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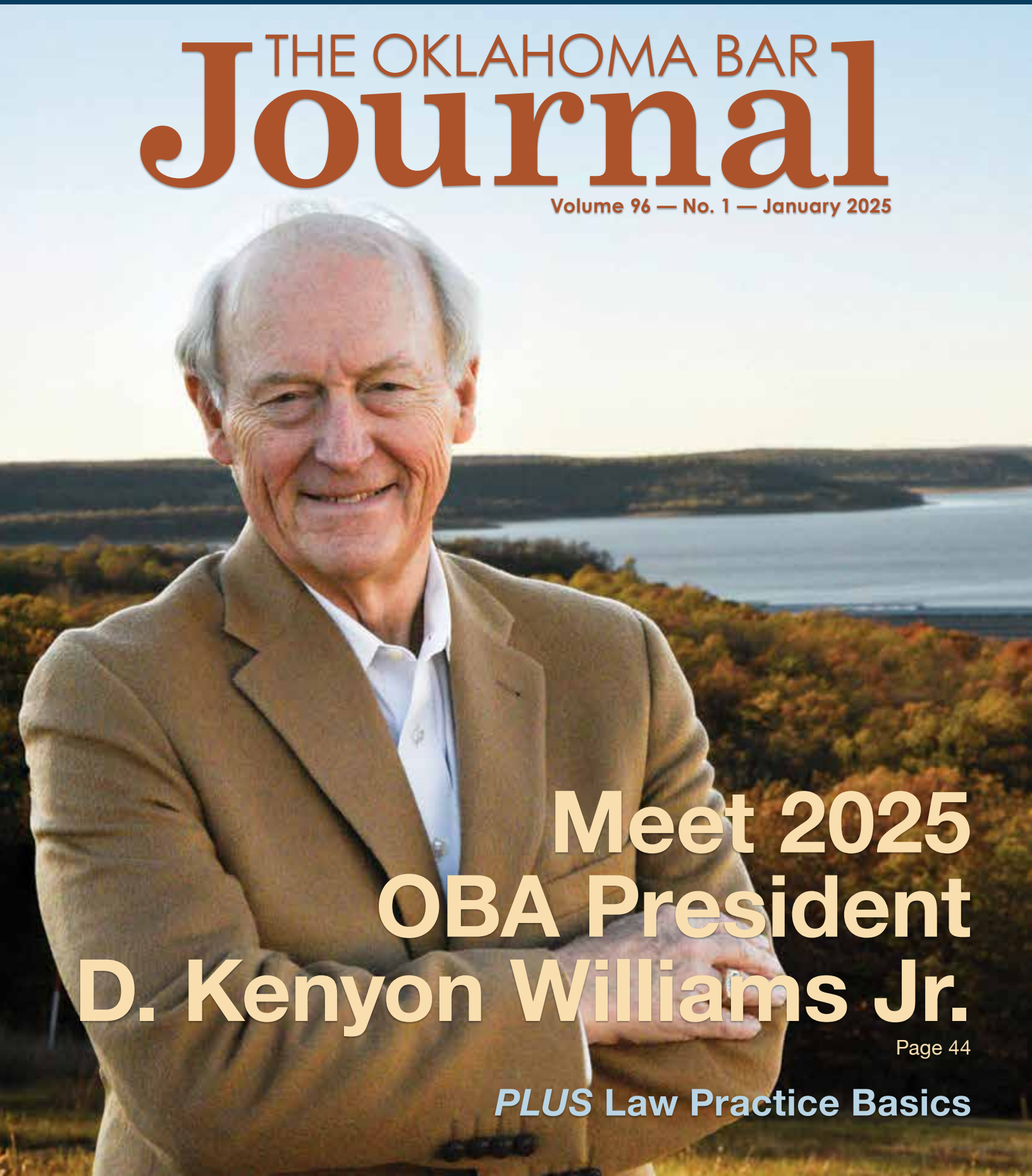
THE OKLAHOMA BAR
Journal
Volume 96 — No. 1 — January 2025



Meet 2025 OBA President D. Kenyon Williams Jr.

