanced shifting burden version set out in *Templeton*.<sup>37</sup> The requirement that there must be evidence that the increase in value was primarily due to passive forces was eliminated; the new rule placed the burden of proof entirely on the nonowning spouse, even in cases where the evidence suggested appreciation was primarily or entirely the result of joint efforts. The *Thielenhaus* opinion then applied this new burden of proof to the newly emphasized “three critical value elements” and placed that burden solely on the party seeking to prove in-marriage enhancement, without any requirement that the owning spouse prove the existence of any passive appreciation.<sup>38</sup> Following *Thielenhaus*, the nonowning spouse was required to show the value at the time of marriage and the value at the time of divorce; tie the increase in value to the funds, skills or efforts of the parties; and exclude growth generated by passive forces. If any of these elements are not satisfactorily proven, the entire increase would be awarded to the owning spouse as separate property.<sup>39</sup>

This newly created presumption and allocation of the burden of proof were a significant departure from existing law. However, it is not clear that *Thielenhaus* was actually intended to alter prior law. The opinion does not indicate that any intent to depart from *Templeton* and even cites *Templeton* as support for the burden of proof.<sup>40</sup>

This burden of proof rule can be traced from *Kirkland* and *Williams*, which created a shifting burden approach where evidence showed

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The Oklahoma Supreme Court has not addressed in-marriage enhancement to any significant extent since the *Thielenhaus* decision in 1995. Cases regarding in-marriage enhancement have been left to the Oklahoma Court of Civil Appeals, which is not in a position to alter *Thielenhaus*.

the appreciation was primarily passive. Those cases were then summarized, perhaps unclearly, in a 1979 law review note. This new shifting burden approach was adopted by *Templeton*, apparently believing it was derived from settled Oklahoma law. Later, the *Hardaway* opinion reframed the shifting burden approach and imposed the burden of proof solely on the nonowning spouse without discriminating between primarily active and primarily passive appreciation. Then, *Thielenhaus* adopted the version of this rule set out in *Hardaway* and tied that burden to a series of elements that effectively created a presumption that all growth on separate assets during marriage is separate property. None of the authors appeared to have intended to affect a change to existing law; rather, they all appeared to believe they were simply restating settled Oklahoma law. Thus, the shift in this rule appears to have occurred by inadvertence and accident rather than through careful judicial consideration.

### THIRTY YEARS OF *THIELENHAUS*

As noted by Professor Spector in 1988, “The burden of proof is usually determinative.”<sup>41</sup> Cases in which inequitable results occur as a result of *Thielenhaus*’ presumption are underrepresented in published case law. However, in unpublished cases and anecdotally amongst practitioners, there is concern that the presumption leads to inequitable results, particularly with respect to businesses actively managed by one or both parties. Requiring the party with the least knowledge or access to information to bear the burden of proof seems inherently unfair. Comparatively, the owning spouse has knowledge of the asset, the operations of the business, access to the accounts, access to documents, relationships with employees and other information relevant to a *Thielenhaus* analysis.

An excellent illustration of the inherent flaws in the burden of proof rule can be seen in the recent case of *Williams v. Williams*.<sup>42</sup> In

that case, the husband opened a business in his name just prior to the parties’ marriage. It was undisputed that the value of the business increased in value by at least \$584,000 and perhaps by as much as \$2.8 million during the parties’ six-year marriage.<sup>43</sup> It was undisputed that the wife expended significant time actively working for the business but was not paid for her labor.<sup>44</sup> It was further undisputed that the husband “undertook tremendous efforts during the marriage directly related to the operation and growth of the business.”<sup>45</sup> The husband was “described essentially as the keyman and sole executive – ran the company, controlled its direction, met with its customers and communicated regularly with its bankers.”<sup>46</sup> At trial, two expert witnesses presented significant valuation testimony.<sup>47</sup> The husband appears to have relied in substantial part on the wife’s inability to meet the burden – including a claimed inability to recall the wife’s contributions as an employee, which the

trial court found “questionable.”<sup>48</sup> Following trial, the trial court found that the wife did not meet her burden under *Thielenhaus* and awarded the business, including the appreciation, to the husband as his separate property.

While the Court of Civil Appeals ultimately reversed the decision on appeal, this case demonstrates that the burden of proof, as required in *Thielenhaus*, is deeply problematic when applied to actively managed assets like the small business at issue in *Williams*. There is no logical or principled reason that an asset managed as the full-time occupation of a spouse should be presumed by Oklahoma law to generate only passive growth in the absence of proof to the contrary. Rather, in-marriage enhancement of an actively managed asset should, consistent with Oklahoma’s marital property scheme, be presumed to be marital property.<sup>49</sup> With some very rare exceptions, businesses do not increase their value by 400% to 1,300% within six years as a result of passive appreciation or market forces. Parties who manage businesses as their primary occupation do not do so in hopes that market forces and circumstances beyond their control will generate passive growth. They do so because they believe their efforts will increase the value and profitability of the business. The presumption required by *Thielenhaus* entirely fails to reflect this reality.

The Oklahoma Supreme Court has not addressed in-marriage enhancement to any significant extent since the *Thielenhaus* decision in 1995. Cases regarding in-marriage enhancement have been left to the Oklahoma Court of Civil Appeals, which is not in

a position to alter *Thielenhaus*. However, the Court of Civil Appeals has, at times, appeared to recognize the limitations of the separate property presumption and the inequitable results that can result from its application. In the case of *Dancer v. Dancer*,<sup>50</sup> the court found that the evidence necessary to support the wife’s in-marriage enhancement claim as required by *Thielenhaus* was not present in the record. Rather than denying the wife’s claim for failure to meet the burden of proof, the court remanded the matter for presentation of further evidence:

[W]e reiterate dissolution of marriage proceedings are equitable in nature ... this Court will not proscribe Wife from claiming an equitable portion of the marital home’s enhanced value. Instead, we remand the marital home issue to the trial court to ensure the enhanced value of the marital home is fairly and equitably divided.<sup>51</sup>

In light of the equitable nature of dissolution of marriage proceedings, the court chose to permit additional evidence rather than bar the wife’s claim. However, a rule that creates situations in which equity requires trial and retrial in hopes of reaching an equitable result is not a practical solution.<sup>52</sup>

## CONCLUSION

*Thielenhaus* has governed the division of in-marriage enhancement of separate assets for 30 years. As noted above, the allocation of burden of proof does not appear to be the result of careful judicial consideration, but rather the result of accident and inadvertence. The presumption that in-marriage

enhancement of a separate asset is separate property is largely contrary to Oklahoma’s marital property scheme. Perhaps after 30 years, the *Thielenhaus* decision is due for reconsideration.

## ABOUT THE AUTHOR



Ryan J. Reeves is a partner at Mullins Mullins Sexton & Reeves PC. His practice focuses almost exclusively on family law matters

with an emphasis in appellate representation. Since graduating from the OU College of Law in 2008, Mr. Reeves has represented clients in more than 70 appellate and original jurisdiction matters, resulting in seven published decisions. Mr. Reeves is a regular presenter at the OBA Family Law Section Annual Meeting.

## ENDNOTES

1. 1995 OK 5, 890 P.2d 925. Research suggests that *Thielenhaus* has been cited in at least 61 published decisions in Oklahoma; by courts in other jurisdictions, including Virginia, West Virginia and Nebraska; and by bankruptcy courts in both Oklahoma and Texas.
2. *Thielenhaus*, ¶9, 931 (emphasis added). The “three critical value-assessment elements” were derived from *May v. May*, 1979 OK 82, 596 P.2d 536. <https://bit.ly/44bZGFp>.
3. 1982 OK 127, 656 P.2d 250.
4. 1962 OK 146, 372 P.2d 844.
5. 1979 OK 82, 596 P.2d 536.
6. *Thielenhaus*, ¶10, 931.
7. *Id.*
8. *Matter of Burgess’ Estate*, 1982 OK CIV APP 22, 646 P.2d 623, favoring prenuptial agreements being a possible exception.
9. *Colclasure v. Colclasure*, 2012 OK 97, 295 P.3d 1123; *Sien v. Sien*, 1994 OK CIV APP 159, 889 P.2d 1268.
10. *Manhart v. Manhart*, 1986 OK 12, 725 P.2d 1234.
11. *Smith v. Villareal*, 2012 OK 114, 298 P.3d 533; *Larman v. Larman*, 1999 OK 83, 991 P.2d 536.
12. *Gray v. Gray*, 1996 OK 84, 922 P.2d 615.
13. *Catron v. First National Bank & Trust Co. of Tulsa*, 1967 OK 107, 434 P.2d 263; *Gillett v. McKinney*, 2019 OK CIV APP 24, 440 P.3d 69.
14. 1982 OK 127, 656 P.2d 250.
15. 1994 OK 30, 872 P.2d 395.
16. *Thielenhaus*, ¶9, 930 (“The burden is upon the non-owning spouse to show that the enhancement is the result of either spouse’s endeavors.”).



17. *Hardaway*, ¶10, 398 (“The burden of proof is upon the non-owning spouse to prove such enhancement is the result of joint endeavors.”).

18. 1967 OK 97, 428 P.2d 218.

19. *Templeton*, ¶5, 252, n. 4 (citing Lee Kuzel Simpson, “Domestic Relations: The Role Of Joint Industry In The Determination Of What Is Jointly Acquired Property” 32 *Okla. L. Rev.* 214, 216 (1979)).

20. See *Harden v. Harden*, 1938 OK 54, 77 P.2d 721; *Moyers v. Moyers*, 1962 OK 146, 372 P.2d 844; *Longmire v. Longmire*, 1962 OK 219, 376 P.2d 273; *Funk v. Funk*, 1957 OK 320, 319 P.2d 599; *Champion v. Champion*, 1950 OK 81, 218 P.2d 354; *Kupka v. Kupka*, 1942 OK 137, 124 P.2d 389; *Van Horn v. Van Horn*, 1941 OK 284, 119 P.2d 825; *Tobin v. Tobin*, 1923 OK 164, 213 P. 884; *Bruce v. Bruce*, 1930 OK 38, 285 P. 30.

21. *Williams*, ¶19, 222 (1967).

22. *Id.* ¶21, 222 (1967).

23. *Id.* at ¶19, 222 (1967).

24. *Simpson*, 32 *Okla. L. Rev.* at 216.

25. *Templeton*, ¶5, 252.

26. *Simpson*, 32 *Okla. L. Rev.* at 217 (“*Kirkland v. Kirkland* recognized that such appreciation could be subject to division if a spouse proved that it was the result of his or her contribution of skills or funds.”). Referencing *Kirkland v. Kirkland*, 1971 OK 98, 488 P.2d 1222.

27. *Kirkland*, ¶5, 1225.

28. *Kirkland v. Kirkland*, 1971 OK 98, 488 P.2d 1222; *Moyers v. Moyers*, 1962 OK 146, 372 P.2d 844; *Collins v. Okla. Tax. Comm.*, 1968 OK 148, 446 P.2d 290; *Haynes v. Haynes*, 1946 OK 174, 169 P.2d 563.

29. *Haynes*, ¶11, 223; *Moyers*, ¶11, 847; *Kirkland*, ¶18, 1227.

30. *Templeton* at ¶5, 252.

31. *Id.* This portion of *Templeton* is supported by citation to *Wright v. Wright*, 1978 OK CIV APP 10, 577 P.2d 922 and *Armstrong v. Armstrong*, 1969 OK 193, 462 P.2d 656. In both cases, a complete lack of evidence with respect to in-marriage enhancement was fatal to the claims of the nonowning spouses. *Wright* appears to suggest the nonowning spouse bears the burden of proof but has not been cited as authority for that proposition to any significant extent.

32. The case of *Mothershed v. Mothershed*, 1985 OK 23, 701 P.2d 405 seems to have adopted the burden shifting approach. There was substantial evidence that the increase in value was due solely to passive appreciation of separately acquired stock but little evidence of joint efforts. The case of *Ford v. Ford*, 1988 OK 103, 766 P.2d 950 did not suggest the existence of a burden of proof with respect to in-marriage enhancement, simply noting, “Where one spouse brings separate property to a marriage and an increased value of the property occurs as a result of joint efforts of the husband and wife, the other spouse is entitled to an interest in the appreciation of the property.” *Id.*, ¶4, 952.

33. Robert G. Spector, “Apportionment of the Increase in Value of Separate Property During Marriage: The Effect of *Ford v. Ford*,” 59 *OBJ* 3683, 3688 (December 1988). This article was cited in *Thielenhaus*, though, as noted below, *Thielenhaus* reached a contrary result.

34. 1994 OK 30, 872 P.2d 395.

35. *Hardaway*, ¶10, 398.

36. The assets at issue were primarily oil and gas interests and certificates of deposit, which were not active ventures by the owning spouse. The nonowning spouse presented no evidence to suggest any in-marriage enhancement. *Hardaway*, ¶¶11-12, 298-9.

37. *Thielenhaus*, ¶19, 930.

38. *Thielenhaus*, ¶10, 931 (relying on *May v. May*, 1979 OK 82, 596 P.2d 536).

39. See, e.g., *Murphy v. Murphy*, 2010 OK CIV APP 1, ¶¶28-29, 225 P.3d 820, 828.

40. *Thielenhaus*, ¶10, 931, n. 18.

41. Spector, 59 *OBJ* at 3688.

42. 2024 OK CIV APP 8, 544 P.3d 960.

43. *Williams*, ¶26, 967-8 (2024).

44. *Id.*, ¶27, 968, n. 8 (2024).

45. *Id.* (2024).

46. *Id.* (2024).

47. *Id.*, ¶25, 967 (2024).

48. *Id.*, ¶5, 963 (2024).

49. Spector, 59 *OBJ* at 3688; *Manhart v. Manhart*, 1986 OK 12, 725 P.2d 1234 (“there is a presumption that property acquired during coverture is property acquired by the joint efforts of husband and wife.”).

50. 2022 OK CIV APP 25, 513 P.3d 569.

51. *Dancer*, ¶18, 575 (internal citations omitted).

52. This was the identical solution utilized in the case of *Williams v. Williams*, 1967 OK 97, 428 P.2d 218 (the apocryphal source of *Thielenhaus*’ burden of proof rule) almost 30 years before *Thielenhaus* was decided.



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# Business Valuation in Divorce Litigation: Practical Guidance on Classification, Timing and Goodwill

*By Jessica S. Bishoff and Molly E. Tipton*



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**I**N DIVORCE LITIGATION, valuing the marital estate presents legal and financial complexities. This is particularly true in states like Oklahoma that follow the doctrine of equitable distribution, and the asset in dispute is a privately owned business. In such cases, a client who formed a business before marriage may assume that the business and its growth are their separate property and not subject to division. Alternatively, the nonowning client may believe that the business is marital property, based on the duration of the marriage, and should be divided equally. However, the outcome is often far from predictable.

In contrast to community property jurisdictions, where marital assets are divided equally, Oklahoma courts divide marital property fairly, which is not necessarily 50/50.<sup>1</sup> But how does the trial court decide who gets what? The trial court has broad discretion in determining a business's value, and the decision will not be disturbed on appeal unless it is clearly against the weight of the evidence.<sup>2</sup> Yet assigning value to a business is no easy task – the process requires a nuanced, fact-specific inquiry that must be conducted on a case-by-case basis. Although the trial court may consider the totality of the

circumstances, the key factors include but are not limited to 1) property classification,<sup>3</sup> 2) valuation date<sup>4</sup> and 3) goodwill value.<sup>5</sup>

These factors provide a framework for attorneys and the trial court, but no single formula exists. Added complexities – such as the spouses' conduct, business agreements and/or inadequate documentation – further cloud the analysis. Against this backdrop, a growing challenge in Oklahoma divorce cases is ensuring that clients understand the complexities of business valuation. This understanding is critical to managing client expectations and achieving a fair division of the marital estate.

#### **PROPERTY CLASSIFICATION: MARITAL OR SEPARATE PROPERTY?**

The first step, and arguably the most crucial in business valuation, is asking whether the business and/or an increase in business profits is separate or marital property. Oklahoma law presumes that property acquired during the marriage belongs to both spouses, and property acquired before the marriage belongs to only one spouse (the spouse who acquired the property before marriage).<sup>6</sup> When the property in dispute is a business, the court will consider when the business was formed, how the business was financed

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and the context of the overall business operations.<sup>7</sup>

An added layer of complexity arises when an asset was owned by one spouse before marriage, but the asset's value increased during marriage. This scenario was addressed by the Oklahoma Supreme Court in the foundational case of *Thienlenhaus v. Thienlenhaus*.<sup>8</sup> In that case, the court articulated that an increase in value of one spouse's separate property that is attributable to either spouse's efforts, contributions or skills is calculated into the marital estate.<sup>9</sup> But if the increase was due to market forces, then it remains the separate property of one spouse.<sup>10</sup> However, it is important to note that in *Thienlenhaus*, the asset in dispute was a passive retirement account, which is comparatively less complex to value than a privately owned business.<sup>11</sup>

In the recent case of *Williams v. Williams*, the Oklahoma Court of Appeals applied the *Thienlenhaus* test to determine whether the trial court erred in finding that the parties' limited liability company (LLC) and its increased profits were the separate property of the husband.<sup>12</sup>

Regarding whether the business, as a whole, belonged to the husband as his separate property, the court upheld the trial court's decision, noting several key facts:

- 1) The business was formed more than two years before the couple married.
- 2) The couple broke up for almost a year between business formation and marriage.
- 3) The wife testified that her role in the business was "minimal" prior to the marriage.
- 4) The tax records listed the husband as the sole owner of the business for tax purposes.<sup>13</sup>

However, regarding increased business profits, the court did not uphold the trial court's decision that business growth was the husband's separate property and not subject to equitable division.<sup>14</sup>

The court observed that the following factors should be considered when deciding whether the increased profits should be classified as marital property:

- 1) Whether the increase occurred during marriage
- 2) If the increase was a result of passive (market forces) or active income (marital efforts)
- 3) Proof of the increase, usually by expert testimony and adequate financial records
- 4) Whether there is a causal link between marital efforts and an increase in profits

In applying these factors, the court observed that the evidence showed that during the marriage, the husband exerted tremendous efforts directly related to the operation and growth of the business.<sup>15</sup> The husband was the sole owner, executive and exclusively controlled the day-to-day business operations.<sup>16</sup> The husband made and received thousands of phone calls each month in connection with the business, but the court found that the wife also exerted efforts, even though those efforts were "not relevant to [the] husband's efforts."<sup>17</sup> Thus, Oklahoma case law suggests that it is fairly easy to meet the burden of showing that the increased profits of a business in dispute were due to joint industry and, therefore, subject to equitable division. However, this determination is only one part of a multilayered analysis.

### THE VALUATION DATE

In Oklahoma, a business's valuation date is not fixed by statute. Instead, the date is left to the discretion of the trial court.<sup>18</sup> This judicial flexibility allows the court to select a date it deems reasonably just under the circumstances.<sup>19</sup> The court will often choose between the date of separation, the date of trial or the date the decree of



dissolution is entered. Because the chosen valuation date can significantly influence the final dollar amount subject to equitable division, attorneys must approach this issue strategically. For instance, if a business has experienced a substantial increase or decrease in profits after the date of separation due to unilateral acts of one spouse, then that fact may weigh heavily on the court's decision. Similarly, if one party has engaged in financial misconduct or formed a competing business, as in *Colclasure v. Colclasure*, the valuation date becomes even more pivotal.

In *Colclasure*, the spouses co-owned a business where they both were employed.<sup>20</sup> A few months into the divorce proceedings, the husband was terminated from the business and subsequently formed a new, competing business.<sup>21</sup> He used the marital company's resources to buy books, samples, mobile phones and transportation for his new business.<sup>22</sup> The wife further alleged that he was stealing customers from the marital company and underbidding on contracts.<sup>23</sup>

At trial, the wife's expert valued the business using the "income method" and an "excess earnings method."<sup>24</sup> The wife's expert based the valuation on the business records and included money that was misdirected, claiming the husband caused a loss of \$298,085.58.<sup>25</sup> The husband presented the testimony of his expert witness, who used a capitalized cash flow method to value the business and did not include any losses due to the husband's actions.<sup>26</sup> The trial court valued the company at \$480,000 and awarded the husband \$235,200.<sup>27</sup> The Court of Civil Appeals affirmed

the trial court's decision, and the case was appealed to the Oklahoma Supreme Court.<sup>28</sup>

The wife argued that the trial court should have considered the loss in the business's value resulting from the husband's unilateral misconduct.<sup>29</sup> The husband countered that the parties executed a valid business agreement that established that the valuation date would be the day the divorce proceeding was commenced. Therefore, following the agreed-upon date, any loss in value due to his rival business would be irrelevant.<sup>30</sup> However, the court disagreed. The court pointed out that neither party had followed the business agreement, making the specified provisions irrelevant regarding the business's value.<sup>31</sup> Additionally, the court held that the trial court erred in failing to consider the decrease in value due to the husband's misconduct postseparation and remanded the case for recalculation and equitable division.<sup>32</sup>

From a litigation perspective, *Colclasure* suggests that the date that appears most advantageous early in the case may not ultimately be the most equitable. Furthermore, where one spouse's conduct leads to the business's devaluation, the opposing party has a compelling argument that the court's valuation should reflect the business's worth absent the misconduct to prevent unjust enrichment. Accordingly, it is crucial to develop a well-supported evidentiary record to support the proposed date. Relevant evidence should include information on market data, business records, expert testimony or proof of one spouse's postseparation and/or unilateral acts.<sup>33</sup>

## GOODWILL VALUE

A thorough and correct valuation must account for both tangible and intangible assets, including what is known as a business's "goodwill value." Goodwill value refers to the worth of a business's intangible assets, such as customer loyalty and future growth potential.<sup>34</sup> However, it is important to note that not all goodwill value will be considered in the business valuation inquiry.<sup>35</sup> Thus, it is essential to distinguish between enterprise goodwill and personal goodwill. This is because enterprise goodwill is subject to equitable division, while personal goodwill is not.

Enterprise goodwill is the intangible value of a business that exists independently of either spouse. This type of goodwill includes the company's reputation, established customer base and operational system.<sup>36</sup> It is a marketable asset because it has a clear and identifiable value that can be reflected in the sale or transfer of the business.<sup>37</sup> In contrast, personal goodwill is directly linked to either spouse's individual skills, reputation and continued presence in the business.<sup>38</sup> Because of its dependence on a specific person, this type of goodwill will not be considered part of the marital estate. It, therefore, should be excluded when assigning monetary value to the business.<sup>39</sup>

Failure to distinguish between the business's enterprise goodwill and personal goodwill can result in an inaccurate valuation and unjust division of the marital business. For example, *In re Marriage of Dorsey*, the Oklahoma Court of Appeals did not uphold the trial court's valuation of the parties' oil company because the wife's expert did not distinguish between the



two types of goodwill.<sup>40</sup> In that case, the business's tangible assets were minimal because the business's primary purpose was to operate as a shell to protect the parties' personal liability.<sup>41</sup> The wife's expert witness testified that the value of the company included a "marketable business goodwill which was distinct from [the] Husband's reputation and personal efforts."<sup>42</sup> However, the expert failed to consider how the company's value and operations would be affected if the husband were to cease doing business through the company, start a new business or choose to retire.<sup>43</sup> Because of this, the court found that the company was overvalued by the trial court, and the case was remanded for recalculation.

## CONCLUSION

Business valuation in divorce proceedings is a complex process that demands legal precision and financial insight. In Oklahoma, where the trial courts' equitable division does not mean 50/50, attorneys and clients alike must understand that the outcome is shaped by more than ownership titles. As illustrated by *Thienlenhaus*, *Williams*, *Colclasure* and *Dorsey*, the trial court will consider the property classification, the time of valuation, the goodwill value of the business and the broader context of the business operations. Therefore, it is essential to present expert financial testimony and anticipate challenges, such as a lack of documentation or the effects of marital efforts for business growth. However, even seasoned experts can sometimes provide misguided valuations in good faith, as illustrated by the cases

of *Colclasure* and *In re Marriage of Dorsey*. Therefore, by thoroughly analyzing the key components of valuation, Oklahoma attorneys can advocate for a division of the marital estate that reflects both the law and the lived realities of the parties involved.

## ABOUT THE AUTHORS



Jessica S. Bishoff is an Oklahoma attorney practicing primarily in family law. She represents clients

in divorce, child custody and related domestic matters, with experience addressing complex financial issues, such as business valuation in divorce. Ms. Bishoff earned her J.D. *cum laude* from the OCU School of Law and has a background in criminal justice and victim advocacy, which shapes her clear, practical and client-focused approach to family law representation.



Molly E. Tipton is the founder and lead attorney of the Tipton Law Firm in Oklahoma City. With more than 12 years of

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## ENDNOTES

1. *Williams v. Williams*, 2024 OK CIV APP 8, ¶7, 544 P.3d 960, 963 ("By statute, all property acquired during marriage by the joint industry of the husband and wife must be fairly and equitably divided by the trial court. This is true regardless of how title to the property is held. The marital estate need not necessarily be equally divided to be an equitable division because the words 'just' and 'reasonable' in 43 O.S. 2021 § 121 are not synonymous with 'equal.'").
2. *Colclasure v. Colclasure*, 2012 OK 97, ¶16, 295 P.3d 1123, 1129.
3. *Traczyk v. Traczyk*, 1995 OK 22, ¶¶13-14, 891 P.2d 1279, 1285.
4. *Colclasure*, 2012 OK 97, 295 P.3d 1123 (affirming trial court discretion in selecting valuation date and considering all circumstances).
5. *Dorsey v. Dorsey*, 2016 OK CIV APP 33, ¶13, 373 P.3d 1084, 1087.
6. Okla. Stat. tit. 43 §121(B) (2024).
7. See *Williams*, 544 P.3d 960, ¶¶310 (considering when the business was formed, how it was financed and ownership/operating contracts).
8. *Thienlenhaus v. Thienlenhaus*, 1995 OK 5, 890 P.2d 925, 928.
9. *Id.*
10. *Id.*
11. *Williams*, 544 P.3d 960 at 962.
12. *Id.*
13. *Id.* at 962-64. The party claiming a premarital business is marital property has the burden of proof to present evidence to the court showing the same.
14. *Id.* at 968.
15. *Id.*
16. *Id.*
17. *Id.*
18. *Id.* (citing *Thienlenhaus v. Thienlenhaus*, 890 P.2d 925 (Okla. 1995)).
19. *Id.*
20. *Colclasure*, 295 P.3d 1123 at 1126-27.
21. *Id.*
22. *Id.*
23. *Id.*
24. *Id.*
25. *Id.*
26. *Colclasure*, 295 P.3d 1123 at 1126-27.
27. *Id.*
28. *Id.*
29. *Id.*
30. *Id.*
31. *Id.* at 1128-29.
32. *Id.* at 1129.
33. *Id.*
34. *Dorsey*, 373 P.3d 1084 at 1087.
35. *Id.*
36. *Id.* (quoting *Travis v. Travis*, 795 P.2d 96 (Okla. 1990)).
37. *Dorsey*, *supra* note 34.
38. *Id.*
39. *Id.*
40. *Id.* at 1088.
41. *Id.*
42. *Id.*
43. *Id.*



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# Establishing and Disestablishing Paternity Under Oklahoma's Uniform Parentage Act

*By Ann Murray and Julie Bushyhead*

**WHETHER YOU ARE COUNSEL FOR THE CHILD**, parents, guardians or Child Support Services, cases involving parentage disputes can present fact scenarios that take you on a winding maze and leave your head spinning. The goal of this article is to provide some clarity for navigating complex parentage fact scenarios in accordance with Oklahoma law. This article outlines the requirements of the Uniform Parentage Act (UPA), along with essential questions to ask when analyzing these cases.

The UPA was enacted in Oklahoma in 2006. It provides a framework for establishing the parentage of a minor child. According to the UPA, there are four types of fathers: alleged,<sup>1</sup> presumed,<sup>2</sup> acknowledged<sup>3</sup> and adjudicated.<sup>4</sup> A father-child relationship is created by an un rebutted presumption, an acknowledgment of paternity, adjudication, adoption or as otherwise provided by law.<sup>5</sup>

## TYPES OF FATHERS

Alleged fathers are just that – someone alleged to be the father of a child. A presumed father is rebuttably presumed to be the father of a child by operation of law. There are four legal presumptions under the UPA.<sup>6</sup> A man is presumed to be the father of a child if the child is born during the marriage, within

300 days after the marriage ends,<sup>7</sup> prior to the marriage and the husband voluntarily asserts paternity in a record,<sup>8</sup> or if a man lives with a child for the first two years of the child's life and holds the child out as his own.<sup>9</sup> A presumption of paternity may not be waived.<sup>10</sup> Acknowledged fathers occur when the mother and the biological father of the child sign an acknowledgment of paternity.<sup>11</sup> If the child's mother is married to someone who is not the biological father of the child, the acknowledgment signed by the biological father is not valid until the husband signs a denial of parentage.<sup>12</sup> Both the denial and acknowledgment must be signed before the child reaches the age of two.<sup>13</sup> Finally, an adjudicated father is a father determined by a court order.

When a man is a legal father (presumed, acknowledged or adjudicated), he is not entitled to genetic testing unless successful in a challenge, and genetic testing is ordered by the court.<sup>14</sup> When a child already has a legal father, any results of genetic testing are inadmissible absent an order for genetic testing that complies with §7700-608.<sup>15</sup> A legal father may be entitled to genetic testing if he successfully challenges his legal paternity. In order to raise a challenge, a party with standing must file a timely and proper challenge in accordance with Article 6 of the UPA.<sup>16</sup> If the child already has a legal father, a court may not adjudicate another man's parentage prior to a successful challenge of the underlying presumption, acknowledgment or adjudication.



## PARTIES, JURISDICTION AND VENUE

The parties who can maintain a proceeding to adjudicate parentage are the child, the mother of the child, a man whose parentage is to be determined, Oklahoma Human Services or a representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated or a minor.<sup>17</sup> The mother of the child and a man whose paternity of the child is to be adjudicated may be joined as parties in a proceeding to adjudicate parentage.<sup>18</sup> The court must have personal jurisdiction over the individual who will be adjudicated as the child's legal parent.<sup>19</sup> Venue is proper in the county where the child resides or is found, where the respondent resides if the child does not reside in this state or where the probate of the alleged father's estate has been commenced.<sup>20</sup>

## STATUTE OF LIMITATIONS

In addition to personal jurisdiction and venue, the court's



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Knowing and asking the essential questions, followed by making a timeline of the relevant parentage facts, is the best way to uncover these important facts and organize fact patterns that are often messy and overlapping.

ability to hear and adjudicate a paternity challenge is limited by the applicable statute of limitations. In an Article 3 challenge of an acknowledgment of paternity, the court may hear the challenge if it is filed within two years after the acknowledgment is executed and the court finds duress<sup>21</sup> or material mistake of fact<sup>22</sup> by clear and convincing evidence.<sup>23</sup> This challenge shall be conducted in the same manner as an Article 6 challenge.<sup>24</sup> In Article 6 challenges, the court may hear a challenge to a presumption of parentage if the child is under the age of two or if the child is over the age of two and the court finds the presumed parent neither cohabited nor engaged in sexual intercourse with the mother at the probable time of conception and never held the child out as his own.<sup>25</sup>

The court may also hear an action seeking to disprove the father-child relationship between a child over two years of age and the child's presumed or acknowledged father if the court finds that the biological father, presumed or acknowledged father

and biological mother *agree* to adjudicate the biological father's parentage in accordance with UPA §§608 and 636.<sup>26</sup> A final order under this section shall not leave the child without an adjudicated or acknowledged father.<sup>27</sup>

The court may hear a challenge to a legal presumption or an acknowledgment of paternity on the basis of fraud<sup>28</sup> as long as the challenge is filed before the child's 18th birthday.<sup>29</sup> The court must find that fraud is proven by clear and convincing evidence. If the court finds that the challenger has failed to prove fraud by clear and convincing evidence, the court lacks the authority to hear the parentage challenge under this subsection. This section does not confer jurisdiction to hear a challenge made by an adjudicated father.

Finally, in the case of an adjudicated father, a challenge to the adjudication can be made only under the law of this state relating to appeal, vacation of judgments or other judicial review.<sup>30</sup> In a divorce proceeding, absent language showing a proper rebuttal, the court is deemed to have made an

adjudication of parentage if the child is identified as being of the marriage or if the spouse is ordered to support the child.<sup>31</sup> If the adjudication is overturned, the father's legal status shifts from being an adjudicated father to an acknowledged or presumed father, and the court may be able to hear the challenge pursuant to the Article 6 challenge procedures discussed above.

### **GUARDIAN AD LITEM**

Once the court makes a finding that it can hear a challenge under §308 or §607 of the UPA, the next step is to determine if a guardian *ad litem* (GAL) is necessary. A GAL shall be appointed when the child is over two years of age unless proceeding under 10 O.S. §7700-607(B). A GAL may be appointed at the court's discretion or the parties' request.<sup>32</sup> Once a GAL is appointed, the parties should allow time for 1) the GAL to meet with the parties, including the child, and prepare a written report regarding the factors influencing whether genetic testing should occur,<sup>33</sup> 2) the parties to review the GAL report, 3) the matter to be set for hearing on best interest factors and estoppel<sup>34</sup> and 4) the court's decision on whether genetic testing is appropriate.

### **GENETIC TESTING**

To disprove the parentage of a child having a presumed, acknowledged or adjudicated father, court-ordered genetic testing is required after a successful challenge described above and a determination by the court that genetic testing is in the child's best interests as described in detail below.<sup>35</sup> The results of genetic testing must identify the biological

father or exclude the presumed/acknowledged father.<sup>36</sup> The only exception to this rule is the timely execution of a denial of paternity and acknowledgment of paternity to rebut a marital presumption within two years of the child's birth.<sup>37</sup> Genetic testing is also required in a scenario where the legal father, biological father and mother agree to substitute the biological father for the legal father.<sup>38</sup> If the court finds the conduct of the mother or presumed father estops them from denying parentage or that genetic testing would be contrary to the child's best interests, the court should deny a motion seeking an order for genetic testing<sup>39</sup> and enter an order denying the parentage challenge, which includes language that confirms and adjudicates the existing legal father.<sup>40</sup>

If the court finds that genetic testing would not be contrary to the child's best interests based on the nine factors outlined in §608(B) and the conduct of the parties has not estopped either party from now denying parentage, the court may enter an order for genetic testing. An order for genetic testing does not rebut a presumption or vacate an acknowledgment. The legal parent's status is not disestablished until after genetic testing is performed, the results show the legal parent is not the biological father, and the court enters an order for disestablishment.

## FINAL ORDER

After the court receives the results of the genetic testing, a final order must be entered consistent with the results of the genetic testing.<sup>41</sup> Final orders regarding parentage must contain the statutorily required language.<sup>42</sup> Orders

should state with specificity that the Office of Vital Records must add or remove a father from a birth certificate. In three challenges,<sup>43</sup> if the genetic test results confirm that the legal parent is not the biological parent, the court enters an order of nonparentage that rebuts the parent-child relationship. Leaving a child without a father is only prohibited in proceedings under 10 O.S. §607(C).

If the genetic test results show that the legal parent is the biological father, then the court should enter an order confirming parentage. Under §607(C), if the genetic test results show that the alleged father is the biological father, the court should enter an order of parentage and child support, which rebuts the marital presumption and adjudicates the biological father to be the legal father.<sup>44</sup> However, if the genetic test results show the alleged father is not the biological father, the court would have to enter an order that confirms the legal father-child relationship that exists by operation of law with the husband. If the court had tested the husband first and then tested the alleged father and found that neither man was the biological father, the court would have to wrestle with two conflicting instructions in the UPA.<sup>45</sup> When this happens in a proceeding under §607(C), the court may not dismiss the proceeding.<sup>46</sup>

## APPLICATION IN REAL LIFE

### *Just the Facts*

Now that you understand the framework and the order of operations for parentage challenge procedures, how does this information guide your actions early in a case when a client desires a particular parentage outcome, and

the child already has a legal father? The first step, as in any case, is to get the facts. When we start solving problems with missing facts, we risk solving the wrong problem, and our pathway to success will likely include some frustrations, inefficiencies and barriers along the way. A case is rarely as straightforward as it appears. Your client may tell you that John Smith is the biological father without a shadow of a doubt, but because of ignorance of the law, shame, fear, trauma or all the other human reasons that might exist, your client omits the really important bits of information that make all the difference in the case. Knowing and asking the essential questions, followed by making a timeline of the relevant parentage facts, is the best way to uncover these important facts and organize fact patterns that are often messy and overlapping. Over the next few paragraphs, we will explore the essential questions.

If you are representing a party in a divorce or paternity action involving minor children, it is important to ask if Child Support Services (CSS) has an open case involving the children in the case.<sup>47</sup> If there is an open case, CSS will be a necessary party and can be a resource for you to help fill in the factual gaps and navigate parentage issues.<sup>48</sup> Sometimes, it's giving a call to CSS out of the gate that helps you realize an administrative or district court order already exists for this family when those results have not populated from your district court case search. Also, it's helpful to obtain a copy of each child's birth certificate.<sup>49</sup> The existence of a father's name on a child's birth certificate can be a clue that the child may already have a legal father.

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In Oklahoma, the presence of a father's name on the birth certificate indicates one of three things: He and the mother were married at the time of the child's birth, the mother and father executed an acknowledgment of paternity, or the issue of paternity has been adjudicated and the addition of the father's name on the birth certificate was ordered by a court.<sup>50</sup>

Next, identify any children ever born to the mother in your case,<sup>51</sup> when those children were born and the dates of the mother's current and prior marriages and divorces. Identify if any acknowledgments of paternity pertaining to this child exist and when the document was executed.<sup>52</sup> Identify if a denial of paternity was executed and when, if appropriate. Determine where and with whom the child has lived for the first two years of the child's life. The answers to these questions are the first few points on your timeline and help to determine all legal parents that may exist for the child(ren) in this case. You may find that a child has competing legal fathers because multiple presumptions apply, or you may find that the man listed on the birth certificate is an "incomplete" legal father because his acknowledgment is invalid in the absence of a denial of paternity or rebuttal of the marital presumption.<sup>53</sup>

#### *Identify the Father(s)*

Now that you have the essential events plotted on your timeline, it's time to think about what legal father-child relationships exist for each child in your case based on the legal statuses defined above. Identify which man the child knows to be their father, whether any man has been holding the child out as

his own, other actions the parties have taken in identifying one father over the other, the extent to which a father-child relationship and bond exist between the child and any legal or alleged fathers and the other factors outlined in 10 O.S. §7700-608(B). These facts will show whether the court is likely to grant a request for genetic testing to challenge a legal father-child relationship, whether a GAL might be important given the facts in this case and which man should be determined to be the child's father, considering the best interests of the child and the actions of the parties.

In this moment of uncertainty about the biological father of the child, you may be tempted to suggest that the parties take an out-of-court genetic test. This is a risky move because the results will be inadmissible in a challenge proceeding,<sup>54</sup> and the results may cause harm to the child's best interests. If the facts in the case reveal that the parties do not have a challenge claim that can be heard by the court or the best interest of the child would cause the court to deny the request for genetic testing, the court could determine that the legal father should be confirmed as the child's father despite the out-of-court genetic test results.<sup>55</sup> The knowledge that the legal father is not the child's biological father may contribute to a reduction in support, connection and belonging for the child. Resist this urge to conduct out-of-court genetic testing and come back to your timeline of facts to make a plan that follows the path outlined by the UPA.

#### *Identify the Parties and Their Goals*

Next, identify the parties, their goals and the steps for achieving these goals. CSS's goals will be

similar to the court's goals: follow the challenge procedures of the UPA so the issue of parentage is settled and not the subject of future litigation, ensure that all legal parents and interested parties receive notice and an opportunity to be heard and protect the child's best interests. Think about venue and where the parentage issues should be adjudicated – district court or administrative court. Consider in which district court case the parentage issues should be raised: in a prior divorce proceeding omitting a child of the marriage, in a new paternity action involving the alleged biological father or in a new action joining the mother, biological father and legal father (which might be appropriate in the absence of a prior divorce or paternity action). Think about which parties should be joined to the action, who is entitled to notice and who should be genetically tested.

#### *Multiple Fathers*

If you are handling a case where multiple legal fathers exist for one child, you may want to consider which claim should be addressed first and which claim has priority or should be rebutted before other claims are confirmed. This is where the timeline you plotted earlier will come in handy. Think about the moment when the presumption or acknowledgment attaches to the child by operation of law. For example, a marital presumption attaches to the child at the moment of the child's birth when the child is born during a marriage. Whereas the two-year presumption attaches to the child at the moment both elements are satisfied: on the child's second birthday, when the child has lived with the man for the first

two years of the child's life, and that man has held the child out as his own. In a case involving these competing legal fathers, the following questions arise:

- Should the parentage claims be adjudicated separately in their own cases or in one case where all parties are joined?
- Which exception to the statute of limitations allows the court to hear this challenge?
- Which man has a relationship with the child?
- Which relationship should the court consider when applying the best interest factors of §608?
- Which man should be tested or is eligible for genetic testing, and whose legal father-child relationship should be confirmed and rebutted?

#### *Marital Presumption and Acknowledgment of Paternity*

What about a case where a marital presumption exists, but the mother and another man signed an acknowledgment of paternity at the time of the child's birth, falsely denying that the mother was married? Who are the legal fathers? The husband is a presumed father. Is the man who signed the acknowledgment a legal father? It depends.

If the husband also signed a denial of paternity before the child's second birthday, the acknowledged father is the legal father because the marital presumption has been successfully rebutted by the execution of these two forms prior to the child's second birthday.<sup>56</sup> If the husband has not signed a denial prior to the child's second birthday, the acknowledgment is invalid.<sup>57</sup> The acknowledged father is likely on the

birth certificate and believes there is no question as to his paternity. However, he is not a legal father yet.

*Bates v. Copeland* explains that the legal father-child relationship that exists by operation of law with the husband and child cannot be divested by the actions of the mother and another man without notice to the legal father and his opportunity to be heard.<sup>58</sup> A court cannot adjudicate another man to be the father until the underlying marital presumption is rebutted. Assuming the facts support this exception to the statute of limitations, you could take the approach of rebutting the marital presumption in a separate action under 10 O.S. §7700-607(B), asking the court to make a finding that the husband neither cohabitated nor engaged in sexual intercourse with the mother at the probable time of conception and has not held the child out as his own. If the court finds that the actions of

the parties do not estop them from denying the husband's parentage and negative genetic test results would not harm the best interests of the child, the court could order genetic testing and enter an order rebutting the marital presumption consistent with the results of genetic testing.

What's left? *Bates* would suggest that the impediment to the validity of the acknowledgment of paternity has been resolved. Arguably, the acknowledgment of paternity springs to life because the presumption causing it to be invalid no longer exists.

#### *Who To Genetic Test*

Alternatively, could you have joined the parties into one action and asked the court to test the man who signed the acknowledgment instead of testing the husband to rebut the husband's presumption? Theoretically, yes, because the man who signed the



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The great number of unique fact patterns, along with the complexities that don't always fit neatly into the parameters of the UPA, make this topic challenging.

acknowledgment was not technically a legal father yet, and §631 allows a presumption to be disproved by genetic test results identifying another man as the father. However, determining which man to test should be the result of careful and thoughtful consideration. What if the acknowledged father had a relationship with the child? Genetic testing of him, as a method of disproving the husband's parentage under 10 O.S. §7700-631, could have been detrimental to the child's best interest if he had an established relationship and bond with the child, and the results showed he was not the biological father.

Getting the facts and the timeline early in the case is essential. Think about how the approach and results might have changed if our timeline was missing this essential fact in the scenario above: The man who signed the invalid acknowledgment also lived with the child for the first two years of the child's life and held the child out as his own. Who are the legal fathers? The husband is the marital presumed father; the man who signed the acknowledgment is also a presumed father.<sup>59</sup>

Which man should be genetically tested is answered by who could pass the §608 best interest factors. In that scenario, the man with no relationship to the child should be tested first because the risk of harm to the child is lower. If the husband was determined not to be the father by genetic testing after a successful challenge under 10 O.S. §7700-607(B), who is left?

The man who lived with the child for the first two years of the child's life and held the child out is the presumed father, and his acknowledgment arguably springs to life. The court could simply confirm the legal father-child relationship created by the presumption and the acknowledgment. If you hadn't asked the question about whether any man had lived with the child for the first two years of the child's life and held the child out as his own, you would have missed the fact that the child had two legal fathers and that the two-year presumed father would likely not be eligible for genetic testing. Missing this fact could have led to improper genetic testing of the two-year presumed father and harm to the child's best interests.

## CONCLUSION

The great number of unique fact patterns, along with the complexities that don't always fit neatly into the parameters of the UPA, make this topic challenging. With a case load of over 150,000 cases statewide, CSS has seen its fair share of the most unusual parentage cases. We hope our experience has helped illuminate the path and the way forward.

*Authors' Note: This article was drafted with contributions from Mark Gutel, state attorney at the Midwest City office, and Ben Jury, state attorney at the south Oklahoma City office.*

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## ENDNOTES

1. 10 O.S. §7700-102(3).
2. 10 O.S. §7700-102(16).
3. 10 O.S. §7700-102(1).
4. 10 O.S. §7700-102(2).
5. 10 O.S. §7700-201(B).
6. 10 O.S. §7700-204.
7. 10 O.S. §7700-204(A)(2), but this presumption has been the law in Oklahoma since enactment by the first legislative assembly. 1890 Oklahoma Statutes Chapter 63, Article 1 §2 (pg. 746). See, e.g., *In re Davis' Estate*, 1934 OK 491, 36 P.2d 471, 169 Okla.133.
8. 10 O.S. §7700-204(A)(4).
9. 10 O.S. §7700-204(A)(5).
10. *Clark v. Eden*, 2011 OK 28, ¶11-12, 254 P.3d 672, 676.
11. 10 O.S. §7700-301.
12. 10 O.S. §7700-303.
13. *Id.*
14. 10 O.S. §7700-502(B).



15. 10 O.S. §7700-621(C).  
 16. 10 O.S. §7700-204(B) and 10 O.S. §7700-308(D) referring to 10 O.S. §7700-601 *et seq.*  
 17. 10 O.S. §7700-602.  
 18. 10 O.S. §7700-603.  
 19. 10 O.S. §7700-604.  
 20. 10 O.S. §7700-605.  
 21. 10 O.S. §7700-102(6).  
 22. 10 O.S. §7700-102(12).  
 23. 10 O.S. §7700-308.  
 24. 10 O.S. §7700-309(D).  
 25. 10 O.S. §7700-607(A) and (B).  
 26. 10 O.S. §7700-607(C).  
 27. *Id.*  
 28. 10 O.S. §7700-102(9).  
 29. 10 O.S. §§7700-607(D) and 308(A)(2).  
 30. 10 O.S. §7700-637(E), 12 O.S. §1031 *et seq.*  
 31. 10 O.S. §7700-637(C).  
 32. 10 O.S. §7700-608(C).  
 33. 10 O.S. §7700-608(B).  
 34. 10 O.S. §7700-608.  
 35. 10 O.S. §§7700-621 and 631.  
 36. 10 O.S. §7700-631.  
 37. 10 O.S. §§7700-303-305, 631 and 621.  
 38. 10 O.S. §7700-607(C).  
 39. 10 O.S. §7700-608(A).  
 40. 10 O.S. §7700-608(D). *See also In re A.S.*, 2020 OK CIV APP 23, 466 P.3d 619.