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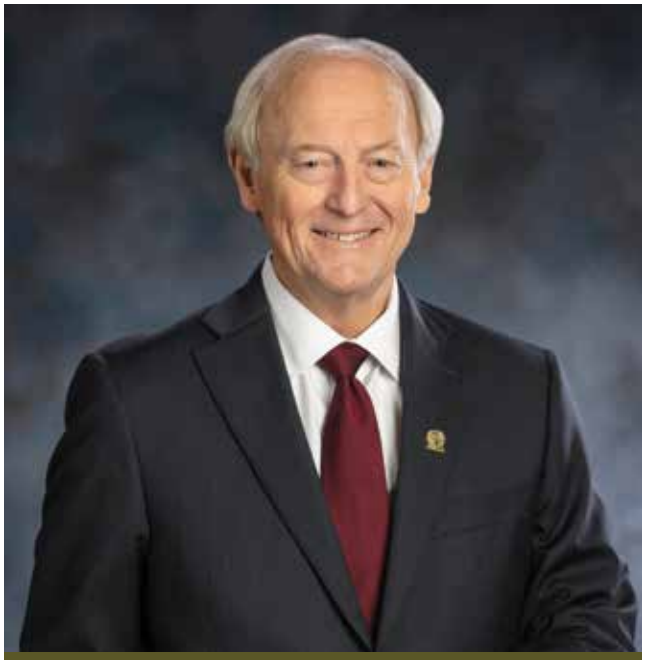

PAGE 44 – Meet 2025 OBA President D. Kenyon Williams Jr.

Are You Available for Some Conversation?

By D. Kenyon "Ken" Williams Jr.

"ADAPT OR PERISH, NOW AS EVER, IS nature's inexorable imperative," is a quote attributed to H.G. Wells, author of classic science fiction novels. The quotation comes from Mr. Wells' last book, *Mind at the End of Its Tether*, an incredibly pessimistic read so unlike some of his other classic science fiction that I enjoyed in my youth, such as *The First Men in the Moon*, *The Time Machine* and *The Food of the Gods and How It Came to Earth*, to name a few. I recall but cannot locate the science fiction novel (loosely based upon Great Britain's historical forced immigration of convicts to Australia, among other places) in which I first saw an iteration of the quote, *i.e.*, "Adapt or die," which was a warning given to involuntary immigrants. Both quotations are harsh but instructive.

I was reminded of those quotes while listening to a keynote speaker at the 2014 OBA Annual Meeting. Richard Susskind, an author and futurist, spoke about his 2015 book, *Tomorrow's Lawyers: An Introduction to Your Future*. Mr. Susskind was then much more optimistic about the future of the legal profession and has continued to write about his predictions. One of his more recent books, *The End of Lawyers?: Rethinking Legal Services*, is a bit bleaker. Mr. Susskind predicts that artificial intelligence and other market alternatives will force traditional law firms to adopt such practices or become obsolete. He also views the "more for less" challenge to be a specific threat to the traditional law firm business model. "More for less" is the expectation our clients have that our legal services should be increasingly more efficient at a lower cost to them. An aspect of this client-driven expectation is that clients are increasingly refusing to pay for the training of new lawyers. This client-driven expectation presents multiple problems for law firms but is a real-world example of the necessity of adaptation.

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As both Past Presidents Brian Hermanson and Miles Pringle stated in their opening messages to the association, we are going through a time of tremendous change and at a seemingly accelerating pace. I am now serving in my 48th year as an Oklahoma-licensed attorney. Now more than ever, I am worried about the undue influence of politics on the structure of our independent judiciary. I am concerned about the lack of public understanding of the role of the courts in our system of government. I also do not recall a time when access to justice has been more out of the reach of individuals and small businesses than now. I do not recall a time when our rural counties had greater challenges in attracting and retaining new lawyers than now. As a result, my hope and plan for this bar year is for us to have a conversation about these challenges.

I am aware of at least one state where their supreme court conducts remote hearings in different regions of the state for the express purpose of engaging the local populations, students and businesses. They do this to tear away the veil of isolation from the perspective of the general population under which appellate courts operate. Please share with me your thoughts and suggestions regarding how Oklahoma can protect its independent judiciary.