41. 10 O.S. §7700-631.  
 42. 10 O.S. §7700-636.  
 43. 10 O.S. §7700-607(A), (B) and (D).  
 44. 10 O.S. §7700-631.  
 45. In the case where the results of genetic testing are negative as to legal and alleged father in an action under 10 O.S. §7700-607(C), there are two conflicting rules under the UPA: 10 O.S. §7700-607(C) states, "A final order under this subsection shall not leave a child without a ... father," and 10 O.S. §7700-631(4) states, "A man excluded as the father of a child by genetic testing shall be adjudicated not to be the father of the child."  
 46. 10 O.S. §7700-631(3).  
 47. 43 O.S. §112(F).  
 48. Even if there is not an open case, CSS desires to be of service to the private bar and court when it comes to navigating child support and parentage law.  
 49. Your client will have to provide this. A birth certificate can be ordered through the Department of Health Office of Vital Records at <https://bit.ly/3KopBmD>.  
 50. 63 O.S. §1-311(D).  
 51. Why would you need this information? Whether the pending action is a divorce or paternity, this question may reveal children the client hasn't mentioned. It's possible that various

presumptions may exist for these children that make them the subject of the pending action.  
 52. The parents who signed the form may call the Department of Health Office of Vital Records at 405-271-4040 or email [ASKVR@health.ok.gov](mailto:ASKVR@health.ok.gov). Alternatively, the parents or their attorneys may mail, fax or email a request to the CSS Paternity Acknowledgment Section. P.O. Box 248843, Oklahoma City, OK 73124, Fax: 405-325-7141, Attention: CSS Paternity Acknowledgment Section, [OCSS.AOP.Requests@okdhs.org](mailto:OCSS.AOP.Requests@okdhs.org).  
 53. *Bates v. Copeland*, 2015 OK CIV APP 30, 347 P.3d 318.  
 54. 10 O.S. §7700-621.  
 55. *In re A.S.*, 2020 OK CIV APP 23, 466 P.3d 619.  
 56. 10 O.S. §7700-304.  
 57. *Bates*, 2015 OK CIV APP at ¶9, 347 P.3d at 320. *Bates* specifically uses the language of "invalid." This language aligns with 10 O.S. 7700-304(A), where it states, "If the acknowledgment and denial are both necessary, neither is valid until both are executed."  
 58. *Bates*, 2015 OK CIV APP at ¶16, 347 P.3d at 324-325.  
 59. 10 O.S. §7700-204(A)(5).





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# *In Loco Parentis*

## Stepparent (Third-Party) Visitation and Custodial Rights

*By Todd Alexander*



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**THIS ARTICLE EXAMINES OKLAHOMA'S EVOLVING JURISPRUDENCE** of the rights of stepparents and other nonbiological caregivers to seek custody and visitation under the doctrine of *in loco parentis*. While Oklahoma courts have long recognized that the “best interests of the child” supersede strict parental entitlement, the statutory and constitutional contours of those rights have shifted considerably. The following discussion traces the development of this doctrine from early 20th-century cases to the modern framework, through the 2021 decision in *Guzman v. Guzman*.

### EARLY RECOGNITION OF *IN LOCO PARENTIS* CUSTODY RIGHTS

An early and important case in Oklahoma that recognizes the right of custody where a nonparent functioned *in loco parentis* was *Taylor v. Taylor*.<sup>1</sup> In *Taylor*, *supra*, the Oklahoma Supreme Court reviewed the trial court's decision on a writ of *habeas corpus* request. The father was requesting custody of his then-six-and-a-half-year-old son. At three days old, the subject child was given by the father to his brother and his brother's wife. The child's mother died after the child's birth. When the child was three years of age, the father's brother died, leaving his widow in custody of the child. The father had little contact with the child and provided no support for the child prior to his seeking custody of the child.

The trial court in *Taylor* decided in favor of the widow's right to retain custody. The trial court also granted the father the right to visit with the child once per week. The father appealed the trial court's determination of custody. The widow appealed the trial court's award of visitation rights to the father.

The trial court relied on the moral qualities of the custodial parent and the father, the efforts of the father to establish a relationship and to provide support for the child and the level of care the child was receiving in reaching its decision. The Supreme Court in *Taylor* based its ruling simply on what was in the *best interests* of the subject child. The court upheld both decisions of the trial court.

The Supreme Court's decision is best explained in their own words: “A review of our former

decisions which in detail is not necessary here, reveals that the considerations affecting the question in cases of this kind are *the welfare of the child, and the natural and legal rights of the parent, and the rights of those who have for years occupied the position of parents*. Of these, we said in the *Bishop* case, *Bishop v. Bensar*, 132 Okla. 116, 270 P.569, the welfare of the child is the chief consideration.”<sup>2</sup>

The dissent in *Taylor* makes a good argument for reversal of the trial court's decision. The dissent reasoned that, like the common law in guardianship proceedings, parents possess a prior right to the care, custody and control of their children unless “the petitioning parent is an unfit person to have such care and custody.”<sup>3</sup>

The dissent, again relying on the same foundation as guardianship

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law, states, “The unfitness which will deprive a parent of the right to the custody of his minor child must be positive and not comparative, and the mere fact that his minor child might be better cared for by a third person is not sufficient to deprive the parent of this right to its custody.”<sup>4</sup>

In another early case, *Ex parte Yahola*,<sup>5</sup> the father asked the trial court for the issuance of a writ for the return of his biological child from his maternal grandparents. The mother was living with her parents at the time of the child’s birth, and the father was absent. The mother died shortly after childbirth. The maternal grandparents had custody of the child for five years without any interest or support from the father. The Supreme Court stated in its opinion: “The right of the father to custody of his minor child, when its mother is dead, is well recognized. Usually, the fact of such close relationship is accorded almost exclusive importance in determining who shall have custody of the child. The rule, however, is not without its exceptions. It is not an absolute right, but one which must at all times be qualified by considerations affecting the welfare of the child.”<sup>6</sup>

The father’s right to custody in *Yahola*, *supra*, was viewed with skepticism by the court because “his conduct has evidenced a state of indifference to the child, as opposed to the ability, good character and love possessed and manifested by his opponents.”<sup>7</sup>

About 10 years later, in *Ex parte Parker*,<sup>8</sup> the court considered another case like *Taylor*, *supra*, similarly involving a writ filed by a natural parent against a neighbor who had custody of the child for three years. In this case, for factual reasons, the Supreme Court denied the mother’s

writ on the basis of the best interests of the child and granted the neighbor legal custody of the child.

The next year, in 1946, the Supreme Court published another opinion based on the right of a person to have the custody of another’s child, grounded on the *in loco parentis* doctrine. In *Osburn v. Roberts*,<sup>9</sup> the father sought a writ of *habeas corpus* from the trial court to obtain custody of his biological child from his sister and her husband. The child’s mother died in childbirth, and the father’s sister raised the child from the time it was two years old. The court in *Osburn* affirmed the trial court’s decision keeping custody of the child with the father’s sister, based on the best interests of the child “being the paramount question.”<sup>10</sup>

In *Osburn*, in deciding between a fit parent and a person who has acted *in loco parentis*, the court stated, “There are three rights of interests that are to be given consideration in the following order of importance: (1) that of the child, (2) that of the parent and (3) that of those who have for years discharged all the obligations of parents.”<sup>11</sup>

The court in *Osburn* balances the right of a parent to have custody of their child unless proved unfit against the rights of “those who have for a considerable period of time nurtured and cared for the child.” In balancing those rights, “it is proper for the courts to consider the ties of love and confidence that have grown up between the child and its foster parents and whether it is best for the child to disturb that relationship.”<sup>12</sup>

The court in *Osburn* aptly observed, “Each such case must be determined on its own peculiar facts and circumstances.”<sup>13</sup> Referring to contests between a fit parent and a party *in loco*

*parentis*, the court expressed, “There is probably no class of cases that give the courts greater concern than this class.”<sup>14</sup>

## INTO THE MODERN ERA

The early Oklahoma *in parentis* cases – *Taylor* (1938), *Ex parte Yahola* (1937), *Ex parte Parker* (1945) and *Osburn v. Roberts* (1946) – remain controlling precedents. Although they are decades old, they retain precedential value in our common law and are entitled to consideration. They have been cited recently and precisely for the central holding of the cases in *Schmedler v. Lee*<sup>15</sup> for the same foundational principle they first articulated: The welfare of the child is the court’s paramount concern, even when doing so limits a biological parent’s claim.

Collectively, these cases stand broadly on the best interests of the child, taking all facts into consideration in weighing the outcome. They stand out for the principle that best interests trump paternity or maternity, and “unfitness” is not the burden of proof in every case to deprive a parent of the custody of their child. Equitable considerations must always be considered when deciding issues of the best interests of children. In short, these decisions confirm that the law’s first duty in custody matters is to equity and the child’s welfare above biology or formal status.

The Oklahoma Statutes reflect a similar philosophy and provide that custody may be awarded to a third party in a divorce action. Title 43 O.S. Section 112.5 (A) provides a list of people who may be awarded custody, including suitable third parties:

A. Custody or guardianship of a child may be awarded to:

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1. A parent or to both parents jointly;
2. A grandparent;
3. A person who was indicated by the wishes of a deceased parent;
4. A relative of either parent;
5. The person in whose home the child has been living in a wholesome and stable environment including but not limited to a foster parent; or
6. *Any other person deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.* [Emphasis supplied.]

This statutory hierarchy underscores that the Legislature recognized the practical realities of family life, namely that stability, care and continuity may be found beyond the biological parents. By expressly authorizing custody awards to “any other person deemed ... suitable,” the Legislature codified the equitable principles eventually articulated in *Eldredge v. Taylor*.<sup>16</sup>

### THE GUARDIANSHIP CASES AND PARENTAL UNFITNESS

Before the Oklahoma Supreme Court’s modern recognition of *in loco parentis* standing in *Eldredge v. Taylor* (2014), *Ramey v. Sutton* (2015) and *Schnedler v. Lee* (2019), most third-party custody requests were brought in guardianship cases. These cases reflected a more rigid understanding of parental rights, namely one that treated biological parenthood as nearly absolute and subject only to a finding of unfitness. As a result, individuals who had functioned as *de facto* parents had little to no recourse

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In short, these decisions confirm that the law’s first duty in custody matters is to equity and the child’s welfare above biology or formal status.

unless they could overcome a high evidentiary burden.

The Supreme Court has consistently held that a parent’s right to their child is protected by the Oklahoma and United States constitutions.<sup>17</sup> These decisions reflect a deep judicial respect for the natural parent-child relationship, grounding it in a parent’s right to the care, custody and companionship of their children as a fundamental liberty interest.

Yet, this constitutional protection has not been treated as absolute. In guardianship matters, well-established precedent requires that a third party may prove that the parent(s) are affirmatively unfit, by clear and convincing evidence, to obtain custody of a child.<sup>18</sup>

In the *Matter of the Guardianship of M.R.S.*,<sup>19</sup> the Supreme Court stated:

It follows that there will be circumstances in which a natural parent should not have custody of his or her child, but this Court repeatedly has held that for custody to be taken from the parent there must be a showing, by clear and convincing evidence, of unfitness of the parent, and “unfitness” means that the parent is unable to provide for the child’s ordinary comfort or

intellectual and moral development, and the fact that the child might be better cared for by a third person does not deprive the parent of the right to custody. *Sherrick v. Butler*, 175 Okla. 538, 53 P.2d 1097 (1936) (noting that there was no evidence offered that the mother was unable or unfit to care for her child); *Marcum v. Marcum*, 265 P.2d 723 (Okla. 1954); *Roberts v. Biggs*, 272 P.2d 438 (Okla. 1953); *Hollick v. McDaniel*, 401 P.2d 466 (Okla. 1965).

Over time, however, the rigid guardianship approach came into increasing tension with the equitable *in loco parentis* line of cases, beginning with *Taylor v. Taylor* and its progeny. For decades, the extant jurisprudence coming from guardianship law and the law of third-party custody remained available to be argued by either side in these disputes, in good faith, until the decisions in *Eldredge v. Taylor*, *Ramey v. Sutton* and *Schnedler v. Lee*.<sup>20</sup> At this point in our jurisprudence, a person who served *in loco parentis* has standing to seek custody and visitation of a child, and the determination must be guided by the child’s best interests as the controlling standard.

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## MODERN EXPANSION OF IN LOCO PARENTIS STANDING AND THE PRIMACY OF BEST INTERESTS

The doctrine evolved significantly with the Oklahoma Supreme Court's decision in *Eldredge v. Taylor*.<sup>21</sup> In *Eldredge*, the court held that a nonbiological mother and former partner in a same-sex civil union may seek to enforce a written co-parenting agreement.

The shifting of the shape of the law continued with the Supreme Court's decision in *Ramey v. Sutton*.<sup>22</sup> *Ramey* holds that a person who was previously in a same-sex relationship and not related to a child by blood may seek custodial rights with a child. In *Ramey*, the court stated:

This case is intended to recognize those unmarried same sex couples who prior to Bishop and Obergefell, entered into committed relationships, engaged in family planning with the intent to parent jointly and then shared in those responsibilities after the child was born. *Public policy dictates that the district court consider the best interests of the child and extend standing to the nonbiological parent to pursue hearings on custody and visitation. This decision does not extend any additional rights to step-parents, grandparents or others.*<sup>23</sup>

The court's refusal to apply the extension of standing and a right to a best interests hearing to "stepparents" only shows deference by the court to issues not presented by the appeal. It does not foreclose what has already been legally established, *i.e.*, that all third parties may seek custody

and visitation rights against a biological parent when it is in the best interests of the minor child, by stating:

We have consistently given compelling consideration to the best interests of the minor child in custody matters. *Daniel v. Daniel*, 2001 OK 117, 42 P3d 863, *Taylor, supra*.<sup>24</sup>

*We have held that when persons assume the status and obligations of a parent without formal adoption they stand in loco parentis to the child and, as such, may be awarded custody even against the biological parent.*<sup>25</sup>

...

This couple and more importantly, their child, is entitled to the love, protection and support from the only parents the child has known. Sutton's argument must fail in light of the equities before this Court. *Ramey* is recognized as being *in loco parentis* to their child and is entitled to a best interests of the child hearing.<sup>26</sup>

Later, in *Schmedler v. Lee*,<sup>27</sup> the Supreme Court held:

Just as we broadened *Eldredge's* holding in *Ramey* to remove the barrier of an express, written co-parenting agreement between same-sex partners, we hold that a non-biological same-sex co-parent has the right to seek custody, visitation and support of his or her child on the same equal terms as the biological parent.<sup>28</sup>

The fundamental guiding principle of our family-law jurisprudence is the pursuit of the best interests of the child. *Rowe v. Rowe*, 2009 OK 66 ¶ 3, 281P.3d 887, 889 (the "best interests of the child must be a paramount consideration" in determining custody and visitation).<sup>29</sup>

Our jurisprudence has been consistent in considering issues of parental rights to be equitable in nature, as this approach has allowed us to most adaptively serve the best interests of the child. *E.g., Bomgardner*,





1985 OK 59, ¶ 17, 711 P.2d at 97 (“Court supervision over the welfare of children is equitable in character.”); *Ex parte Yahola*, 1937 OK 306, ¶ 14, 71 P. 2d 968, 972 (explaining that “the supervision of the courts over the custody and welfare of children is of itself equitable, and not strictly legal in nature”).

We have also long recognized that the right of custody and visitation is not bound to the strict confines of biological relation. *Ex parte Yahola*, 1937 OK 306, ¶ 14, 71 P. 2d 968 @ 970 (the right of a biological parent to custody “is not an absolute right, but one which must at all times be qualified by considerations affecting the welfare of the child”).<sup>30</sup>

*Schnedler* cites, “A person standing in loco parentis is one who acts in place of a parent.”<sup>31</sup>

If you fairly review all the law of this state, it becomes clear that a stepparent who has 1) engaged in family planning with the intent to parent jointly, 2) established a meaningful emotional relationship with the child and 3) resided with the child for a significant period while holding out the child as their own child<sup>32</sup> is entitled to have standing, just like a same-sex parent, to seek custody and visitation rights. Best interests resolve all issues. If, for some reason, a stepparent is not allowed to meet this test, then they are denied due process and the equal protection of the law. A parent is a parent, regardless of biology. Equity will not allow any other conclusion. Recall that the statute in Oklahoma allows “any other person deemed by the Court to be suitable and able to provide adequate and proper care and guidance for the child.”

## RESTRICTIONS ADDED IN GUZMAN

In 2021, the Oklahoma Supreme Court ruled in *Guzman v. Guzman*<sup>33</sup> that a stepparent has no standing to seek rights of her spouse’s child. The court reasoned, at ¶8:

Step-parents have no rights under the doctrine of in loco parentis and no statutory rights to custody or visitation with a former spouse’s child. Because Oklahoma has no statutory provision specifically allowing step-parents to seek custody and/or visitation, step-parents have no right to seek custody or visitation with the child of a former spouse. The fact that a step-parent chooses to lovingly take another’s child into his or her home during marriage has never been grounds to either clothe that party with parental rights (custody/visitation) or burden the party with parental obligations (child support). See 43 O.S.2011 § 112.4 (“A stepparent is not required to maintain his or her spouse’s children from a prior marriage.”).

However, this conclusion cannot be reconciled with either the statutory language of §112.5 or the state’s long-standing precedent extending custodial standing to third parties, such as grandparents, neighbors and same-sex co-parents.

Despite the constitutional preference for parental custody, the Supreme Court has been willing to find facts that justify depriving a fit parent of custodial rights and giving those rights to a third party, even when the parent is not unfit. These decisions reflect a consistent willingness to depart from any rigid doctrine when the best

interests of the child so require it. That right of standing to seek custody or to retain custody against the wishes of a fit parent has been accorded in the following cases:

- A widow, who was the wife of the father’s deceased brother (*Taylor v. Taylor*, 182 Okla. 11, 75 P.2d 1132, 1938 OK 77)
- Grandparents (*Ex parte Yahola*, 1937 OK 306, 71 P.2d 968; and *Long v. McIninch*, 1953 OK 372, 264 P.2d 767)
- A neighbor (*Ex parte Parker*, 1945 OK 61, 156 P.2d 584)
- An aunt and uncle (*Osburn v. Roberts*, 1946 OK 129, 169 P.2d 293)
- Same-sex partners and spouses (*Eldredge v. Taylor*, 2014 OK 92, 339 P.3d 888; *Ramey v. Sutton*, 2015 OK 79, 362 P.3d 217; and *Schnedler v. Lee*, 2019 OK 52, 445 P.3d 238)

The scope and breadth of the rights conferred on third parties by the law (precedent) and by equitable and moral principles require that when an appropriate case involving a stepparent serving in loco parentis is presented to the courts, they must extend such rights to a stepparent when justified by the facts. Nothing less will serve the law or conscience.

## CONCLUSION

Oklahoma law has long acknowledged that the welfare of the child must prevail over rigid definitions of parenthood. From *Taylor* to *Schnedler*, courts have consistently applied equitable principles to protect children’s established familial relationships. A consistent and principled application of those doctrines requires

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that stepparents, when acting *in loco parentis*, be afforded standing to seek custody or visitation when it is in the child's best interests. Equity demands no less.

## ABOUT THE AUTHOR



A Tulsa native, Todd Alexander is an experienced family law attorney. He has served as a guardian *ad litem* for over 20 years and as a parent coordinator in over 100 cases. His practice focuses solely on family law matters, including divorce, paternity, modifications, guardianships and probate. He is an award-winning mediator, frequent CLE presenter and adjunct professor at TU. He and his wife have two grown children, and he is also an amateur musician.

## ENDNOTES

1. *Taylor v. Taylor*, 182 Okla. 11, 75 P.2d 1132, 1938 OK 77.
2. See *Taylor*, *supra*, at ¶16.
3. *Taylor* at ¶28.
4. *Taylor* at ¶31. [Emphasis supplied].
5. *Parte Yahola*, 1937 OK 306, 71 P.2d 968.
6. [Emphases supplied]. See *Ex parte Yahola* at ¶5.
7. See *Ex parte Yahola* at ¶7.
8. *Ex parte Parker*, 1945 OK 61, 156 P.2d 584.
9. *Osburn v. Roberts*, 1946 OK 129, 169 P.2d 293.
10. *Osburn* at ¶5.
11. *Osburn* at ¶3.
12. *Id.*
13. *Id.*
14. *Osburn* at ¶4.
15. *Schnedler v. Lee*, 2019 OK 52, 445 P.3d 238, at ¶¶17, 18, 19.
16. *Eldredge v. Taylor*, 2014 OK 92, 339 P.3d 888.
17. See, e.g., *Application of Grover*, 1984 OK 20, 681 P.2d 81; *Ingles v. Hodges*, 1977 OK 18, 562 P.2d 845; *Hood v. Adams*, 1964 OK 217, 396 P.2d 483; *Gibson v. Dorris*, 1963 OK 235, 386 P.2d 186.
18. See, e.g., *Application of Grover*, 1984 OK 20, 681 P.2d 81; *Gibson v. Dorris*, 1963 OK 235, 386 P.2d 186; *Marshall v. Marshall*, 1976 OK 127, 555 P.2d 598; *McVey v. Chester*, 1955 OK 275; and *McDonald v. Wrigley*, 1994 OK 25, 870 P.2d 777, at ¶¶4, 5 and 7.
19. *Matter of the Guardianship of M.R.S.*, 1998 OK 38, 960 P.2d 357 at ¶16.

20. *Eldredge v. Taylor*, 2014 OK 92, 339 P.3d 888; *Ramey v. Sutton*, 2015 OK 79, 362 P.3d 217; and *Schnedler v. Lee*, 2019 OK 52, 445 P.3d 238.
21. *Eldredge v. Taylor*, 2014 OK 91, 339 P.3d 888.
22. *Ramey v. Sutton*, 2015 OK 79, 362 P.2d 217.
23. *Ramey*, *supra*, at ¶19. [Emphasis supplied].
24. *Ramey*, *supra*, at ¶14.
25. *Ramey*, *supra*, at ¶15. [Emphasis supplied].
26. *Ramey*, *supra*, at ¶17.
27. *Schnedler v. Lee*, 2019 OK 52, 445 P.3d 238.
28. See *Schnedler* at ¶16.
29. See *Schnedler* at ¶17.
30. See *Schnedler* at ¶18.
31. *United States v. Floyd*, 81 F.3d 1517, 1524 (10th Cir. 1996).
32. See *Schnedler* at ¶22.
33. *Guzman v. Guzman*, 2021 OK 26, 507 P.3d 630.



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# The Third Way: Traditional Tribal Customary Marriages Are Here to Stay

By Kevin R. Kemper, Ph.D., LL.M.

**L**AW STUDENTS AND ATTORNEYS TEND TO THINK that there are only two types of recognized marriages in Oklahoma – license marriages and common-law marriages – and that each requires a statutory divorce.<sup>1</sup> However, there has been and continues to be a third legally valid way to get married and even divorced in Oklahoma: traditional tribal customary marriages or divorces in certain circumstances. Not everyone can be married or divorced in this way, but some are, despite the legal complications that arise from these types of arrangements.

As someone whose practice includes family law throughout state and tribal courts, as well as personal involvement with tribal gatherings and ceremonies, I see a growing number of people who choose this third and valid way to be married. I also hear a growing number of questions and even consternation from family law practitioners and judges about this issue. This article explains the concept in the context of the history of marriage in Oklahoma and provides practice tips for practitioners when they encounter Indigenous people who want to get married or divorced, resolve probate disputes and more in their customary ways.

## THE BASICS OF OKLAHOMA MARRIAGE – FACTS AND FICTION

Under Title 43 of the Oklahoma Revised Statutes, the state defines marriage as “a personal relation arising out of a civil contract to which the consent of parties legally competent of contracting and of entering into it is necessary, and the marriage relation shall only be entered into, maintained or abrogated as provided by law.”<sup>2</sup>

A district judge or county court clerk may issue a marriage license.<sup>3</sup> Then, “a formal ceremony” takes place with at least two witnesses and an officiant, usually a judge or a recognized and approved religious leader.<sup>4</sup> After that, the license must be returned to and recorded by the court clerk in a timely manner.<sup>5</sup>

On the other hand, courts recognize common-law marriage in Oklahoma, which means a license has not been obtained, though the parties intend to be married. As the Oklahoma Supreme Court has explained:

A common law marriage is formed when “the minds of the parties meet in consent at the same time.” Some evidence of consent to enter into a common-law marriage are cohabitation, actions consistent with the relationship of spouses, recognition by the community of the marital relationship, and declarations by the parties. The person seeking to establish a common-law espousal relationship has the burden to show by clear and convincing the existence of the marriage.<sup>6</sup>

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Thus, it is a fact-specific inquiry made by a court. As the Oklahoma Supreme Court has said:

A common law marriage is based on a present assumption of an existing relationship, not upon what the parties intended or have agreed to do at a future time. To constitute a valid marriage per verba de praesenti there must be an agreement to become husband and wife immediately from the time when the mutual consent is given.<sup>7</sup>

For most practitioners, the analysis stops there – if a marriage exists, it must be by license or common law. Simply living together does not mean a couple is married under common law in Oklahoma, especially when there are multiple sexual partners, unless there is evidence of intentions for a common-law marriage.<sup>8</sup> But those two types of marriages are notions of Western law, not necessarily tribal customary law.

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## COMPARATIVE SUMMARY

Factor	Licensed Marriage	Common-Law Marriage	Tribal Customary Marriage
Legal Definition	"Personal relation arising out of a civil contract" (43 O.S. §1)	"Minds of the parties meet in consent at the same time" ( <i>Standefer</i> )	"Marriages ... according to usages and customs of their tribe" ( <i>Coker</i> )
License Required?	Yes (mandatory)	No	Depends on tribal law
Ceremony Required?	Yes (with two witnesses)	No	Varies by tribe
Proof Standard	Automatic upon filing	"Clear and convincing evidence" ( <i>Standefer</i> )	Tribal certification or proof of custom under tribal law
Timing Requirement	Formal ceremony required	"Present assumption of existing relationship" ( <i>Hornback</i> )	Varies by tribal custom and law
Cost	\$5-50	Litigation costs if disputed	Varies (often minimal or free)
Who Can Marry?	Any eligible resident	Any eligible resident	Tribal citizens (rules vary by tribe)
Governing Authority	43 O.S. §§1-7	<i>Standefer</i> , <i>Reaves</i> and <i>Maxfield</i>	Tribal codes, <i>Coker</i> and <i>Allen</i> recognition and federal sovereignty ( <i>Martinez</i> , <i>William</i> and <i>CFR</i> )
State Recognition	All 50 states and international	Oklahoma and most states (if proven)	Oklahoma (12 O.S. §728) and federal law
Cultural Significance	Secular/religious blend	Relationship-based autonomy	Preservation of Indigenous traditions and tribal self-determination

### TRIBAL CUSTOMARY MARRIAGE: VALID THEN AND NOW

Suppose a man is a member of an Oklahoma tribe, as is the woman he wishes to marry. Rather than going to a courthouse for a license or simply telling everyone (including the IRS) that they are married, the couple goes through a cultural ceremony, where an elder and the community that gathers provide a blessing and recognition. Perhaps he playfully tossed pebbles at the woman he wanted to marry to get her attention, like in traditional Choctaw culture. Perhaps he provided gifts, like horses, to her father, like in traditional cultures of certain

Plains tribes, including the Osage, Kiowa and Comanche.

This "marriage" is based upon the customs of the particular tribe(s). Professor Matthew L.M. Fletcher noted these applications of customary and traditional laws and how, even in tribal courts, the concepts are hard to recognize and enforce.<sup>9</sup>

Almost 100 years ago, the Oklahoma Supreme Court in *Coker v. Moore* recognized that "marriages, contracted between tribal Indians according to the usages and customs of their tribe, at a time when the tribal government and relations are existing, will be upheld by the courts, in the absence of a federal law rendering invalid the laws and customs of the tribe."<sup>10</sup>

That is, a tribal customary marriage has been and continues to be valid in Oklahoma. In its most simplistic form, a tribal customary marriage involves the intent of the parties to be married and some kind of tribal recognition, either through a public ceremony or even an informal acknowledgment. As the Oklahoma Supreme Court said in 1936, "In marriage by tribal custom the consent may be either expressed or implied, but nevertheless there must be some fact or circumstance inferring such necessary consent."<sup>11</sup>

In the *Allen* case, the court also noted how the Congressional Act of May 2, 1890, only legitimized tribal customary marriages that were recognized by the tribes

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themselves.<sup>12</sup> Sometimes, tribal customary marriages are transacted at the same time as a state marriage license, like the Osage wedding as described by one newspaper reporter in 1927.<sup>13</sup>

Tribal customary marriage differs from common-law marriage in certain ways, as it turns on whether the parties seek authorization by the state. In Oklahoma, there are 38 of the 574 federally recognized tribes with jurisdictions in Oklahoma,<sup>14</sup> along with members from tribes across North America and beyond. Many of these tribes either have their own court systems or function under the federal Court of Indian Offenses. Tribes may issue their own licenses, but those are distinct from tribal customary marriages. Some tribes recognize customary marriages, some do not. The state of Oklahoma provides “full faith and credit to the records and judicial proceedings of any court of any federally recognized Indian nation, tribe, band or political subdivision thereof, including courts of Indian offenses.”<sup>15</sup> While the Court of Indian Offenses can issue marriage licenses, customary marriages are accepted if the tribe accepts them but prohibited if a tribe prohibits them.<sup>16</sup>

While bigamy is prohibited under federal, state and tribal laws, there are some tribal cultures that unofficially practice (but officially frown upon) certain forms of polygamy, with a man having multiple “wives.” Some women even have multiple “husbands.” Rarely do these kinds of arrangements become more than polyamory, and never can they be approved by any court in Oklahoma, but sometimes, tribal people represent to the community that they have multiple spouses. Since adultery and bigamy

are still felonies in Oklahoma, each of which could result in up to five years imprisonment,<sup>17</sup> those who practice those kinds of sexual relationships usually stay quiet about it. However, a discerning attorney will want to know how tribal people arrange their relationships and their intentions about responsibilities, children and property.

Oklahoma’s case law explains the functional and practical problems that arise with tribal customary marriages. For instance, in 1912, the Oklahoma Supreme Court affirmed the customary “divorce” from the customary “marriage.”<sup>18</sup> The woman had a child of an enrolled member of what is now known as the Peoria Tribe of Indians of Oklahoma when she and the father purported to have a customary marriage. They “quit living together” a few days after the child died as an infant, and the mother later married another man under Oklahoma law and lived with him until his death. It could be argued that the customary divorce was a vehicle for the court to nullify what it did not want to have to recognize – a customary marriage. However, in a 1926 case, the Oklahoma Supreme Court upheld the validity of the Muscogee Creek Nation’s customary marriages if they predated a tribal law in 1881 that purportedly banned customary marriages and divorces.<sup>19</sup> That case affected how the court ruled upon inheritance and guardianship claims by descendants from the marriage. In an earlier case, a Canadian was adopted by the Pottawatomie Tribe of Indians (now known as the Citizen Potawatomi Nation) after marrying a member:

The adoption ... by the tribe did not make him a citizen of the United States – he still remained a foreigner as to the federal government – but did make him a member of said tribe, and bestowed upon him the privileges and immunities of its other members, and subjected him to its laws and usages, among which were the customs and laws of the tribe regulating marriage and divorce.<sup>20</sup>

The most important and essential thing to do is to consult the laws of the tribe in question. For instance, the Kiowa Tribe defines marriage as “a personal relationship between two individuals arising out of a civil contract to which the consent of the parties is essential, and typically any two persons may marry.”<sup>21</sup>

The Kiowa Tribe may issue marriage licenses pursuant to its code. There are nuances, however. “No particular form of marriage ceremony is required,” the code says, though a license is required for a ceremony.<sup>22</sup> More importantly, the practitioner must be aware of how to interpret the Kiowa Family Code, which emphasizes tribal customary law as mandatory and not just persuasive precedent:

The provisions of this Code shall be interpreted to be in accordance with tribal customary law. Whenever there is uncertainty or a question as to the interpretation of certain provisions of this Code, tribal law and custom shall be controlling, and where appropriate, may be based on the written or oral testimony of a qualified tribal elder, tribal historian, or tribal representative. If the traditions and customs of the Tribe are inconclusive in any matter, the Court shall construe it consistently with applicable textual tribal law.

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In the absence of applicable tribal customary law or textual tribal law, the Court shall construe it consistently with applicable federal law.<sup>23</sup>

In fact, tribal custom marriages are considered to be valid marriages under the Code of Federal Regulations if they are properly registered with the Court of Indian Offenses.<sup>24</sup>

By comparison, the Chickasaw Nation defines marriage as “a personal relation arising out of a civil contract between two individuals to which the consent of parties legally competent of contracting and of entering into it is necessary, and the Marriage relation shall be entered into, maintained or abrogated as provided by law.”<sup>25</sup>

It then defines common-law marriage to include “a personal relationship arising out of tribal customs and traditions or from common law of a tribe, state or nation wherein the parties entered Marriage.”<sup>26</sup>

Therefore, a court arguably finds a customary Chickasaw marriage valid if it is consistent with “tribal customs and traditions,” even if they may not be consistent with elements of common-law marriage in Oklahoma. Holding a ceremony may vary according to tribal traditions. For instance, some expect gift-giving by the prospective husband to the prospective wife’s family, but some do not. The relationship may be as simple as a common and private agreement to have a customary marriage and a similar common and private agreement to be divorced. Of course, this creates problems when discussing child custody and related issues. That is part of why the Kiowa Family Code references customs and traditions when analyzing the best interests of children.<sup>27</sup>

In Oklahoma, with so many tribal nations and people, a family law practitioner should always inquire with new clients whether they are members of or could be members of an Indigenous tribe, despite how the person may look. Then identify the specific tribe and quickly research online whether the tribe has courts and codes. Many tribal courts provide up-to-date codes online. When in doubt, call the court clerk and ask for copies. To be thorough, discuss with the client what their intentions were in the relationship in question (to be married, not be married, traditionally or not, etc.), determine whether that tribe’s laws affirm the intended relationship and decide whether asserting the validity of the tribal customary marriage helps or hurts what the client wants to accomplish (divorce, probate or whatever). Too many practitioners and judges simply choose to ignore tribal laws and customs. Yet, that ignores the need to be respectful and thorough for tribal clients and even opposing parties. This article is not an exhaustive study of all tribes, but it does highlight important and subtle nuances with some tribes.

## CONCLUSION

In the age of growing tribal self-determination and assertions of jurisdiction post-*McGirt*,<sup>28</sup> Oklahoma attorneys have fresh awareness of the existence of complications when applying tribal values, customs and laws to a family law matter. Some frankly and loudly reject the idea of having to think that way, but that endangers and even disrespects a tribal client. Consider all of this in the context of an increase in anyone simply wanting a relationship without the bonds of marriage – people make their own choices every day. Sometimes, their choice is to be married or divorced and not worry about whether the state of Oklahoma approves or not.

This works in theory until a probate case, or something along those lines, complicates the analysis.

## ABOUT THE AUTHOR



Kevin R. Kemper practices at his law firm in Guthrie.

## ENDNOTES

1. 43 O.S. §§1-7.
2. *Id.* at §1.
3. *Id.* at §§4-7.
4. *Id.* at §7.
5. *Id.* at §8.
6. *Standefor v. Standefor*, 2001 OK 37, ¶11, 26 P.3d 104, 107, quoting *James v. Adams*, 1915 OK 896, 155 P. 1121 and *Buck v. Branson*, 1912 OK 616, 127 P. 436, quoting *Reaves v. Reaves*, 1905 OK 32, 15 Okla. 240, 82 P. 490 and *Maxfield v. Maxfield*, 1953 OK 390, P24, 258 P.2d 915 and 921.
7. *In re Estate of Hornback*, 1970 OK 142, P14 (Okla. 1970).
8. *In re Estate of Whitehouse*, 2020 OK CIV APP 59, 479 P.3d 230, 2020 Okla. Civ. App. Lexis 36, 2020 WL 6816417.
9. Matthew L.M. Fletcher, “Rethinking Customary Law in Tribal Court Jurisprudence,” (Michigan State University College of Law Indigenous Law & Pol’y Ctr., Working Paper No. 2006-04, 2006), <https://bit.ly/4acgobA>.
10. *Coker v. Moore*, 1926 OK 556, ¶4, 249 P. 694, 696.
11. *Allen v. Smith*, 1936 OK 600, P10 (Okla. 1936).
12. *Id.* at ¶14, citing Congressional Act of May 2, 1890, 26 Stat. 98.
13. Morgan M. Guzman, “Tribal Ceremony Ends Festivities of Osage Wedding,” *Sequoyah National Rsch. Ctr.* (May 29, 1927), <https://bit.ly/4q2dfjd>, quoting “Tribal Ceremony Ends Festivities of Osage Wedding,” *Daily J. Cap.* (Oklahoma City), May 29, 1927, at 1.
14. 87 Fed. Reg. 4636 (Jan. 12, 2023), <https://bit.ly/4a41ggh>.
15. 12 O.S. §728.
16. 25 C.F.R. §11.603.
17. 21 O.S. §§871-872 (2024) (adultery) 21 O.S. §§881-884 (2024) (bigamy).
18. *Buck v. Branson*, 1912 OK 616, 34 Okla. 807, 127 P. 635 (Okla. 1912).
19. *Coker v. Moore*, 1926 OK 556, 121 Okla. 219, 249 P. 694, 1926 Okla. LEXIS 122 (Okla. 1926), citing Law of October 2, 1881, by the Creek Tribe of Indians (now Muskogee (Creek) Nation).
20. *Cyr v. Walker*, 1911 OK 252, ¶17, 29 Okla. 281, 116 P. 931, 1911 Okla. LEXIS 287 (Okla. 1911).
21. Kiowa Family Code §3-1.
22. *Id.* at §3-4.
23. *Id.* at §1-5.
24. 25 C.F.R. §11.600 (b)(2), [www.law.cornell.edu/cfr/text/25/11.600](http://www.law.cornell.edu/cfr/text/25/11.600).
25. Chickasaw Nation Code, §6-101.5 (A), <https://code.chickasaw.net/Title-06>.
26. *Id.* at (B).
27. Kiowa Family Code §5 *passim*.
28. *McGirt v. Oklahoma*, 591 U.S. 894 (2020).



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# What Does ‘Primary’ Mean?

By Aaron Bundy

**T**HE PHRASE “PRIMARY CUSTODIAN” CAN CARRY SIGNIFICANT WEIGHT in Oklahoma child custody matters, even though it does not appear in the statutes and is only occasionally referenced in appellate decisions. For practitioners outside the family law arena, this can be a source of confusion: How can a term with little statutory grounding exert such influence in custody disputes? The reality is that, while Oklahoma law formally recognizes legal custody categories such as joint legal custody, joint physical custody and sole custody, litigants and their counsel frequently focus their battles on the label of “primary.”

This designation is more than a semantic flourish. Parties often believe – sometimes rightly or wrongly – that being identified or designated as the “primary parent” will shape issues such as relocation disputes, school district determinations or how day-to-day parenting authority is perceived. For lawyers navigating custody negotiations and litigation, understanding the practical use and limits of this term is essential. Even though it lacks a codified definition, “primary” status can be very important in certain custody arrangements. This article addresses how that term is used and the significance under statute and precedent.

Custody of a child is a broad term that generally means the right to care and control the child.<sup>1</sup> The concept of child custody “embraces the sum of parental rights with respect to the rearing of a child.”<sup>2</sup> Outside the juvenile deprived and delinquent

arenas, there are two major statutory titles that deal with child custody in Oklahoma: Title 10 and Title 43. Oklahoma Statutes recognize three types of custody: joint legal custody, joint physical custody and sole custody.<sup>3</sup> When awarding custody or appointing a general guardian for a child, Okla. Stat. tit. 43 §109 requires courts to “consider what appears to be in the best interests of the physical and mental and moral welfare of the child.” Recently, Okla. Stat. tit. 43 §110.1 was amended by the Legislature in a way that has been viewed as part of a national trend toward a presumption for joint custody and shared parenting for divorcing parents.

No Oklahoma statute references a “primary” parent. The concept of a “primary” parent is a creature of case law and artful lawyering. The notion of which parent is a “primary physical custodian” took on special significance in 2017, when

the Oklahoma Supreme Court issued the *Boatman* decision.<sup>4</sup> When parents share joint legal custody, and one parent asks to relocate with a minor child, the trial court “must make a determination regarding who is the primary physical custodian.”<sup>5</sup>

In light of the progressive amendment of Okla. Stat. tit. 43 §110.1 and a general trend toward joint custody, the “primary” designation has become a new battleground for child custody disputes. As the Oklahoma Statutes do not use the word, a preliminary question is, “What does ‘primary’ mean?” Does it mean which parent has more time? Does it mean which school district the child attends? Does it mean who receives child support? Does it mean which parent has final decision-making authority?

In *Boatman*, the Oklahoma Supreme Court found that the mother was not the primary

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physical custodian because the child's primary residence was not designated in any court order and because the child resided equally with both parents.<sup>6</sup> Pre-*Boatman* appellate decisions shed some light on who may be a primary parent. In a same-sex case, *Ramey v. Sutton*,<sup>7</sup> Ms. Ramey was characterized by the Oklahoma Supreme Court as the primary caregiver for the following reasons:

During the first four years of their child's life, Ramey was the primary caregiver due to Sutton's work and sleep schedule. Ramey assisted in caring for their child following a tonsillectomy as well as providing

other health care related needs. Their child has always referred to Ramey as "mom," but did not begin to refer to Sutton as "mom" until the age of five or six. Even today, their child will sometimes refer to Sutton, the biological mom, as "Kimberly" and not as "mom." Ramey has always been and continues to be listed as "other parent" at their son's school. She was active in her child's school, serving as home room mother, volunteering for school activities including hosting class parties. Ramey has also built family traditions incorporating their child's love of the outdoors.

In a pre-*Boatman* relocation case, *Scocos v. Scocos*,<sup>8</sup> the mother was characterized as "always the Child's primary caregiver, making all the necessary decisions for the Child's well-being." In yet another relocation case, *Le v. Nguyen*,<sup>9</sup> the mother was characterized as the primary custodial parent for the following reasons: The children spent the majority of their overnights with the mother, and the mother was responsible for the majority of the mundane, but essential, tasks of day-to-day parenting, including taking the children to the doctor, getting them ready for bed and helping them with school. The father's role was described as significant.

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As indicated by statutory silence and case law, there is no requirement that, in the event of divorce or separation, either parent should be designated ‘primary’ for any purpose, unless the parties so agree or the court makes that determination. When designating a parent as ‘primary’ in a child custody order, the term should be defined.

He addressed many of the extra-curricular needs of his children, especially with regard to sports, and spent considerable time with the children, often picking them up from school and providing tutoring. However, under the facts of that case, the mother was determined to be the primary parent.

Since *Boatman*, the question remains: If a decree grants joint custody but fails to label a “primary” parent, how does a court decide who holds the presumptive right to relocate? Absent a court order designating one parent as the “primary physical custodian,” the primary parent inquiry is largely backward-looking. It is a highly fact-sensitive analysis based on the minutiae of day-to-day parenting and decision-making. What does “primary” not mean? It may not have anything to do with which parent pays or which parent

receives child support. It is well established that even a custodial parent may be the child support obligor.<sup>10</sup> Unless it is specifically defined, designating a parent as “primary” in a joint custody plan does not necessarily mean that parent has more time than the other, nor does it give that parent superior decision-making authority or final say in any respect.

A 2021 unpublished decision from the Oklahoma Court of Civil Appeals, *In re the Marriage of Dressler*,<sup>11</sup> provided a definition of “primary physical custodian.” In *Dressler*, the parents shared joint custody under a decree that stated the mother “shall be the physical custodian of the child at all times not specifically granted to [the father],” which resulted in the mother having the child for a majority of overnights (64.4%). When the mother provided notice

of her intent to relocate, the trial court determined that the father should be the primary physical custodian, which then, in the trial court’s view, rendered the relocation issue moot. The mother appealed.

In *Dressler*, the Court of Civil Appeals reversed the trial court’s decision, finding it was an abuse of discretion. The appellate court clarified that the trial court’s first step should have been to determine “who is the primary physical custodian,” not who should be going forward. The appellate court suggested that this is a retrospective view rather than a current or prospective one. The panel interpreted the phrase “primary physical custodian” to “simply mean the parent who has actual physical custody of the child the majority of the time.” This decision underscores that

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the primary parent inquiry is a fact-based, historical analysis focused on the allocation of time rather than a forward-looking best interests analysis at the start of a relocation case. In a partial dissent, one judge noted that based on the court's own definition and the undisputed facts, the mother was already the primary physical custodian, and the case should have been remanded to proceed with the relocation hearing.

In a recent unpublished opinion, *Bugg v. Bugg*,<sup>12</sup> an appellate panel answered the "primary" question in part by looking to definitions from the Child Support Guidelines. In *Bugg*, the Court of Civil Appeals held that in the absence of a specific designation, the parent with more than 182 overnights is automatically the "custodial parent" with the presumptive right to relocate. Because the mother had the children for 209 days, the court found she was the *de jure* custodial parent and granted her the presumptive right to move.

The appellate panel's reference to 43 O.S. §118A raises an important question regarding statutory intent. Section 118A includes the definitions for the child support guidelines, and its definitions are designed to calculate financial obligations. Historically, Oklahoma courts have distinguished between financial support and physical caretaking. As noted above, it is possible for a parent to have more time than the other yet be the child support obligor.<sup>13</sup> In *Bugg*, the mother had more time with the children than did the father. She could have been determined to be the primary parent as a matter of parenting time without reference to the child support definitions statute. By connecting the right to

relocate to the 182/183-day child support threshold, *Bugg* unnecessarily risks conflating child support definitions with custody and parenting time concepts. This application could inadvertently grant relocation presumptions to parents who have the time, including just one more overnight in a calendar year, but perhaps not the primary responsibility (doctor visits, school enrollment, etc.). While *Bugg* is unpublished and, therefore, not binding precedent, it illustrates the difficulties associated with determining who is a primary parent in hindsight when neither parent has an express designation in the court order.

As indicated by statutory silence and case law, there is no requirement that, in the event of divorce or separation, either parent should be designated "primary" for any purpose, unless the parties so agree or the court makes that determination. When designating a parent as "primary" in a child custody order, the term should be defined. If the parents share joint custody and equal time, state what "primary" means. It may be limited to determining the school the child will attend. If the intent is to give a parent final decision-making authority, the order should clearly state that. When joint custody and equal time are contemplated, but one parent wants to be the "primary" parent, find out what they mean. Are they contemplating future relocation? If so, it may be more efficient to address that issue head-on during the negotiation process rather than later, in hindsight.