Both the OBA and the Oklahoma Bar Foundation are aware of the "legal deserts" that exist throughout the state. Past President Pringle wrote about legal deserts in his March 2024 message to our association.

(continued on page 63)

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AGREEMENT

Navigating Counsel Withdrawal in Legal Proceedings

By Jimmy Oliver

THERE ARE TIMES WHEN AN ATTORNEY MUST WITHDRAW as the attorney of record in a civil case prior to its conclusion. This can occur at the client's request or because the attorney has decided it is necessary. However, this decision doesn't just allow an attorney to return the file to the client and step away from the case. The process to withdraw, including the necessary pleadings, is laid out by statute and is mandatory.

THE MOTION TO WITHDRAW

A motion to withdraw can be filed at any time in a case. A written motion must be filed, and a proposed order of withdrawal must accompany the motion. The court may only grant a motion to withdraw without replacement counsel if the body of the motion contains the name and address of the client.[1] The motion should be signed by the client, acknowledging their knowledge of the motion. If the client does not sign the motion, the attorney is required to certify:

1) The client has knowledge of the attorney's request to withdraw as attorney of record or
2) The attorney could not find the client after making a good-faith effort to do so.

The statute requires the attorney seeking to withdraw to notify the court if the case is set for a motion docket, pretrial conference or trial.[2] To ensure compliance with the statute, the motion should contain a statement as to any future case setting.

The motion to withdraw must be served on the client and every attorney of record in the case. A certificate of service should be attached to the motion to prove compliance with the service requirement. Once filed, the motion should be set for hearing, and the client and all attorneys of record should be notified of the date and time of the hearing.

THE ORDER

It is important a client understands that a case does not stop when an attorney withdraws. Therefore, the statute requires that the order notify the client that they have a 30-day window to file an entry of appearance to represent themselves pro se or have an attorney file an entry of appearance on their behalf. The order must state that if no entry of appearance is filed within 30 days from the date of the order permitting withdrawal, the unrepresented noncorporate party is deemed representing themselves pro se. The order shall also notify the client that failure to prosecute or defend the pending case may result in the case being dismissed without prejudice or a default judgment taken against the client.[3] An additional reminder about these obligations should be included in the closing letter to the client.

ETHICAL RESPONSIBILITIES

A client can discharge counsel at any time for any cause. If an attorney is discharged by a client, the attorney shall withdraw immediately. The Oklahoma Rules of Professional Conduct provide other guidance for when an attorney may withdraw from a case. An attorney is required to withdraw if a client demands or continues to demand that the lawyer take action that is in violation of

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PROPOSED LETTER TO CLIENT

RE: Motion to Withdraw

Dear [Client Name]:

Enclosed is a copy of the Court Order allowing me to withdraw as your attorney. I will no longer be responsible for representing your interests in this matter. You should retain new counsel immediately or prepare to represent yourself. You have thirty (30) days from [enter date order was signed] for an attorney to file an Entry of Appearance, or you will be deemed as representing yourself. If you plan to represent yourself, notify the Court Clerk and Opposing Counsel so that you will receive pleadings and correspondence related to the case.

A hearing is set in your case on [date]. You and/or your new attorney will need to be present at that hearing. Failure to attend future hearings or participate in your case could result in default orders against you or dismissal of your case.

I have enclosed all the original documents from your file. If you believe there are additional documents in my possession, please let me know immediately so that I may search for them before I place my copy of your file in storage. Finally, I have enclosed the final statement for my work in this matter. If you have any questions about this statement, please contact my office at [insert phone number or contact information].

Sincerely,

[Attorney's Signature]

the law or the rules. An attorney can also withdraw from a case if the client does not pay for services as previously agreed upon.[4]

The rules emphasize that, even when withdrawing from a case, the attorney must take reasonable steps to protect the client's interests. The rules give specific examples of such steps, such as "giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expenses that has not been earned or incurred."[5]

Once an attorney withdraws, the client has the right to receive a refund for any funds still held by the attorney that have not been earned or used for legitimate expenses. The Court of Civil Appeals has stated that an attorney can only charge for services they actually provided and that those charges must be reasonable.[6] It is important for the attorney to promptly send a final bill detailing the retainer paid and how the funds were used. Any remaining portion of the retainer should be returned to the client.