For practitioners, the lesson is straightforward but vital: Whenever "primary" status is at issue, do not assume a shared understanding of what the term

means. Clarify whether it refers to school district designation, day-to-day caregiving, relocation considerations or something else entirely. Where possible, define it explicitly in orders and agreements, thereby avoiding ambiguity and preventing future disputes. By treating the term with precision, lawyers can better serve their clients, anticipate potential areas of conflict and ensure that custody arrangements reflect the best interests of the child.

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## ABOUT THE AUTHOR



Aaron Bundy of Sapulpa is a trial lawyer who practices across Oklahoma, Arkansas and Missouri. Board-certified for family

law trial work by the National Board of Trial Advocacy, he focuses primarily on contentious jurisdictional matters and complex financial disputes. Mr. Bundy is a fellow of the American Academy of Matrimonial Lawyers and the International Academy of Family Lawyers.

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## ENDNOTES

1. *Spencer v. Spencer*, 567 P.2d 112.
2. *Looper v. McManus*, 581 P.2d 487 (citing *Spencer*).
3. Okla. Stat. tit. 43 §112(C)(2).
4. 2017 OK 27.
5. *Id.* at ¶6.
6. *Boatman*, above, at ¶7.
7. 2015 OK 79.
8. 2016 OK 36, ¶15, 369 P.3d 1068.
9. 2010 OK CIV APP 104, ¶13.
10. Okla. Stat. tit. 43 §118E; *State v. Coldwater*, 2016 OK CIV APP 3.
11. Case No. 118,522.
12. Case No. 122,448.
13. Okla. Stat. tit. 43 §118E; *State v. Coldwater*, 2016 OK CIV APP 3.

# Ethical Dimensions of Representing a Ward in Guardianship Court

*By Todd Alexander*

**ONCE THE DECISION IS MADE** to place an adult with diminished capacity into a guardianship, ethical duties arise, along with ethical pitfalls for the practitioner. This article seeks to explain the difficulties and duties of counsel in assisting and guiding a ward through a guardianship action and to ensure that when a successor attorney for a ward is sought, it is done ethically.

## THE LAWYER'S DUTY

A first duty as counsel for a person, such as a ward in a guardianship, who has diminished capacity is "to as far as reasonably possible, maintain a normal client-lawyer relationship with the client."<sup>1</sup>

Guardianships are appointed as provided in Title 30 O.S. Section 3-101, which provides that any person interested in the welfare of a person believed to be incapacitated or partially incapacitated may file a petition alleging that the person is incapacitated and requesting the appointment of a general guardian.

As noted in Section 1-103 of Title 30, beyond the purpose of providing a means for caring for incapacitated persons and protecting their rights and resources, a central purpose of guardianship law is to provide for the

participation of wards as fully as possible in the decisions that affect them.<sup>2</sup> This is consistent with the provisions of Rule 1.14.

Section 1-103 reiterates the importance of inclusion of the ward in the guardian's decision-making processes in Subparagraph B.2. b., which requires the guardian to "encourage, to the extent reasonably possible, incapacitated or partially incapacitated persons to participate to the maximum extent of their abilities in all decisions which affect them and to act on their own behalf on all matters in which they are able to do so within the limitations imposed by the Court."

Section 3-107 grants the court authority to appoint an attorney for a person who is allegedly in a petition to be an incapacitated or partially incapacitated person at any time after the filing of the

petition. It provides conditions for the court to appoint an attorney for the ward and things the court must do as part of that appointment. As one might expect, the court is required to find that such an appointment is in the ward's best interest.<sup>3</sup> The appointment of counsel for the ward permits an investigation by counsel into the propriety of the guardianship to provide light to the court at times when motivations may be suspect.

The statute makes provisions for continuance of the hearing to appoint a guardian to give appointed counsel time to prepare the case for hearing.<sup>4</sup>

Upon appointment, the attorney "shall contact the subject of the proceeding promptly."<sup>5</sup> Interestingly, once counsel has done their job and a guardian is appointed by the court, after due process,

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“the responsibility of an attorney appointed pursuant to the provisions of this section ceases upon the appointment of a guardian.”<sup>6</sup> However, “the court may appoint an attorney to represent a ward at any subsequent proceeding.”

### SELECTION – FULL OR PARTIAL INCAPACITY

An incapacitated person who has been made a ward in a guardianship is not without the right to select their own attorney. If a ward has the capacity to select an attorney, they have an absolute right to have counsel of their choice.<sup>7</sup>

In *Towne v. Hubbard*,<sup>8</sup> our Supreme Court discusses at length the constitutional right to be represented by an attorney of one’s own choosing. The court stated:

The right to the assistance of legal counsel includes the right to be represented by a legal practitioner of one’s own choosing. In *Powell v. Alabama*, the United States Supreme Court stated, “It is hardly necessary to say that the right to counsel being conceded, a defendant

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should be afforded a fair opportunity to secure counsel of his own choice.” This right to select counsel without state interference is implied from the nature of the attorney-client relationship within the Anglo-American adversarial system of justice, wherein an attorney acts as the personal agent of the client and not of the state. It is also grounded in the due process right of an individual to make decisions affecting litigation placing his or her liberty at risk. *Legal practitioners are not interchangeable commodities.* Personal qualities and professional abilities differ from one attorney to another, making the choice of a legal practitioner critical both in terms of the quality of the attorney-client relationship and the type and skillfulness of the professional services to be rendered.<sup>9</sup>

In paragraph 15 of its decision, the court in *Towne* states, “Notwithstanding its

constitutional status, the right to select one’s own counsel is not absolute. A litigant’s choice of counsel may be set aside under limited circumstances, where honoring the litigant’s choice would threaten the integrity of the judicial process.” Aside from total incompetency, *Towne v. Hubbard, supra*, holds that a prospective ward is entitled to an attorney of their own choice unless the trial court concludes, after an evidentiary hearing, that the attorney is not independent or has a conflict of interest.

Suppose that the court has, as it does in most cases, appointed an attorney to represent the ward. If the ward seeks other counsel and has some capacity, they have an absolute right to do so, subject to case law and the duties of counsel mandated by Rule 4.2, Rules of Professional Conduct.

Rule 4.2 applies to “communications with any person who is represented by counsel concerning the matter to which the communication relates.” It prohibits a lawyer from

communicating “about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.”

When a ward is totally incompetent, any approach to such a ward without court permission, the permission of the guardian or the consent of the attorney for the ward should constitute an ethical violation under Rule 4.2.

### HOLLY STANDARD

In the *Matter of the Guardianship of Holly*,<sup>10</sup> which deals with a “partially” incapacitated person, the Supreme Court sets out the steps an attorney must go through to enable the ward to have their own choice of an attorney.<sup>11</sup> The court’s opinion discusses those steps, beginning with the sentence, “First the ward may choose an attorney,” and then the court inserts footnote 7, which states, “This assumes that a ward has the capacity to make a knowing choice.”

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In a guardianship action, with a guardian appointed to make decisions for the ward, both personal and financial, an outside attorney should be required to get permission from the guardian and the ward’s appointed attorney prior to even meeting with a totally incapacitated person.

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When a ward lacks the capacity to make a knowing choice, the court should not allow an attorney to displace one that has been appointed by the court. Lacking the capacity to make that choice renders a choice impossible. Allowing an attorney to meet with a totally incapacitated ward threatens the integrity of the judicial process and, without safeguards such as the consent of the attorney, the court and the guardian, violates an attorney's duties under Rule 4.2.

Comment 3 to Rule 4.2 indicates that the rule applies even though the represented person initiates or consents to the communication. "A lawyer must immediately terminate communication with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by this Rule."

Rule 1.14 suggests that if an attorney has already been appointed for a ward, the lawyer should ordinarily look to the representative for decisions on behalf of the client. Because the ward in *Holly*, *supra*, had limited capacity, the ward's nominated counsel was not required to seek approval of the court-appointed counsel or the limited guardian prior to speaking with the ward. Rules 1.14 and 4.2 were relaxed in *Holly* simply because the ward had restored capacity, and the guardianship was limited.

In a guardianship action, with a guardian appointed to make decisions for the ward, both personal and financial, an outside attorney should be required to get permission from the guardian and the ward's appointed attorney prior to even meeting with a totally incapacitated person. Any meeting with a totally incapacitated ward who has an existing guardian and

attorney risks accusations of undue influence, overreaching and rank dishonesty. The optics of such a meeting are awful.

If the ward has the *capacity* to make a choice, then the choice of an attorney by the ward must be given effect.<sup>12</sup> "The attorney appointed by the court shall be replaced by another attorney if: a.) the subject of the proceeding prefers the services of an attorney other than the one initially appointed for him; b.) the preferred attorney agrees to accept the responsibility; and c.) the subject to the proceeding or the attorney whom he prefers notifies the Court of the preference and the attorney's acceptance of employment." Therefore, if a ward has the capacity to make a choice of counsel, the ethical rules in 4.2 and 1.14 do not stand in a nominated attorney's way, and that choice must be granted by the court.

However, if the ward lacks the capacity to choose their own attorney, for example, as determined by an expert, no other attorney should be allowed to even approach a totally incapacitated ward.

## CONCLUSION

This article should make clear that it is unethical to speak to a totally incompetent ward. Any attorney, regardless of how they were contacted or by whom, should never approach a represented ward who is totally incompetent. This is a bright line that should never be crossed. A *Holly* hearing should not be authorized by the court when a ward has been determined to be totally incompetent. When a *Holly* hearing is allowed to occur in the face of demonstrated total incapacity of the ward, the process, the ward's dignity and the dignity of the court are impugned.

## ABOUT THE AUTHOR



A Tulsa native, Todd Alexander is an experienced family law attorney. He has served as a guardian *ad litem* for over 20 years and as a parent coordinator in over 100 cases. His practice focuses solely on family law matters, including divorce, paternity, modifications, guardianships and probate. He is an award-winning mediator, frequent CLE presenter and adjunct professor at TU. He and his wife have two grown children, and he is also an amateur musician.

## ENDNOTES

1. See Rule 1.14, Oklahoma Rules of Professional Conduct.
2. See Title 30 O.S. Section 1-103 B.
3. See 3-107 C.2.
4. See Section 3-107 E. 1.
5. See Section 3-107 E. 3.
6. See Section 3-107 F. 1.
7. See Title 30 O.S. Section 3-107.
8. *Towne v. Hubbard*, 2000 OK 30, 3 P. 3d 154, 71 OBJ 960.
9. See *Towne v. Hubbard*, *supra*, at ¶14.
10. *Matter of the Guardianship of Holly*, 2007 OK 53, 164 P.3d 137.
11. See *Holly*, *supra*, at ¶3.
12. Section 3-107 (E) (2).

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# Tulsa Lawyer Takes Charge

## Amber Peckio To Focus on Leadership and Service in 2026

*By Lori Rasmussen*

**A**MBER PECKIO DECIDED in elementary school that she would be a lawyer one day. Her family's jobs kept them on the move, and she grew up in a variety of small towns, primarily in rural southeastern Oklahoma, rarely staying in a school for more than one school year, learning to make friends fast. As a child, she was inspired by her family's attorney, Cecil Drummond, who died in early 2025.

"He was a formidable lawyer who could get things done, and that's the life I decided I wanted for myself," Ms. Peckio said. "To be the kind of lawyer who fights for justice and always stands up for the underdog."

Ms. Peckio graduated from high school in Savanna, just a few miles south of McAlester. She served as valedictorian of her high school class of around 45, noting early on the valuable role of volunteer leadership in small communities.

"I played several sports and served on the academic team. I was active in every committee you can imagine. I learned never to underestimate the amount of stuff you can get done with a small group of committed people," she said.

After high school, she decided to attend Southeastern Oklahoma State University in Durant, choosing to stay close to home to remain a resource for her family rather

than attend one of the state's major universities. While working full time as a hostess, server and bartender in the food service industry to put herself through college, she bonded with other students who came from similar backgrounds.

"We all had something to prove," she said. "We knew the value of hard work, and we knew that where we came from did not define us."

Despite the workload, she describes her college days as some of the best of her life, serving as the youngest president of her sorority in its history while double-majoring in political science and economics. Her work in student government introduced her to civic leaders and government officials who solidified her desire to go to law school.

"I would not be where I am today without the support of the administration at Southeastern. I took advantage of every leadership and learning opportunity they threw at me. Those experiences built my character, and I learned to be tenacious despite not being handed things," Ms. Peckio said.

### LAW SCHOOL AND BEYOND

Her impressive college resume earned her a full scholarship to attend the TU College of Law, where she studied law abroad for one term and continued to serve as a student leader, all while

gaining valuable practical experience and legal skills through the licensed legal internship program. She credits her mentor, Pat Layden of McAlester, with helping her distinguish herself as a law student through meaningful opportunities with Legal Aid Services of Oklahoma and the Oklahoma Indigent Defense System docket, where she was able to assist disadvantaged clients.

Through those programs, she learned that she loved being in court and decided to focus her career on litigation. She also fell in love with Tulsa, the city she has now called home for 25 years.

"I'm always amazed at the possibilities Tulsa brings me: sports, entertainment, the ability to connect with a large network of legal professionals. I love the life I have built here," she said.

But even as she loves her life in Tulsa, her personal experiences also drive her understanding of the value of rural practice. For the first several years after passing the bar, she completed a nearly two-hour daily round-trip commute to her law practice, the Garrett Law Office in Muskogee, which was the family law firm with her then-husband, Mitchell Garrett.

"I love the camaraderie of small-town practitioners," Ms. Peckio said. "You learn to truly value the relationships you form – being



a lawyer in a smaller area gives you greater opportunity to lead and serve. You can make a huge difference and become the backbone of the community. In a small-town practice, your clients are not just your caseload, they are your neighbors."

## FOUNDATION OF BAR LEADERSHIP

It is that spirit of leadership, service and collegiality that has marked Ms. Peckio's career to date. She got involved with the OBA Young Lawyers Division while still a law student at TU, attending her first Annual Meeting in 2004 and getting to know bar leaders of the past, present and future. A member of the inaugural OBA Leadership Academy in 2008, she was also active in the Tulsa County and ABA young lawyers divisions as a new lawyer, making hospitality and service her mission. She recalls the joy she found in planning social and hospitality events for the division and building connections with fellow young lawyers, such as Bryon Will, with whom she worked to develop the Wills for Heroes program that launched during her year as YLD chair. The division still hosts these events around the state that, to this day, provide desperately needed legal services for veterans, military service members and first responders.

"I take a lot of pride in the hard work we did during my years in the YLD. Our law firm was the largest plaintiffs' firm at the time in Oklahoma, with a staff of 75

and offices in three states, and my law career was booming. But bar work is my passion, and lawyers are my people, so I always found the time!" said Ms. Peckio.

Although she and her husband ultimately divorced, they continued to practice law together and remain friends, eventually moving their law practice to Tulsa. She also continued serving the bar through terms of service on the OBA Board of Governors and the Oklahoma Bar Foundation Board of Trustees.

## FACING CHALLENGES

In 2019, she decided to strike out on her own and opened the Amber Law Group of Tulsa. Then, her world changed. Shortly after launching her law practice, as the COVID-19 pandemic raged, she was diagnosed with a rare form of leukemia and began regular trips to Houston for treatment. Her therapy was successful, and she has been cancer-free for a few years as she and her care team continue to monitor her health. She credits her staff and close friends with helping her get through this difficult period of life.

During the course of her treatment, she took an interest in medical marijuana and worked with OBA leaders to launch the Cannabis Law Committee to explore the emerging area of law. She served as its first chairperson and helped the committee transition into an OBA section beginning this year. She has been active in her service to numerous other OBA committees and groups as

well, serving as OBA vice president in 2024 and being elected as the association's president-elect for 2025, ascending to the role of president this year.

"These groups serving the legal profession are where my friends are," she said. "These are my people, the individuals and social groups I most enjoy spending my time with. Just like my school days, I don't say no to an opportunity. If someone asks me to step up, my answer is always, 'I'm in!'"

## TAKING THE LEAD

As OBA president for 2026, her focus will be on encouraging other lawyer leaders to step up and serve to advance the legal profession in Oklahoma. She will also work to foster cordial and professional bench and bar relations, maintain the aging Oklahoma Bar Center facility and continue building on the work of previous OBA presidents to ensure all Oklahomans have access to legal representation.

"Like those lawyers who have inspired me throughout my life, I want to focus on making Oklahoma a better place and seeking justice for those who have been wronged," she said. "Lawyers are my favorite people, and that's why I want to spend all my free time with them. They are the unsung heroes, and democracy can't function without them."

## ABOUT THE AUTHOR

Lori Rasmussen is the OBA director of communications.

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# Meet the Volunteers Who Guide Your Association

New officers and board members took office on Jan. 1. A formal swearing-in ceremony will be held at 10 a.m. on Friday, Jan. 16, in the Supreme Court Courtroom at the state Capitol.



**AMBER PECKIO**  
2026 President  
*Tulsa*

Amber Peckio is a solo practitioner with the Amber Law Group of Tulsa. As an AV-rated preeminent attorney with more than 23 years of trial experience, Ms. Peckio primarily practices in litigation, insurance dispute litigation, complex family litigation and personal injury litigation. She also works extensively in the newly established cannabis law field in Oklahoma and routinely counsels Oklahoma businesses in all cannabis-related legal matters.

Ms. Peckio served as OBA president-elect in 2025 after serving as vice president in 2024. She is the past chair of the OBA Cannabis Law Committee (now an OBA section). She is a member of the American Bar Association, where she previously served as vice chair of the Tort Trial & Insurance Practice Section Cannabis Policy and Law Committee and as state membership chair for Oklahoma. She also co-hosted “Between Two Weeds – Joint Sessions: 2025 Cannabis Legislation Preview” for OBA CLE.

She has served the OBA as an Oklahoma Bar Foundation Trustee from 2014 to 2019, Women in Law Committee chair in 2007, Lawyer Advertising Task Force member in 2007, Young Lawyers Division board director for Tulsa from 2006 to 2014, Professionalism Committee member, Law Related Education Committee chair, Solo and Small Firm Conference Planning Committee member, Audit Committee member in 2022, graduate of the inaugural OBA Leadership Academy in 2009 and a frequent CLE speaker. Ms. Peckio was also active in

the Tulsa County Bar Association, having served as secretary in 2019, vice president in 2020 and small firm director in 2021.

She received her J.D. from the TU College of Law in 2003 and is admitted to practice in all courts in the state of Oklahoma and before the U.S. District Court for the Eastern, Northern and Western districts of Oklahoma and the U.S. 10th Circuit Court of Appeals. As a graduate of the TU College of Law, she has served as a past member of the Alumni Association board. She is also a sustaining member of the Junior League of Tulsa.



**JANA L. KNOTT**  
President-Elect  
*El Reno*

Jana L. Knott joined Bass Law in 2018 and became the firm’s managing partner in 2024. Her practice focuses primarily on appellate litigation, advocacy, briefing and consultation. She handles civil appeals in all areas of the law in both state and federal court, including oil and gas, trusts and estates, divorce, parental termination, appeals from the Oklahoma Corporation Commission, real property, municipal law and bankruptcy. She also represents clients who wish to participate in an appeal as an *amicus curiae*.

Ms. Knott represents clients in district courts across the state in civil litigation cases as both trial counsel and embedded appellate counsel. She often provides district court-level brief writing and complex motion writing to other lawyers and firms in all areas of the law, including trust and estate disputes, business disputes, oil and gas litigation, municipal law and real property disputes.



Prior to joining the firm, she worked for seven years as a staff attorney to Oklahoma Supreme Court Justice Noma D. Gurich. In addition, she has worked as an adjunct professor at the OCU School of Law, teaching civil practice and procedure.

Ms. Knott co-hosts and produces *Oklahoma Appeals: The Podcast*, where she and her co-host discuss new cases published by the Oklahoma Supreme Court and the Oklahoma Court of Civil Appeals and interview guests on all topics related to civil litigation at both the district court and appellate court levels.



#### **S. SHEA BRACKEN**

Vice President  
Edmond

S. Shea Bracken is an attorney with the Edmond law firm of Maples, Nix & Diesselhorst. His practice focuses on catastrophic injury, including medical malpractice, birth injury and products liability. He served in the U.S.

Marine Corps Infantry and is a decorated war veteran with a combat deployment to Fallujah, Iraq, during Operation Iraqi Freedom II. He earned his bachelor's degree from OSU and his J.D. with honors from the OCU School of Law.

Mr. Bracken is a member of the American Association for Justice, including the Birth Trauma Litigation Group and the Attorneys Information Exchange Group; the Oklahoma County Bar Association; and the Oklahoma Association for Justice. He served as a district representative on the OBA Board of Governors from 2022 to 2024. He currently serves as an Oklahoma Bar Foundation Trustee and as chair of the OBA Military Assistance Committee. He also participates in the OCU Law Mentorship Program and is a member of the OBA Mock Trial, Legislative Monitoring and Bench and Bar committees.

He is active in the community, including serving as a member of the Deer Creek Schools Foundation board, the American Legion, the Veterans of Foreign Wars and the Marine Corps League. He enjoys spending time with his wife, Lindsay, and his daughters, Makenna and Teagan. He also enjoys traveling, exercising, reading, playing video games, watching movies and anything involving sports, especially the Oklahoma State Cowboys, the Oklahoma City Thunder, Tottenham Hotspur and the Detroit Lions.



#### **D. KENYON WILLIAMS JR.**

Immediate Past President  
Sperry

D. Kenyon Williams Jr. is a shareholder at the Tulsa office of Hall Estill, having joined the firm in 1996. Prior to joining, Mr. Williams served as in-house counsel for Helmerich & Payne after forming his own firm in 1977.

He received his bachelor's degree in petroleum engineering from TU and his J.D. from the TU College of Law. He is licensed in Oklahoma and Arkansas and represents businesses and communities in environmental, regulatory, administrative and litigation matters.

Mr. Williams has been active in the OBA and the Tulsa County Bar Association throughout his career. He has served in almost every TCBA position, including president in 2014 and Tulsa County Bar Foundation Trustee. While serving as president, the TCBA was awarded the OBA Outstanding County Bar Association Award. The association also received the OBA Hicks Epton Law Day Award for its outstanding Law Day while he was serving as the TCBA Law Day chair.

In the OBA, Mr. Williams served as president in 2025 after serving as president-elect in 2024 and vice president in 2023. He also served as governor for

Judicial District 6 on the Board of Governors and as a master, vice chief master and presiding master of the Professional Responsibility Tribunal. He has also served as chair of the Professionalism Committee and the Environmental Law Section and on various other OBA committees. Currently, Mr. Williams serves on the Budget Committee and the Professional Responsibility Commission. He is a frequent CLE presenter and a former recipient of the OBA Earl Sneed Award in recognition of his contributions to continuing legal education. The TCBA also awarded him the Gary C. Clark Distinguished Service Award in recognition of his many years of service to the TCBA and the legal profession.

Mr. Williams serves as an elder of The Park Church of Christ, where he and his wife, Teresa, and two of their three adult children and families also attend. Their third adult child and two of their eight grandchildren live in Scottsdale, Arizona.



**WILLIAM LADD  
OLDFIELD**

Governor – District 1  
*Ponca City*

William Ladd Oldfield was born in Stillwater and grew up in Osage County. He graduated from OSU with a bachelor's degree in mechanical engineering and received his J.D. from the OU College

of Law. He was admitted to the Oklahoma bar in 2005.

Mr. Oldfield is a partner with the Ponca City law firm of Northcutt, Clark, Oldfield & Jech, where his practice is primarily focused on civil litigation. He is admitted to practice before the U.S. District Courts for the Western, Northern and Eastern districts of Oklahoma. He also serves as the chief trial court judge for the Osage Nation.



**CHRIS D. JONES**

Governor – District 2  
*Durant*

Chris D. Jones was raised in Bryan County. He graduated from Calera Public Schools and attended Southeastern Oklahoma State University, earning a bachelor's degree in mathematics education.

He then obtained an MBA from the University of Central Oklahoma. He graduated *cum laude* from the OCU School of Law, where he was active in many

organizations, including the *Oklahoma City University Law Review* and mock trial team. After law school, he threw out a shingle in Durant, where he is currently a solo practitioner. He is admitted to practice in the federal courts of the Eastern, Western and Northern districts of Oklahoma. Mr. Jones, his wife, Leann, and their two young children run a cattle ranch in Bryan County. They love to cruise in their spare time.



**CODY J. COOPER**

Governor – District 3  
*Oklahoma City*

Cody J. Cooper is an experienced litigator and a licensed patent attorney who represents individuals and companies in a wide range of business litigation and intellectual property matters. His practice primarily

concentrates on complex commercial litigation in state and federal courts and intellectual property matters at the U.S. Patent and Trademark Office. He has been with Phillips Murrah PC for over 13 years.

He graduated with honors from OU with a Bachelor of Business Administration, majoring in finance and management information systems. He received his J.D. from the OU College of Law with honors.

Mr. Cooper is actively involved in his community. He is a member of the CASA of Oklahoma County Board of Directors and the past president of the Oklahoma County Bar Association.

Born and raised in Norman, he now lives in Oklahoma City with his wife, daughter, son and two dogs. In his free time, he enjoys coaching his children's teams in a number of different sports, spending time with friends and family and attending OU Sooners and Oklahoma City Thunder sporting events.



**BENJAMIN J. BARKER**

Governor – District 4  
*Enid*

Benjamin J. Barker is a member of the Enid law firm of Mitchell DeClerck PLLC, where he has practiced since 2013. His cases and clients span the typical "county-seat lawyer" spectrum; however, he is

primarily engaged in areas related to criminal defense and family law. He graduated from Enid High School

in 2006, OSU in 2010 and received his J.D. from the OU College of Law in 2013. He is admitted to practice in the U.S. District Court for the Western District of Oklahoma, and he is a member of the Garfield County Bar Association, the Cherokee Nation Bar Association, the Oklahoma Criminal Defense Lawyers Association, the Family Law Section and others.

Previously, Mr. Barker served on the Young Lawyers Division Board of Directors and has acted as Law Day chair for Garfield County for several years. He is the secretary of the Phi Gamma Delta – Sigma Omicron Housing Association and the past vice president and a current member of the Enid Symphony Association Board of Directors. He and his wife, Kendale, have three children: Caroline, Elizabeth and Charles, plus a dog, Herbert. While not in court, Mr. Barker has been known to do a little woodworking, leatherworking and (from time to time) banjo picking.



**LUCAS M. WEST**  
Governor – District 5  
Norman

Lucas M. West is an associate attorney with Nichols Dixon PLLC in Norman. His practice encompasses a variety of legal areas, including family law, guardian *ad litem* work, civil litigation, estate planning and municipal law.

Mr. West grew up in Mustang and attended Texas Christian University, graduating *summa cum laude* with a bachelor's degree in political science and psychology in 2015. He was a member of the John V. Roach Honors College and the TCU Wesley Foundation. He returned to Oklahoma to attend the OU College of Law, where he worked in the civil division of the legal clinic, participated in the national mock trial team and graduated in 2018.

He worked as an extern at the Oklahoma County District Attorney's Office before joining Nichols Dixon PLLC as a legal intern. In 2018, he passed the bar and became an associate attorney. He is licensed to practice law in all municipal and state courts, the Western District of Oklahoma and several tribal courts. He is also invested in his legal community and served on the Cleveland County Bar Association Executive Board, including as president for the 2022 to 2023 term.

Mr. West lives in Norman with his wife, Sarah, their son, Oliver, and two cats. He credits the support of his family and the mentorship of the attorneys at Nichols Dixon and the Cleveland County Bar Association for his ability to effectively represent clients in the complex

and challenging legal process. He is honored to serve as a representative on the Board of Governors with the support of his friends and the legal community.



**PHILIP D. HIXON**  
Governor – District 6  
Tulsa

Philip D. Hixon is a shareholder in the Tulsa office of GableGotwals. He has more than 20 years of litigation and contract negotiation experience representing the interests of clients in a variety of legal matters,

including health care, construction, business counseling and general civil litigation, with approximately 25 state and federal appeals. He served as editor-in-chief of the third edition of *Oklahoma Civil Procedure: Forms and Practice* (Matthew Bender 2024).

He received his J.D. *summa cum laude* and his graduate degree in business administration from OCU. He earned his undergraduate degree *summa cum laude* in business administration from the University of Central Oklahoma.

Mr. Hixon is active with the bar and in the Tulsa community. He is a past president of the Tulsa County Bar Association and was honored with the TCBA's Distinguished Service Award in 2020-2021, as its Outstanding Young Lawyer in 2003-2004 and as the President's Award recipient in 2020-2021 and 2003-2004. He has served on the OBA Audit, Budget, Law Day and Strategic Planning committees. He also serves on the boards of the Will Rogers Memorial Foundation and Christ the Redeemer Lutheran Church. He is a past board member of Morton Comprehensive Health Services, Tulsa Habitat for Humanity and Rebuilding Together Tulsa; a past trustee of the Tulsa County Bar Foundation; and a former commissioner of the Will Rogers Memorial Commission.



**CHAD A. LOCKE**  
Governor – District 7  
Muskogee

Chad A. Locke graduated from the University of Missouri – Kansas City School of Law in 2004. Licensed in both Oklahoma and Missouri, he joined the family practice in 2006 and has been a fixture in



his community ever since. He is a member of the Muskogee County Bar Association and is admitted to the Muskogee Creek Nation and Cherokee Nation, as well as the U.S. Eastern District Court of Oklahoma.

Mr. Locke has served on countless charitable boards, including Kids' Space Child Advocacy Center, Monarch Inc., Muskogee Little Theatre, Five Civilized Tribes Museum and Downtown Muskogee Inc. He is a past president of the Exchange Club of Muskogee and Muskogee Young Professionals and was inducted into the 14th class of Leadership Muskogee. For the past four years, Locke Law Office has sponsored the All Pro Tour Junior Clinic, where Muskogee children have the chance to learn from professional golfers. Mr. Locke holds himself to the highest standards of integrity, hard work and fairness. When he isn't in the courtroom or helping in the local community, he enjoys traveling with his three daughters and wife, golfing, reading and spending time on the lake.



**BLAYNE P. NORMAN**  
Governor – District 8  
*Wewoka*

Blayne P. Norman serves as assistant district attorney for Hughes and Seminole counties, where he works to uphold justice and protect the community in which he grew up. His practice includes criminal and juvenile matters,

but his focus extends beyond the courtroom – building trust and strengthening partnerships with law enforcement, local agencies and families.

Mr. Norman is deeply rooted in community service. He is the president of the Seminole County Bar Association, and he serves on the Oklahoma Child Death Review Board for the Southeastern Region, working to improve systems and outcomes for children and families across the state. He also volunteers with his church's worship team, contributing his time and music to support his community in another way.

As a graduate of OU, with degrees in finance and accounting, and the OCU School of Law, he brings both analytical skills and a servant-leader mindset to his work. His experiences range from aviation law to mediation and public service, but his commitment to people has remained constant throughout his career.

Whether in the courtroom, at church or within local organizations, Mr. Norman strives to give back to the communities that shaped him. He looks forward to continuing that service on the OBA Board of Governors.



**KRISTY E. LOYALL**  
Governor – District 9  
*El Reno*

Kristy E. Loyall has been practicing law since 2011, with family law as her primary area of practice. She is a partner at Bass Law Firm in El Reno, and her practice is broken down into three areas: litigation, guardian *ad*

*litem* appointments and mediation. She also serves as the city prosecutor for the city of El Reno.

She lives in Yukon with her husband, Tyeson, and two young sons. She graduated *cum laude* with a bachelor's degree in political science and a minor in English from the University of Central Oklahoma. She received her J.D. with honors from the OU College of Law in 2011. After being admitted to practice law, Ms. Loyall began her career working for a general practice law firm in Oklahoma City. In 2012, she joined the national law firm of Cordell & Cordell. During that tenure, she was selected to serve as a lead litigator for the firm and attended the prestigious National Institute for Trial Advocacy Family Law Trial Advocacy Program.

She served as president of the Canadian County Bar Association from 2023 to 2024, after holding the role of vice president from 2021 to 2022. She was named Mediator of the Year in 2022 by the OBA Family Law Section.



**KATE N. DODOO**  
Governor – At Large  
*Oklahoma City*

Kate N. Dodoo is an experienced attorney who leads both the Appellate Practice Group and Immigration and Compliance Group at McAfee & Taft. With more than 20 years of legal experience in the public and private sectors,

Ms. Dodoo represents businesses in appellate litigation and serves as business immigration counsel for major U.S.-based corporations and foreign-owned companies with interests in the United States. She also counsels employers on E-Verify, I-9 compliance, audits and general labor and employment matters. As a frequent author on legal topics, she has served as a guest legal columnist for *The Journal Record* and a contributing author to *Law360*, the *Oklahoma Employment Law Letter*, the *Midwest Employment Law Letter*, *HRLaws.com* and *EmployerLINC*.

Ms. Dodoo is a dedicated public servant. Before entering private practice, she spent the first 15 years of her legal career in public service at the federal, state and municipal levels, including serving as assistant chief counsel within the U.S. Department of Homeland Security and appellate attorney at the Oklahoma Supreme Court.

Her community involvement includes serving on the OBA Bench and Bar and Diversity committees; previously co-chairing the Oklahoma Children's Court Improvement Program Education Taskforce, founding the community-based conference supporting at-risk and special needs youth; mentoring high school and law students; and serving on various boards. Ms. Dodoo's achievements have earned her inclusion in the National Black Lawyers Top 100 and the Top Attorneys for Appellate Law, as named by *405 Magazine*. In 2024, she was honored with *The Journal Record's* Leadership in Law Award.



**MOLLY A. ASPAN**  
Governor – At Large  
Tulsa

Molly A. Aspan is a partner with Practus LLP in Tulsa, where she began working in 2021 after 18 years at Hall Estill. She regularly counsels and trains employers on best practices for reducing risk and litigation

and maintaining a productive workforce. She has been nationally recognized for her work in the area of labor and employment, and she is a frequent speaker at labor and employment-related seminars and conferences.

Ms. Aspan is a past recipient of the Mona Salyer Lambird Spotlight Award, the OBA Outstanding Service to the Public Award and the OBA Outstanding Young Lawyer Award. She has also served for many years as chair of the OBA Disaster Response and Relief Committee. She is also past president of the Board of Directors for Legal Aid Services of Oklahoma, past president of the Council Oak/Johnson-Sontag American Inn of Court and the Tulsa delegate to the ABA House of Delegates, where she is active on several sections and committees. She is also a member of the Professional Responsibility Commission.

Ms. Aspan is a 2003 graduate of the University of Kansas School of Law. She earned a bachelor's degree in economics and political science from Fort Hays State University in 2000. Having grown up on a farm, she knows the value of hard work and teamwork. When she is not working hard for her clients, you'll find her cheering on her daughter at the soccer fields, enjoying time spent with family and friends, working to improve her community and returning to her family's farm during harvest to pitch in.



**JEFF D. TREVILLION**  
Governor – At Large  
Oklahoma City

Jeff D. Trevillion is a director in the Oklahoma City office of Crowe & Dunlevy and a member of the firm's Taxation Practice Group. He is an experienced trial lawyer and a certified public accountant who also chairs the

Criminal Defense, Compliance & Investigations practice.

Mr. Trevillion, a native Tulsan, has called Oklahoma City home for more than 20 years. His OBA service history includes the Professional Responsibility Tribunal, past president of the Oklahoma Bar Foundation, the Credentials Committee, the Strategic Planning Committee, the inaugural Leadership Academy and the Young Lawyers Division board.



**ALEXANDRA J. "ALLIE" GAGE**  
Governor – YLD Chair  
Enid

Alexandra J. "Allie" Gage is an estate planning attorney with Oath Law in Tulsa. She graduated from OSU in 2013 and spent several years serving communities abroad.

In 2017, Ms. Gage returned to Tulsa to begin her legal career by attending the TU College of Law, graduating in just 2 1/2 years with honors while also serving as president of the Board of Advocates, supervising editor for the *Tulsa Law Review* and chief justice of the Student Bar Association. After law school, Ms. Gage began a career in civil litigation at a prestigious downtown Tulsa firm before transitioning to estate planning in 2025. Ms. Gage married her law school sweetheart in 2019, and they welcomed a baby boy in 2025. In her free time, Ms. Gage enjoys traveling, reading and spending time with her family.

Ms. Gage joined the YLD Board of Directors in 2021 in an effort to better connect with and serve her community after the COVID-19 pandemic left its mark on Oklahoma. As a member of the YLD Board of Directors, Ms. Gage has enjoyed serving her community and her fellow attorneys through the various opportunities afforded by the division over the past four years. She looks forward to leading the YLD throughout this next year and serving for many more years to come.

## What's Online



**WANT TO LEARN MORE** about your bar association? Visit [www.okbar.org](http://www.okbar.org), the OBA's online headquarters. The website is a comprehensive and informative destination to manage your membership. Whether you're looking for a CLE program, the next LHL meeting, information about sections and committees or the handy online calendar, it's all there for you.

### FOR MEMBERS

The OBA website's member resources include the OBA Classifieds, which were established in 2021 to offer online classified advertising, including judicial vacancies, employment opportunities, services and office space availability. Links to other bar-related news and OBA staff information are additional features.

The website is frequently updated with relevant information such as announcements, new bar journal issues, bar center closures,

CLE programs and much more. The calendar is a valuable resource with up-to-date events posted. It provides the date, time and location of events, and you can even add the event to your calendar directly from the OBA website.

Issues of the *Oklahoma Bar Journal* are also available on the OBA website. This includes issues from the current year, as well as archived issues from previous years. Access to the bar journal is invaluable as it provides helpful information on various areas of the law throughout the years.

The OBA has much more to offer members on the website. View all the member resources at [www.okbar.org/members](http://www.okbar.org/members).

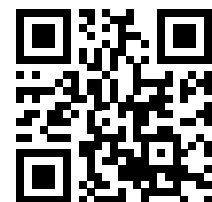
### FOR THE PUBLIC

The website is also designed for public use with resources such as Oklahoma Find A Lawyer, a free public directory of Oklahoma attorneys, and Law for People, a page of free information and

resources provided by the Oklahoma Access to Justice Foundation and the OBA.

Resources also include Court Facts, information about the OBA, legal resources, OBA member license status verification and more. Learn more about what the OBA has to offer the public at [www.okbar.org/public](http://www.okbar.org/public).

The website also houses portals for popular programs like the Oklahoma High School Mock Trial Program and Law Day Contest information for students and teachers. The virtual headquarters for your OBA membership is at [www.okbar.org](http://www.okbar.org). We are mindful of making it a great, user-friendly experience for you and a repository of the information you are tracking down.







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## THE BAR CENTER

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### CONTACT

Debra Jenkins, Administrative Assistant  
405-416-7042 | [debraj@okbar.org](mailto:debraj@okbar.org)

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# Applicants for February 2026 Oklahoma Bar Exam

**T**HE OKLAHOMA RULES OF PROFESSIONAL CONDUCT impose on each member of the bar the duty to aid in guarding against the admission of candidates unfit or unqualified because of deficiency in either moral character or education. To aid in that duty, the following is a list of applicants for the bar examination to be given Feb. 24-25.

The Board of Bar Examiners requests that members examine this list and bring to the board's attention in a signed letter any information that might influence the board in considering the moral character and fitness to practice of any applicant for admission. Send correspondence to Cary Pirrong, Administrative Director, Oklahoma Board of Bar Examiners, P.O. Box 53036, Oklahoma City, OK 73152.

### EDMOND

Rehma Kamal Amil  
Talla Anwar Khader  
Jennifer NC Ly  
Charles Luke Scroggins  
Veronica Lee Tsai

### NORMAN

Connor Andrew Sharp  
Coty Skylar Goetzinger  
Jeffery Brandon Bostick  
John Cordes Kirchhoefer  
Joshua Levi Emerson  
Robert Quinn Rowell  
Thomas Willis Taylor II  
Alexandria Katlin Petre  
Hope Riley Serfontein

### OKLAHOMA CITY

Omed Hameed Alemadi  
Kennedy Brooke Baker  
Bryce Connor Boyd  
Britnee Ashley Branch  
Tanya Raydena Chiariello  
Mckenzie Jewell Choate  
Sarah Elizabeth Coughlon  
Sarah Dominique Daquiaoag  
Ryan Lewis Dixon  
Toby Glen Fullbright  
William Taft Gibbons IV

Leonardo Arturo  
Gonzalez-Romero  
Kayla Marie Graves  
Keely Elizabeth Janzen  
Kory Lee Kile  
Daniel Terah Eliakim Kines  
Lisa Leigh Lopez  
Victoria Angelic Lovato  
Michelle Riley May  
Luke Owen Mills  
McKenna Riley Murphy Brooks  
Melody Parra  
Poonam Bhupendra Patel  
John Allee Switzer  
Piper Sydney Tully  
Kayla Rose Unkelbach  
Charles Otto Walker  
Meghan Tze-Kwan Wan  
Keith Dwayne Williams  
Kiaralexis Wood  
Noelle Lauren Yost

### TULSA

Morgan Nicole Bandy  
Madeline Mae Brady  
Garrett Frederic Brede  
She'era Chyenne Brunson  
Kailey Marie Chapman  
Danny Ray Daniels Jr.  
Eugene John Flynn IV

Brian Steven Gattis  
Sunshine Amanda Graham  
Carlton George Hogan  
Eric Raymond Hudkins  
Yuji Ide  
Steven Wade Jameson  
Scott Killian Love  
Jessica Maldonado  
Skylar Rae Mills  
Cindi Mariela Paredes  
Sydney Jo Ross  
Chancy Tye Schaaf  
Jennifer Lyn Schooley  
John Warren Seely  
Ryan John Silva  
Tristan Michael Sims  
Dakota Ray Thomas  
Layni Shiann Thompson  
Chase Lee Weems

### OTHER OKLAHOMA CITIES AND TOWNS

Adell Lloyd Barnes, Tahlequah  
Patti Diane Buhl, Tahlequah  
Mark William Burgess, Ardmore  
Amaris Monet Buser, Owasso  
Joseph Tali Byrd, Park Hill  
Steven Chance Clinkenbeard,  
Fort Gibson  
Jasmine Lashon Dawkins, Yukon

Rhianna Cooper Fairchild,  
Glenpool  
Tiffany Danielle Frost, McLoud  
Jocelyn Charlotte Germaine, Atoka  
Justin Adam Hairston, Moore  
Grace Elizabeth Holstein,  
Broken Arrow  
Jordan Mekhi Johnson, Idabel  
John Travis Lee, Broken Arrow  
Amelia Ann Martin, Bartlesville  
Abygail Ryann Massey, Kingfisher  
Michael Maurice Mays,  
Broken Arrow  
Jeffrey John Miller, Guthrie  
Hattie Paige Morgan, Owasso  
Analisa Morrison, Mustang  
Brayden Lane Oglesby, Howe  
Kayla Lanette Patten, Ponca City  
Raluca Daniela Pavel, Ardmore  
Timothy Shaun Penson,  
Broken Arrow  
Dalex Clay Potts, Moore  
David Heath Richardson Jr., Jenks  
Jacqueline Kay Ruhl, Claremore  
Mary Ruth Rynaski, Granite  
Braden Ryan-Leslie Scott,  
Broken Arrow  
Darren Allen Seward, Yukon  
Jennifer Kellilyn Shipley,  
Blanchard  
Maranda Louise Surginer,  
McAlester  
Collin Andrew Swander,  
Blanchard  
Jami Lyn Treantafeles, Bixby  
John Carnahan Webb, Yukon  
McKensi Burks Webb, Hollis  
Taryn Nicole Williams, Chickasha  
Vol Colton Woods, Welling

## OUT OF STATE

Steve Tenkamenin Awuyah  
Addae, Bronx, NY  
Waqas Ali, Karachi, Pakistan  
Abigail Borunda, Dumas, TX  
Truman Michael Burrage,  
Cambridge, MA  
Jordan Catherine Burrows,  
Aubrey, TX  
Patrick Kenneth Doell,  
New Orleans, LA  
Jennifer Redding Finley,  
San Diego, CA  
Micah Ryan Fontaine,  
North Little Rock, AR  
Delia Shelly Garcia, Dallas, TX  
Kirsten Rebecca Houtz,  
Lee's Summit, MO  
Dallas Myrl Howell, Parks, AZ  
Michael Edward Joseph Jr.,  
Joplin, MO  
Kiyoshi Cruz Juarez, Lakehills, TX  
Fabian Dewyane Lee Jr.,  
Fulshear, TX  
Addie Marie Martin, Fort Smith, AR  
Liz Pereira Mota, Denver, CO  
Ellis Denzel Newkirk, Amarillo, TX  
Amber Allison Davis Smith,  
Brookshire, TX  
Ericka Enchanique' Smith,  
Missouri City, TX  
William Bradford Stanford IV,  
Murphy, TX  
Tahj Anthony Walker, Mesquite, TX  
Desiree Lauren Watkins,  
Pearland, TX  
Lindsay Welton, Austin, TX



**2025 OK 83**  
**IN THE SUPREME COURT OF THE STATE OF OKLAHOMA**

In Re: Rules of the Supreme Court of the  
State of Oklahoma on Legal  
Internship

)  
)  
)

S.C.B.D. No. 7904  
FOR OFFICIAL PUBLICATION  
PUBLISH 3X OBJ

**ORDER**

This matter comes on before this Court upon an Application to Amend Rules 2 and 6 and Regulation 7 of the Rules of the Supreme Court of the State of Oklahoma Licensed Legal Internship (hereinafter "Rules") filed on May 20, 2025. This Court finds that it has jurisdiction over this matter and Rules 2 and 6 and Regulation 7 is hereby amended as set forth in Exhibit a attached hereto, effective immediately.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 17TH DAY OF NOVEMBER, 2025.



CHIEF JUSTICE

Rowe, C.J., Winchester, Edmondson, Combs and Jett, JJ., concur;  
Gurich, J., concurs in part; dissents in part;  
Kuehn, V.C.J. (by separate writing), Darby and Kane, JJ., dissent.

*To read the full rules and exhibits, visit <https://bit.ly/3KUWzv4> or scan the QR code.*



**2025 OK 92**  
**IN THE SUPREME COURT OF THE STATE OF OKLAHOMA**

In Re: Rules of the Supreme Court for	)	
Mandatory Continuing Legal	)	
Education [Rule 7, Regulations 3.8	)	SCBD: 8012
and 4.1.8]	)	FOR OFFICIAL PUBLICATION
		PUBLISH OBJ X 3

**ORDER**

This matter comes on before this Court upon an Application to Amend Rule 7, Regulations 3.8 and 4.1.8 of the Rules of the Supreme Court for Mandatory Continuing Legal Education (hereafter "Rules"), 5 O.S. ch. 1, app. 1-B as proposed and set out in "Exhibit A" attached hereto.

The Court finds that it has jurisdiction over this matter and the Rules are hereby amended as set out in Exhibit A attached hereto, effective January 1, 2026.


DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 15TH DAY OF DECEMBER, 2025.

  
CHIEF JUSTICE

ALL JUSTICES CONCUR.

*To read the full rules and exhibits, visit <https://bit.ly/45d9RtC> or scan the QR code.*





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Oklahoma Access to Justice Commission  
and American Bar Association

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If you are struggling, there are people and programs almost instantly available that will help you get past the worst of moments and getting past that moment often makes all the difference. We must always remember that behind every lawyer is simply a person.

*– Travis Pickens, Oklahoma Bar Association Member*

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# A New Year of Purpose, Connection, and Professional Growth

*By Janet Johnson*

**THE TURNING OF THE** calendar offers more than a symbolic fresh start. It invites reflection, renewal, and a recommitment to the values that unite us as members of the legal profession. As we ring in the new year, I hope we are also taking time to celebrate the important role lawyers play in our society. Whether you are beginning your first year of practice or marking decades of service, it is always worth reminding yourself that the work you do matters.

The past year has asked much of our profession. We navigated evolving laws, shifting client needs, technological changes, and the ongoing responsibility to uphold justice with integrity and compassion. Through it all, our members have continued to demonstrate resilience, professionalism, and

an unwavering commitment to serving our clients and communities.

The year ahead presents an opportunity to pause and consider how we wish to grow, both personally and professionally. What skills do we want to sharpen? How can we better support one another's well-being? In what ways can we strengthen public trust in the legal system and expand access to justice? These questions are not abstract; they are guideposts that help shape meaningful careers and a stronger bar.

Our association exists to support you in this journey. In the year ahead, we invite all members to take part in a variety of events and activities designed to foster both professional development and personal connection. These include OBA CLE programs that

address emerging issues and practical skills, as well as forums for thoughtful dialogue about ethics, leadership, and the future of our profession.

Equally important are the gatherings that bring us together beyond the demands of daily practice. Committee and section meetings, pro bono events, and community service projects create opportunities for collegiality as well as opportunities to support our neighbors. The strong professional relationships you can build by participating in bar-related activities will enrich your life, enhance collaboration with your colleagues, and make our shared work more fulfilling.

A few notable examples of pro bono service opportunities this year include our annual celebration of Law Day on May 1, when, for the 50th

**New for 2026!** The OBA announces "In Case You Missed It (ICYMI)," a new, traveling CLE roadshow designed to keep judges, court staff and lawyers up to date on the latest changes in law and court forms.

This lunch-and-learn (or breakfast!) series will bring timely updates directly to communities across Oklahoma. Each year, ICYMI will focus on a different topic critical to the bench and bar.

**Year one kicks off in early 2026!**

Judges who attend will earn mandatory judicial CLE (MJCLE) credit, and attorneys will receive MCLE credit. Sessions are designed to be practical, interactive and convenient because we know your time is valuable! Lunch (or breakfast) is provided, and we'll bring the updates to you. Don't miss this opportunity to stay current and connected!

This series is co-sponsored by the OBA Bench and Bar Committee, the OBA Access to Justice Committee and the Oklahoma Access to Justice Foundation.

**Interested in hosting or attending in your local area?**

**Email [info@okaccesstojustice.org](mailto:info@okaccesstojustice.org) for more details or to schedule a session!**

SAVE THE DATE



OKLAHOMA BAR ASSOCIATION  
MIDYEAR MEETING  
JUNE 17-19, 2026 • OKANA RESORT

consecutive year, volunteer lawyers will gather to provide answers to the public's legal questions via the Ask A Lawyer phone and email hotline. Coming Nov. 11, the OBA Military Assistance Committee will partner with the Oklahoma Access to Justice Foundation to host an in-person free legal clinic for military service members in conjunction with Veterans Day. Our Young Lawyers Division is planning a Wills for Heroes event to support service members and first responders, and the Oklahoma High School Mock Trial Program is looking for volunteers to coach and mentor young people as they begin to understand how our legal system functions. There is truly an opportunity for every lawyer in Oklahoma to make a difference in someone's life.

I am also excited to announce that in 2026, we will be building on the success of last year's Solo & Small Firm Conference with the first-of-its-kind "OBA Midyear Meeting." This meeting will focus on CLE opportunities for all practitioners, while still offering programming geared toward solo and small-firm lawyers as well. As in the past, this summertime event will take place in a fun, resort-style environment with plenty of opportunities for relaxing and having a great time with colleagues and family. For 2026, we will be returning to the OKANA Resort and Indoor Waterpark in Oklahoma City, which earned rave reviews from last year's attendees. More details and registration information will be coming

soon, so be sure to mark your calendars for the OBA Midyear Meeting, June 17-19, and save the date!

Additional dates to keep in mind are Nov. 11-13, when the OBA will host the 2026 Annual Meeting. This year's meeting will focus on bar business, committee and section meetings, and awards presentations, and this year's event will once again take place in Oklahoma City. Stay tuned for more information!

As we step into the new year, let us do so with optimism and intention. May we celebrate our achievements, learn from our challenges, and remain open to new ideas and perspectives. Together, we can continue to uphold the highest standards of our profession while supporting one another as colleagues and friends. Thank you for all that you do and for the privilege of serving you. I look forward to seeing you throughout the year ahead and working together to make it one of growth, connection, and purpose for our entire bar.



To contact Executive Director Johnson, email her at [janetj@okbar.org](mailto:janetj@okbar.org).



# January Tune-Up: A Friendly Reminder To Analyze Your Firm's Bottom Line

*By Julie Bays*

**J**ANUARY IS A MONTH OF new beginnings. It is a time when many of us buy fresh planners, set ambitious goals and make promises to ourselves about the year ahead. However, if you are a solo or small firm lawyer, there is one resolution that often slips through the cracks: taking an honest, unhurried look at your firm's finances.

Let's be real. Most of us did not choose law because we love spreadsheets and expense reports. If last year felt hectic or unpredictable, a financial review might sound like just another chore. Still, a quick January check-in can make a world of difference for your practice, your clients and your peace of mind. It does not need to be complicated or time-consuming; consider it a straightforward, preventative step that you'll appreciate having taken.

### **START WITH THE BIG PICTURE: WHAT ACTUALLY HAPPENED LAST YEAR?**

One of the most useful ways to check in on your firm's financial health is simply comparing what you thought you would spend with what you actually spent. It's a quick reality check, and it often reveals more than you expect.

Whether you kept a detailed written budget or just had a general sense of your expenses throughout the year, this step helps you understand how close your expectations came to real life.

If you created a budget last year, great! Pull it out and look at how things lined up. And if you did not, you can still get a clear picture of where your money went by reviewing your bank statements, profit and loss reports or credit card summaries.

As you go through the year, start grouping your expenses into broad categories. Look for your predictable, fixed costs, like rent, software and insurance. Then look at your variable expenses: travel, CLEs, meals, marketing and the occasional unplanned "I need this now" purchase. Don't forget the surprises, such as equipment replacements and repairs.

Once everything is sorted, patterns usually start to appear. Maybe software expenses crept up more than you realized. Did travel costs spike during busier months? Maybe a few "one-time purchases" were not actually one-time. The goal is to identify where small adjustments can help make next year more stable and predictable.

### **EVALUATE YOUR REVENUE REALISTICALLY**

Law firm revenue is rarely steady. Most solos have peaks and valleys, and those valleys feel deeper when you are the only one worrying about payroll, rent or taxes. January is a good time to ask:

- Did your firm meet its revenue needs consistently?
- Did you set aside enough for quarterly taxes?
- Are you paying yourself a predictable amount, or are you still living on the "whatever is left over" model?

If billing or collections lagged last year, consider implementing small process changes, such as faster billing cycles, automated reminders or shifting more communication to client portals. When revenue becomes more predictable, your decision-making becomes more confident.

### **LEVERAGING TECHNOLOGY**

Leveraging technology can significantly streamline these processes and enhance your firm's financial stability. Automated billing solutions and online payment platforms help ensure invoices



are sent promptly and payments are tracked efficiently, reducing delays and minimizing human error. Many modern legal practice management systems offer built-in tools for generating invoices, sending automatic reminders and even providing clients with secure online portals for communication and payments.

If you do not have billing and trust accounting software, one practical way to use this technology is by implementing Smokeball Bill, which is a free benefit for OBA members. Smokeball Bill allows you to easily generate invoices, track payments, reconcile trust accounts, view detailed reports and set up credit card payments in one platform.

### SPOT THE EASY WINS: SMALL TWEAKS, BIG IMPACT

Lawyers may assume that improving profitability requires dramatic changes. Often, the opposite is true. Look for simple adjustments with meaningful upside:

- Consolidate legal research tools if you are paying for more than one platform without using them fully. *The OBA offers vLex Fastcase, a research platform that is a free OBA member benefit.*
- Audit your software licenses and cancel unused accounts.
- Set caps on discretionary spending, like meals, gifts or marketing experiments.
- Reduce paper and postage costs by leaning more

heavily on electronic communication and client portals.

- Review insurance, phone and internet contracts. These rates change more often than most lawyers realize.

These steps alone can produce hundreds or thousands of dollars in annual savings, especially for small firms.

### LEAVE ROOM FOR THE BIG THINGS

Most firms make at least one larger purchase every year. Microsoft is no longer supporting Windows 10, so do you need a new laptop? You may want a second monitor, upgraded software or office furniture. Instead of allowing these events to occur

unpredictably, proactively plan for them. Setting aside a small amount each month prevents the “budget earthquake” that happens when a major item appears unexpectedly. It also allows you to time purchases for revenue-heavy months.

## PLAN FOR PROFESSIONAL GROWTH AND TECHNOLOGY

CLEs, conferences and technology upgrades are not “extras.” You should plan these to improve your competence and directly benefit clients. January is the perfect time to map out which skills you want to sharpen and what tools you want to upgrade. Even a simple annual plan helps ensure that investment in your practice happens intentionally, not reactively.

To maximize the benefits, consider creating a professional development calendar at the start of each year. Identify specific CLE courses, conferences or webinars you want to attend, and set aside funds for registration and travel.

## SET ONE SIMPLE GOAL FOR 2026

If the idea of budgeting still feels overwhelming, here is some good news: You do not need to transform your entire financial system to make meaningful progress. In fact, the most successful small-firm lawyers I work with usually focus on *one* financial habit at a time. Just one. When that habit becomes routine, everything else gets easier.

Choose a goal that feels realistic – something you can stick with on a busy week, not just when you’re feeling motivated in January. Here are some options to consider:

- Start a simple written budget. Nothing fancy. Even a one-page document listing expected revenue and monthly expenses can

dramatically improve decision-making. You can refine it over time.

- Bill on the same day every month. Lawyers often underestimate how powerful a consistent billing cycle can be. Clients appreciate it, receivables improve and revenue becomes more predictable.
- Reduce aging receivables. Maybe your goal is to bring all outstanding invoices in under 60 days, set up automated reminders or reach out personally once a quarter. Pick a method that feels doable.
- Review software subscriptions quarterly. So many firms quietly bleed money on unused tools. A brief review every few months can save hundreds of dollars per year.
- Pay yourself a steady monthly salary. This may feel counterintuitive for solo practitioners, but it creates stability. Even a modest, predictable amount helps both your personal finances and your business planning.
- Build a “rainy day” fund for the firm. Even setting aside a small amount each month can protect you from the inevitable slow period, unexpected repair or equipment crash.

Lawyers tend to be high achievers, which means we also tend to create long lists of ambitious goals. Focusing on one goal removes the pressure. It builds confidence and creates a sense of progress that carries into the rest of your financial habits.

## JANUARY IS YOUR RESET BUTTON

You do not need to become an accountant or enjoy working with spreadsheets, but you do need a clear understanding of your firm’s finances and a few intentional adjustments to help the year run smoothly. And if you find yourself unsure about what the numbers are telling you, this is the perfect time to consult with your CPA. They can explain the financial picture, answer questions you may not know how to ask and help you avoid unpleasant surprises at tax time.

Set aside an hour, pour a cup of coffee and look back at last year’s numbers. A few thoughtful decisions now can make the months ahead more predictable and profitable. Here’s to a stable, productive and successful 2026!

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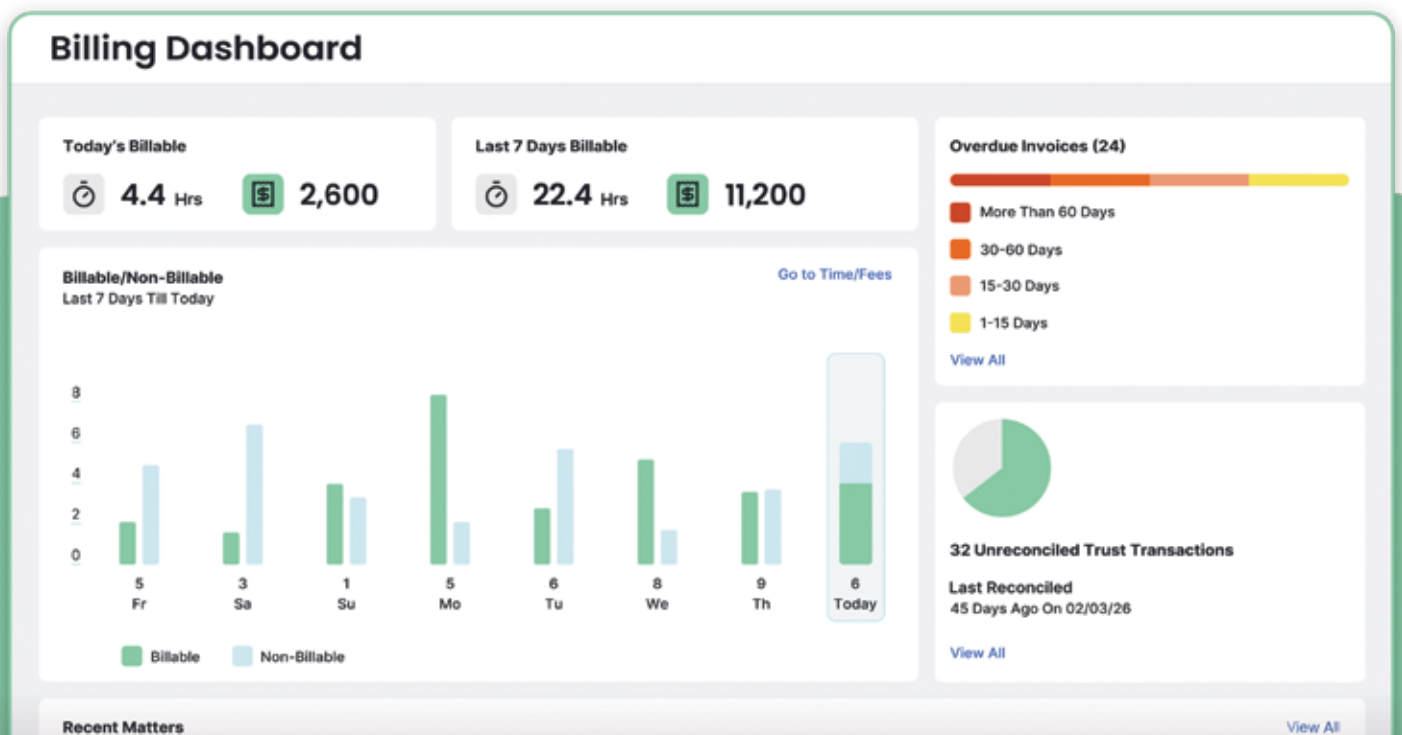
Ms. Bays is the OBA Management Assistance Program director. “Need a quick answer to a tech problem or help solving a management dilemma? Contact her at 405-416-7031, 800-522-8060 or [julieb@okbar.org](mailto:julieb@okbar.org). It’s a free member benefit.





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## Meeting Summary

*The Oklahoma Bar Association Board of Governors met Nov. 6.*

### REPORT OF THE PRESIDENT

President Williams reported he attended an Inns of Court meeting where he delivered a portion of the “Direct Examination” presentation by his pupillage group. He also attended a meeting of Boy Scout Troop 26, Tulsa, where he gave a lecture on environmental law as part of the Environmental Science merit badge program. He presented 50- and 60-year pins to local bar members during a Canadian County Bar Association meeting. He reviewed and approved the artificial intelligence article for publication by the OBA and distribution to all OBA members. He participated in an update by outside counsel regarding litigation and reviewed and approved matters pertaining to litigation. He finalized his November president’s message for the *Oklahoma Bar Journal* and researched materials for his December president’s message. He worked on his “State of the Bar Association” presentation for the General Assembly during the Annual Meeting and coordinated guest speakers and participants for the meeting and the Annual Awards Luncheon. He coordinated with the Summit Club in Tulsa, Hall Estill and OBA staff to prepare for the December Board of Governors holiday event and monthly Board of Governors meeting.

### REPORT OF THE PRESIDENT-ELECT

President-Elect Peckio reported she attended the Tulsa Lawyers for Children Gala, continued work on committee and board appointments, attended the Distinguished Professor Lecture at the TU College of Law (where Professor Johnny Parker was lecturing), attended the OBA Audit Committee meeting, and she reviewed and approved the article related to the use of artificial intelligence drafted by MAP Director Bays and Ethics Counsel Stevens for OBA publication and distribution to members.

### REPORT OF THE VICE PRESIDENT

Vice President White reported he attended the Tulsa County Bar Association board meeting and presented the Professionalism Moment.

### REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Johnson reported she attended the October YLD meeting, met with staff regarding the Wicket implementation, attended the Canadian County Bar Association meeting for a 50- and 60-year pinning ceremony and attended the Audit Committee meeting. She worked on numerous litigation-related matters, listened to a microlearning demo for possible OBA CLE member benefits, finalized Annual Meeting preparations and attended a preconference meeting at the Sheraton Hotel.

### REPORT OF THE IMMEDIATE PAST PRESIDENT

Past President Pringle reported he reviewed legal bills related to ongoing litigation and worked on the draft OBA investment policy.

### BOARD MEMBER REPORTS

**Governor Barbush** reported he reviewed the OBA’s 2024 audited financials in preparation for the Audit Committee meeting and attended the Audit Committee meeting. He also attended and spoke at the candidate forum during the Oklahoma County Bar Association’s Board of Directors meeting. **Governor Barker** reported he attended the Garfield County Bar Association meeting. **Governor Cooper** reported he attended several Oklahoma County Bar Association committee meetings and its Board of Directors meeting. **Governor Dadoo** reported she attended the Annual Meeting, the Appellate Practice Section meeting, and she assisted in facilitating and coordinating the Bench and Bar Committee meeting, where she hosted Judge Barnes. **Governor Hixon** reported he presided over the Audit Committee meeting and attended the Law Day Committee meeting. He also attended the Tulsa County Bar Association Board of Directors meeting. **Governor Knott** reported she attended the Canadian County Bar Association 50- and 60-year pinning ceremony, presented CLE to the Canadian and Cleveland

County bar associations and attended the Audit Committee meeting, the Tulsa County Bar Association Board of Directors meeting, the Oklahoma County Bar Association Board of Directors meeting, the Annual Meeting and the Board of Governors meeting. **Governor Locke** reported he attended the Lawyers Helping Lawyers Assistance Program Committee meeting and the Oklahoma Municipal Judges Association fall conference. **Governor Oldfield** reported he attended the Audit Committee meeting. **Governor Rogers** reported he attended the Audit Committee meeting, worked with the Bar Center Facilities Committee on the pending architectural contract, attended the TU College of Law Alumni Association board meeting and attended the OBA Annual Awards Luncheon. **Governor Thurman** reported by email he attended the Bench and Bar Committee meeting, where Judge Deborah Barnes shared her lessons from the bench. **Governor Trevillion** reported he attended the Access to Justice Committee meeting and participated in the Access to Justice Summit.

## REPORT OF THE GENERAL COUNSEL

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

## BOARD LIAISON REPORTS

Governor Barbush reported the **Cannabis Law Committee's** transition to a section is underway. He also said the **Lawyers Helping Lawyers Assistance Program Committee** continues to meet regularly. Governor Cooper said the **Bar Center Facilities Committee** is close to finalizing a pending agreement related to architectural work on the bar center. He also said the **Military Assistance Committee** is planning its Heroes Day for 2026 to provide legal assistance for military veterans and service members. Governor Hixon said the **Law Day Committee** met and discussed scheduling events for 2026. Governor Trevillion said the **Access to Justice Committee** recently held its annual summit. Governor Dodoo reported the **Bench and Bar Committee** is developing ways to more effectively bring judges and lawyers together.

## 2024 AUDIT REPORT

The board passed a motion to accept the Audit Committee's audit report demonstrating the association's financial reports for 2024 are accurately stated and that adequate and appropriate financial controls are in place.

## PROPOSED CHANGE TO MCLE RULES

The board passed a motion to approve and advance to the Supreme Court a proposed change that would provide up to 6 hours of MCLE credit to authors of

substantive law articles published in the *Oklahoma Bar Journal*.

## UPCOMING 2025 OBA AND COUNTY BAR EVENTS

President Williams reviewed upcoming bar-related events and activities involving the Board of Governors, including the OBA General Assembly and House of Delegates on Nov. 7 in Oklahoma City; the Board of Governors holiday event in Tulsa on Dec. 4; and the swearing-in ceremony for new officers and board members on Jan. 16 in Oklahoma City.

## NEXT BOARD MEETING

The Board of Governors met in December, 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 Friday, Jan. 16.



# Meet 2026 OBF President Courtney Briggs



OBF President Courtney Briggs and her family. From left daughters Courtney and Carly, President Briggs, daughter Claire and husband Tim

## Courtney Briggs

<b>Law School:</b>	OU College of Law
<b>Graduation Year:</b>	1991
<b>Current Employer:</b>	Partner at Derrick & Briggs LLP
<b>Location:</b>	Oklahoma City

**Why did you decide to be a lawyer?** I decided to become a lawyer after working in publishing in New York, where I spent years negotiating contracts as a literary agent and later handling international rights at Random House. Those roles gave me a front-row seat to how critical a strong legal understanding is in protecting authors, shaping deals and helping people understand their rights and options in general.

**What is one thing you're glad you tried but would never do again?** Raising three daughters has involved plenty of brave experiments, but one thing I'm glad I tried just once was hosting a sleepover for an entire middle school friend group. It was wonderful, chaotic and deeply educational. I treasure the memory, but I'm satisfied with it remaining a one-time event.

**Are there any social norms that completely baffle you?** I struggle with the norm of documenting life instead of experiencing it. With three daughters who are practically glued to their phones, moments barely begin before they're photographed, filtered and posted. I appreciate the connectivity technology brings, but I question how this became our default.

**What is your biggest pet peeve with modern technology?** What frustrates me most is how technology can replace meaningful interaction with superficial contact. A text or a notification often substitutes a real conversation, even when connection is exactly what people need.

**What is on your bucket list?** I'd love to spend a significant amount of time living in France. I have a personal connection to the Loire Valley, where my grandmother's family had a home for nearly a century. Growing up, I spent summers there and spoke only French. Returning and experiencing the region fully with family and friends is a dream I hope to make a reality.

**Explain the leadership roles you hold in professional and/or community settings and why these responsibilities are important to you.** I served for years on the board of the Oklahoma City Ballet, helping purchase a new building that enhanced the school and production spaces, an experience that was incredibly rewarding. Years ago, I also served as chairperson of the OBA Young Lawyers Division, leading public service projects throughout the state and forming lifelong friendships – friends I now see thriving in the prime of their careers. These roles are meaningful because they allowed me to make an impact in our communities.

**What would you tell current law students and young associates about the importance of professional and civic responsibility?** I would tell law students and young associates that professional and civic responsibility is what gives your career purpose beyond the cases you handle or the deals you close. Getting involved, whether through bar leadership, community boards, pro bono work or public service projects, builds your skills, expands your perspective and strengthens your community. Those experiences also create lifelong relationships and networks that are invaluable personally and professionally. In short, how you use your legal skills to serve others defines not just the kind of lawyer you are but the kind of legacy you leave.

**What are your goals as the 2026 OBF board president?** As the 2026 OBF board president, my goals are to enhance and protect the endowment generously given by lawyers across Oklahoma, continue supporting the annual grants we provide to organizations that assist the public with law-related matters and safeguard the bar foundation's assets for the benefit of future generations of attorneys and Oklahomans.

# SAVE THE DATE



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**SEPTEMBER 18, 2026**

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## ON THE MOVE

**Ron Shinn** and **Evan Edler** have joined the Norman litigation firm of HB Law Partners PLLC. Mr. Shinn received his J.D. from the OU College of Law in 2002. He has handled a wide variety of civil litigation matters, including closely held business disputes, complex contract disputes and business torts, conducted internal investigations, white-collar criminal defense and represented health care providers and hospitals against allegations arising under the *qui tam* provisions of the federal False Claims Act. His practice now also focuses on representing individuals in cases relating to employment matters, such as representing individuals who have been misclassified or paid incorrectly under wage and hour laws, wrongfully terminated, subjected to unlawful discrimination, harassed, retaliated against or otherwise mistreated in the workplace. Mr. Edler received

his J.D. from the OU College of Law. He began his legal career working with the Oklahoma Highway Patrol as an assistant general counsel for the Oklahoma Department of Public Safety. His experience with DPS then led him to the Oklahoma Office of the Attorney General Litigation Division, where he worked on a wide variety of cases, including civil rights, personal injury, premises liability and worker rights. In that capacity, he handled matters in state and federal district courts, the Oklahoma Court of Civil Appeals, the Oklahoma Supreme Court and the United States Court of Appeals for the 10th Circuit. He now handles disputes on behalf of individuals and businesses, including matters related to real estate and construction, personal injury, products liability, consumer fraud and wrongful death.

**Nathan A. Miramontes** has joined the Tulsa office of GableGotwals as a litigation associate. His experience includes representing health care providers, insurers and public entities in complex medical malpractice, insurance defense and civil rights litigation. He previously served as an associate at a Tulsa law firm, handling all phases of litigation. Mr. Miramontes received his J.D. from the TU College of Law with honors and was inducted into the Order of Barristers. He received a CALI Excellence Award for secured transactions, was a quarterfinalist in the Brigadier General Wayne E. Alley 2023 Military Law Moot Court Competition and was selected for the American Association for Justice mock trial team. He also served as a staff editor for the ABA *Environment, Energy, and Resources Law: The Year in Review* and as vice president of the Tulsa Law Board of Advocates.

### 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 March issue must be received by Feb. 1.*

## KUDOS

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**Justice Philip H. Viles** has received the 2025 AARP Oklahoma Native American Elder Honors. This award recognizes outstanding Native American elders who are making a powerful difference and inspiring others to serve in ways that are consistent with the AARP's mission and vision. Justice Viles received his J.D. from the TU College of Law. He has served as justice and chief justice on the Cherokee Nation Supreme Court, a bank trust officer, a small business owner, a board member for banks and financial services firms and the director of annual giving at TU,

among other positions throughout his career. He has been a frequent speaker on Native American topics at conferences and has published extensively on Native American matters in law journals and books. Justice Viles, a U.S. Air Force veteran who served in Vietnam during the Vietnam War, was recognized with five military decorations from the United States, two from the Republic of Vietnam and one from the Cherokee Nation. He is a life member of Disabled American Veterans.

## AT THE PODIUM

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**Kimberly Lambert Love** and **Ashley F. Vinson** recently spoke at the annual Tulsa Area Human Resources Association Employment Law and Practices Seminar. Attendees included human resources professionals and employment attorneys. Ms. Love presented on the topic of employer dress codes and religious accommodations, providing advice on responding to employee requests for religious accommodations. Ms. Vinson presented on accommodating religious observances and practices, providing advice on an employer's burden since the Supreme Court ruling

in *Groff v. DeJoy*. Ms. Love focuses her practice on employment law, including litigating class action suits and claims of discrimination, harassment and retaliation. She conducts internal investigations into employee workplace complaints as both a company advisor and a neutral investigator, advises clients on best workplace practices and conducts staff training covering a range of employment issues. Ms. Vinson focuses her practice on corporate litigation and employment law. She assists employers in conducting internal investigations into employee complaints, providing thorough, impartial

assessments to guide appropriate corrective action and mitigate potential liability. She also advises on other employment matters, such as Occupational Safety and Health Administration investigations and citation proceedings.

**Marty Ludlum** spoke to the Oklahoma Funeral Directors Association in Oklahoma City, providing two hours of continuing education on the topics of Federal Trade Commission regulation and the ethical requirements of a professional.



## IN MEMORIAM

**Charles Wesley Barker Jr.** of Collinsville died March 18. He was born Feb. 22, 1947, in Hobart. Mr. Barker received his J.D. from the OCU School of Law in 1982.

**Deborah S. Arnold Block** of Norman died Sept. 25. She was born Feb. 19, 1962, in Champaign, Illinois. She attended Norman High School and graduated from OU with a bachelor's degree in business in 1984. Ms. Block received her J.D. from the OU College of Law in 1987. She received both of her degrees with honors. She briefly began her career in litigation before leaving corporate practice in 1994 to manage Associated Metallurgists, where she worked with her father.

**Edward Lee Bowman** of Grove died May 9. He was born May 16, 1946. Mr. Bowman received his J.D. from the American University Washington College of Law in 1975.

**Kelley Charles Callahan** of Edmond died Sept. 10. He was born Aug. 22, 1952, in Oklahoma City. He attended Colgate University on a baseball scholarship. Mr. Callahan received his J.D. from the OU College of Law in 1980 and proudly practiced law until his retirement.

**David Roger Cerchie** of Vero Beach, Florida, died Sept. 8. He was born Sept. 7, 1946, in Joplin, Missouri. He graduated with a bachelor's degree in marketing and received his J.D. from the TU College of Law. Mr. Cerchie began his legal career practicing in Tulsa. In 1994, he cofounded VersaFlex, a polyurea and protective coating technologies company.

The business expanded and eventually joined the PPG family of companies. He then moved to Vero Beach, where he served as treasurer of Bike Walk Indian River County.

**Renee Colbert** of Pittsburgh, Pennsylvania, died Feb. 27. She was born Feb. 3, 1955, in Shattuck. She attended Southwestern Oklahoma State University on a flute scholarship, where she was the featured majorette, and graduated from OSU with a bachelor's degree in music education in 1977. Ms. Colbert received her J.D. from the OU College of Law in 1984. She practiced law in Oklahoma and later in western Pennsylvania, where she led Colbert Law. She shared her 40 years of experience with her fellow lawyers and paralegal students as a professor at the Western School of Business and later Duquesne University.

**Ronald V. Collier** of Edmond died Oct. 13. He was born April 27, 1938, in Anadarko. He attended Geary High School, where he played football, and Southwestern Oklahoma State University. Mr. Collier taught history at Putnam City Schools while attending law school at night. He received his J.D. from the OCU School of Law in 1969. After graduation, he worked with the Oklahoma City municipal counselor's office. He went on to join Mesis Law Office in Hennessy before returning to Edmond.

**Judge Louis Alvin Duel Jr.** of Guthrie died Nov. 21. He was born May 8, 1963, in Guthrie, where he attended school and graduated in 1981. Mr. Duel earned

his bachelor's degree in criminal justice from the University of Central Oklahoma and attended law school in the evenings while serving as the Logan County undersheriff. He received his J.D. from the OCU School of Law and was hired as an assistant district attorney in Logan County. Eight years later, he was appointed as a special judge by Judge Donald Worthington. Two years after that appointment, he was elected as Logan County associate district judge, a position he faithfully served in for the last 16.5 years.

**Norma Eagleton** of Tulsa died Aug. 13. She was born March 19, 1934. She graduated with degrees from Stephens College and OU, and she received her J.D. from the OCU School of Law in 1988. Ms. Eagleton became the first female commissioner (finance commissioner) on the Tulsa City Commission in 1976 and, in 1979, was the first woman to serve on the Oklahoma Corporation Commission. She has been inducted into the Oklahoma Women's Hall of Fame, the Claremore Hall of Fame and the Claremore Public Schools Hall of Fame.

**Tom Allen Frailey** of Chickasha died Sept. 14. He was born July 1, 1951, in Stillwater and graduated from Perry High School in 1969. He received his bachelor's degree in business from then-Central State University in 1973 and his J.D. from the OU College of Law in 1976. Mr. Frailey began an internship at Vaughn, Stack & Huckaby in 1975 before eventually settling in Chickasha and becoming a partner, retiring in July 2017. He was the Chickasha city attorney for more than 40 years and served

as the city attorney for Marlow, Comanche, Rush Springs and Alex. He was also a bar examiner, creating questions for the bar exam and grading them.

**Robert Richard Hamilton** of Dallas died Oct. 30. He was born April 2, 1937, in Fort Worth. He received his J.D. from the OU College of Law in 1961. **Mr. Hamilton joined the U.S. Army, which became a 42-year-long career. He served as an attorney for the U.S. Army Aviation and Missile Command in St. Louis and then for the U.S. Army Space and Missile Defense Command in Huntsville, Alabama, where he managed defense contracts.**

**Helen M. Kannady** of Jenks died July 29. She was born July 4, 1931, in Broken Arrow and graduated from Will Rogers High School. Fostering children inspired her to attend college to become a social worker, which then led her to law school to work in the juvenile court. The opening for a special judgeship at the juvenile bureau came before Ms. Kannady had finished law school. With special permission from the Oklahoma Supreme Court, she began the assignment with the assurance that she would complete law school and the bar exam. She received her J.D. from the TU College of Law. When the time was right, she stepped aside from that position to practice family law.

**Mark Dewayne Nation** of Oklahoma City died Nov. 30. He was born Jan. 25, 1960, in Oklahoma City. Mr. Nation graduated from OU with bachelor's and master's degrees. He received his J.D. from the OCU School of Law in 1991. His spinal cord injury

led him to help others with social security disability and catastrophic personal injuries.

**Randy Clayton Parsons** of Shawnee died July 20. He was born June 14, 1947, in Shawnee. He graduated from Shawnee High School in 1965. Mr. Parsons attended East Central University after high school but was soon drafted into the military. **He served in the U.S. Air Force as an aircraft electrician during the Vietnam War from 1966 to 1970, when he was honorably discharged.** He graduated from East Central University, where he was a member of the Pi Kappa Alpha fraternity, with a bachelor's degree in English and history. Mr. Parsons received his J.D. from the OCU School of Law in 1975. He started his legal career by joining his father's law firm, which became Parsons & Parsons. In 1995, he opened his own practice, where he practiced until his retirement in 2013. He received his 50-year milestone anniversary pin as an OBA member in 2025. Mr. Parsons was also a member of the American Trial Lawyers Association. Even after retirement, he enjoyed talking to old clients and continuing to give legal advice.

**William W. Pritchard** of Tulsa died March 17. He was born March 20, 1951, in Tulsa. He attended College High, where he played varsity basketball with his brother and best friends. Mr. Pritchard graduated with honors from the University of Kansas, where he pledged Sigma Chi, with a bachelor's degree in history. He received his J.D. from the TU College of Law in 1975. He served as general counsel at Parker Drilling Co. for 23 years.

**Barbara Rauch** of Oklahoma City died May 9, 2024. She was born April 26, 1944. Ms. Rauch finished high school on her own and graduated from OU. She received her J.D. from the OCU School of Law, during which time she interned at the Oklahoma attorney general's office. Ms. Rauch became the chief environmental attorney for the state of Oklahoma after graduation. She relocated to the Cayman Islands for 12 years before returning to Oklahoma to work at the Oklahoma Department of Environmental Quality, where she was employed until she was 70.

**Marjorie Maria Redbird** of Choctaw died Oct. 20. She was born March 11, 1954. Ms. Redbird received her J.D. from the OU College of Law.

**Larry Keith Shaw** of Bethany died Sept. 14. He was born March 2, 1944, in Altus. Mr. Shaw graduated from Altus High School and OSU, where he earned a bachelor's degree and a master's degree in civil engineering and was honored with the Engineering Saint Patrick Salute Award. He served on the OSU Board of Engineers for several years and enjoyed meeting with engineering students. Mr. Shaw received his J.D. from the OCU School of Law in 1975. He spent most of his career in the oil and gas business, especially working with offshore facilities. He lived overseas for several years in Singapore and England and conducted most of his work in the Middle East, China, Singapore, Europe and the North Sea. While there, he was always involved in coaching and working with the children of fellow expats at the American schools. After

returning to the States, he retired from Fluor Corp.

**Tythe Hill Stites** of Tulsa died Sept. 12. He was born March 22, 1956. He received his J.D. from the TU College of Law in 1984.

**Margaret P. Taylor** of Durant died July 20. She was born Oct. 21, 1941, in Blanchard. Ms. Taylor graduated with a bachelor's degree in music education from Southeastern Oklahoma State University and became a music teacher. She received her J.D. from the OU College of Law in 1977. She practiced both criminal and civil law, and she was the second female lawyer in Durant. She gave much of her time to pro bono work, helping women in difficult situations and others in need. Ms. Taylor was involved in the Bryan County Bar Association, the Oklahoma Shakespearean Festival, the Bryan County Federation of Democratic Women, Dayspring Church, the Chautauqua Literary and Scientific Circle, the Chautauqua Women's Club and the Chautauqua Bird, Tree & Garden Club.

**Charles W. Wright** of Noble died Nov. 29. He was born Nov. 12, 1943, in New York City. He graduated from Grant High School in 1961 and earned his Ph.D. in sociology and anthropology in 1976 from the University of Notre Dame. He received his J.D. from the OCU School of Law in 1984. Mr. Wright taught sociology and criminology at OU and OCU. He finished his career practicing law in Norman, having worked at the Oklahoma Corporation Commission and the Oklahoma Employment Security Commission. He was the co-author of numerous publications on sociological theory, mainly with Talcott Parsons.



## 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](mailto:lorir@okbar.org).





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#### 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  
tay1256@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@  
crowdunlevy.com

### DECEMBER

#### Law Office Management

Editor: Norma Cossio  
ngc@mdpllc.com

## 2027 ISSUES

### JANUARY

#### Litigation & Trial Practice

### FEBRUARY

#### Real Estate

### MARCH

#### Discovery

### APRIL

#### Natural Resources Law

### MAY

#### Mental Health

### AUGUST

#### Ethics & Professional Responsibility

### SEPTEMBER

#### Launching Your Law Practice

### OCTOBER

#### Law Practice Basics

### NOVEMBER

#### Indian Law

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#### Closing Your Law Practice

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## 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
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- 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)
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## POSITIONS AVAILABLE

The City of Oklahoma City is currently accepting applications for the following positions in the Office of the Municipal Counselor:

### Assistant Municipal Counselor – Utilities Division:

This position is responsible for assisting with the representation of the Utilities Department and the Oklahoma City Water Utilities Trust ("OCWUT"). Experience and/or education in municipal law, public trust, public construction, contracting, land transactions, commercial leasing, public financing, grants administration, water rights and law, oil and gas, property and title law, and/or environmental law is desirable.

### Assistant Municipal Counselor – Land Use Division:

The position is responsible for providing legal services and representing the City in legal matters related to land use and development services and will provide legal advice on issues such as zoning and property litigation.

### Assistant Municipal Counselor – Litigation Division:

This position is responsible for defending the City, its departments, employees and officials in lawsuits. Essential job functions include performing legal research and writing briefs; appearing before federal, state or municipal courts, and administrative boards, commissions and public trusts; state and federal litigation experience, including both pre-trial (to include drafting discovery, taking depositions and active motion practice) and trial.

### Assistant Municipal Counselor – Airports Division:

This position is responsible for providing legal services to the Department of Airports and its staff and the Oklahoma City Airport Trust ("OCAT") for the three airports operated in the airport system. Experience and/or education in municipal law, airport law, public trust, public construction, commercial leasing, contracting, land transaction, public financing, grant administration, environmental law, and/or oil and gas law is desirable.

Employees are expected to adhere to the ethical standards for behavior and compliance with the professional rules of conduct. To apply online or see the full vacancy announcement for each position listed, please visit [www.okc.gov/Government/Employment](http://www.okc.gov/Government/Employment). For more information, call the City's Human Resources Department at (405) 297-2530. EOE.

## POSITIONS AVAILABLE

THE OBA OFFICE OF THE GENERAL COUNSEL has an immediate opening for an Assistant General Counsel. Duties include the review of attorney grievances from initial receipt through potential disciplinary hearing. The ideal candidate will have a minimum of 2 years as an Oklahoma-licensed attorney, experience in appellate brief writing and strong legal research skills. The OBA is an equal opportunity employer with a competitive salary that is commensurate with experience. The OBA offers 100% paid employee health insurance along with dental and life insurance. To apply, please submit your resume by email to [ginah@okbar.org](mailto:ginah@okbar.org).

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**MINIMUM REQUIREMENTS:** Requires a Juris Doctorate from an accredited Law school and to be a member in good standing with the OBA. Extensive trial experience is mandatory. Working knowledge of county government is preferred but not required.

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## POSITIONS AVAILABLE

HB Law Partners, PLLC, a Norman civil litigation firm, is seeking highly motivated individuals to fill the following positions.

**Attorneys with 2-5 years experience in civil litigation:** Strong research, writing, and communication skills are required. Trial, arbitration, deposition, and hearing experience preferred but not required. Position includes competitive salary and benefits commensurate with experience, with excellent bonus opportunity. Please send a cover letter, resume, references, and writing sample to [info@hblawpartners.com](mailto:info@hblawpartners.com).

**Paralegal with at least 5 years experience in civil litigation:** Strong research, writing, and communication skills are required. Position includes competitive salary and benefits commensurate with experience, with excellent bonus opportunity. Please send a cover letter, resume, and references to [info@hblawpartners.com](mailto:info@hblawpartners.com).

**Legal secretary:** Strong communication, word processing, and organizational skills are required. Position includes competitive salary and benefits commensurate with experience, with excellent bonus opportunity. Please send a cover letter, resume and references to [info@hblawpartners.com](mailto:info@hblawpartners.com).

THE BOARD OF EDUCATION FOR MOORE PUBLIC SCHOOLS, a school district with approximately 24,000 students, is currently seeking district legal counsel. The position requires the ability to interact and function effectively in an academic setting. Applicants must be licensed to practice law in Oklahoma. Experience/background in education law and/or constitutional law is highly preferred. Also preferable, but not mandatory, is for the incumbent to office, either wholly or partially, in the Administrative Service Center of Moore Public Schools. If interested, send your application by mail to Corinne Moody, Adm. Asst. to the Supt., Moore Public Schools, 1500 S.E. 4th Street, Moore, OK 73160, or by email to [corrinemoodymooreschools.com](mailto:corrinemoodymooreschools.com). Applications will be accepted until the position is filled.



## POSITIONS AVAILABLE

**LITIGATORS ...** Are you ready for a new opportunity to practice business litigation? Is it time that you decide to practice law in an environment designed to provide stimulating litigation projects and provide the technological and skilled staff support needed to be successful? An AV-rated firm in downtown Tulsa seeks an attorney with 7-20 years of civil litigation experience. Compensation package includes an annual bonus, health insurance, and 401(k) benefits. If you are interested in practicing law with an opportunity to become an equity partner, send your resume to [resumereplies06@gmail.com](mailto:resumereplies06@gmail.com).

**Cheek & Falcone, PLLC** is seeking a motivated, detail-oriented **Experienced Legal Secretary/Receptionist** to join our team.

### Responsibilities

- Prepare documents using Microsoft Word and Excel
- Communicate professionally with clients and third parties
- Transcribe dictation and assist with drafting legal documents
- Prepare indexes and tables of authorities for legal briefs
- Manage files, calendars, and scheduling
- Provide general administrative and office support

### Qualifications

- Minimum of 3 years of legal secretary/law office experience
- Strong organizational skills and exceptional attention to detail
- Professional demeanor, reliability, and discretion
- Consistent and dependable attendance

### What We Offer

- Competitive compensation and benefits
- A supportive, team-oriented work environment
- Opportunities for professional growth and advancement

**To apply:** Please email your resume and availability to [ahladik@cheekfalcone.com](mailto:ahladik@cheekfalcone.com).

## POSITIONS AVAILABLE

### ASSISTANT DISTRICT ATTORNEY, DISTRICT 15

**LOCATION:** 220 State Street, Muskogee, OK 74401 – Muskogee County Courthouse

**STATUS:** Full-Time/Exempt – Immediate Opening

**CLOSING:** Open Until Filled

**SALARY:** Based on Experience and Qualifications

**BENEFITS:** Full State of Oklahoma benefits, including generous monthly allowance for health coverage, paid sick and vacation leave earned monthly.

**POSITION SUMMARY:** District 15 is seeking a prosecutor who will be responsible for a variety of legal duties, specifically the prosecution of felony and misdemeanors. Other specific assignment duties will vary based on experience.

### MINIMUM REQUIREMENTS:

- Juris Doctorate degree from accredited law school
- Admitted to and in good standing with the OBA or scheduled for the next Oklahoma Bar exam
- Possess excellent oral advocacy, legal analysis and legal writing and editing skills
- Display strong organizational, interpersonal communication, problem-solving and teamwork skills
- Must be able to pass a fingerprint and background check and secure and maintain a favorable background

**EDUCATION AND EXPERIENCE:** Experience is not required but preferred. Will consider newly licensed attorneys and those sitting for the bar exams.

### TO APPLY:

Applicants should submit a cover letter, resume and references to: [camille.ragsdale@dac.state.ok.us](mailto:camille.ragsdale@dac.state.ok.us).

## POSITIONS AVAILABLE

**Cheek & Falcone, PLLC** is growing, and we are seeking talented, dedicated professionals to join our team **immediately**. We pride ourselves on providing exceptional legal service with integrity, professionalism, and genuine care for our clients. If you are motivated, detail-oriented, and ready to make an impact, we want to meet you.

### Experienced Litigation Attorney

#### Key Responsibilities:

- Represent clients in all phases of civil litigation; conduct legal research; draft pleadings, motions, etc.; manage a caseload; interact with clients, opposing counsel, & courts; negotiate settlements; & prepare for trial

#### Qualifications:

- Juris Doctor (J.D.) from an accredited law school; Licensed to practice law in Oklahoma; Minimum **5 years** of civil litigation experience

### Experienced Litigation Paralegal or Legal Assistant

#### Key Responsibilities:

- Collaborate effectively in a diverse work environment; accountability & strong attention to detail; manage document review & assist throughout discovery, pleading, & motion practice; support trial preparation & case management; calendar/docket/deadline management; work closely with attorneys on civil litigation matters

#### Qualifications:

- Minimum **3 years** of substantive litigation paralegal experience; Strong organizational & time-management skills; proficiency in Word, Excel, legal research, & case management software; excellent proofreading, spelling, & grammar skills; familiarity with court rules & ability to manage response deadlines; strong work ethic & dependable attendance; ability to work independently and show initiative
- Preferred: Paralegal certification or degree from an ABA-approved program

#### We Offer:

- Competitive compensation & benefits; supportive, team-oriented culture & opportunities for professional growth & advancement

Please send **resume** and **availability** to: [ahladik@cheekfalcone.com](mailto:ahladik@cheekfalcone.com).



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