TIMING FOR TRIAL/ HEARING SUBSEQUENT TO WITHDRAWAL

The statute provides 30 days for a litigant to retain new counsel or be deemed as representing themselves.[7] However, the appellate court has found that the statute does not *require* a trial or hearing to be postponed until that time frame has expired. Further, a pro se litigant can waive any such right by agreeing to a hearing date during the 30-day window.[8] As the Oklahoma Rules of Professional Conduct require a withdrawing attorney to continue to protect the client's interest, the attorney should caution the client not to agree to a hearing set prior to retaining new counsel.

CONCLUSION

Withdrawing as counsel by following the statutory requirements not only protects the interests of the client and the integrity of the legal system but also ensures that litigants, attorneys and the court are all informed about the status of the case and what will happen once the motion to withdraw is granted.

ABOUT THE AUTHOR

Jimmy Oliver has more than 10 years of experience in the areas of family law, juvenile law, guardianship and probate. He has served on the OBA Board of Governors and the Professional Responsibility Commission.

ENDNOTES

1. O.S. §2005.2 (C).
2. *Id.*
3. *Id.*
4. *Oklahoma Rules of Professional Conduct* 1.16, Comments 7 and 8.
5. *Oklahoma Rules of Professional Conduct* 1.16 (d).
6. *Wright v. Arnold*, 1994 OK CIV APP 26, 877 P.2d 616.
7. O.S. §2005.2 (C).
8. *Hilfiger v. Hilfiger*, 2023 OK CIV APP 15, 530 P.3d 879.

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Rules for Oklahoma District Courts

By Travis Pickens

THIS SEEMS TO BE A COMMON NIGHTMARE AMONG LAWYERS and other professionals: You suddenly realize you are due to take a final exam in a matter of hours for a class you attended the first day of the semester and then totally forgot or otherwise failed to attend thereafter.

The traits that can make you a good lawyer – high regard for authority and perfectionist tendencies – are the same ones that may inflict you with these neurotic nocturnal horrors. And unfortunately, it can occasionally play out in real life when we discover or learn from the opposing counsel or a judge a rule directly related to what we are just about to perform or seek in court.

One such group of rules that is fodder for either procedural mastery or ignominy is the Rules for District Courts of Oklahoma, a mandatory, wide-ranging set of rules issued by the Oklahoma Supreme Court and applicable to practice by all lawyers before the district courts in all 77 counties. These rules were originally adopted effective Jan. 1, 1982, and are found in the Appendix to Chapter 2 of Title 12 "Civil Procedure" of the Oklahoma Statutes or on the OSCN website under the "Legal Research" tab.

The rules cover an array of procedural matters and details not otherwise covered (or fully covered) in the statutes, and they have the full force and effect of law. *Knowledge of these rules is essential as they cover many of the most common and important procedures we practice.*

There is no obvious scope to the rules other than procedural practice, generally. Some rules will apply to every case you have; others may never apply to your practice. The rules primarily apply to civil procedure, but there are a few that are directed to criminal procedure.

The rules cover broad and routine areas of practice, like "Motions" (Rule 4), "Pretrial Proceedings" (Rule 5) and "Summary Judgment" (Rule 13), but there are also rules that cover or add something regarding less common procedures, such as "Disqualification of Judges in Civil and Criminal Cases" (Rule 15) and contempt proceedings ("Indirect Contempt for Failure to Pay Child Support – Purge Fee," Rule 8.3, and "Direct Contempt," Rule 20). There are also apparent one-offs and arcana like "Notice Form for Condemnation Cases" (Rule 21) and "Legislative Continuances" (Rule 24).

The rules can also serve as the birthplace for new rules issued in response to emerging trends and technology. Recent years and demands have led to rules being added – for example, "Limited Scope Representation" (Rule 33 in 2017) and "Videoconferencing in the District Courts" (Rule 34 in 2018).

Every rule is significant and potentially crucial to your case or matter. Beware: These rules must be read along with the Oklahoma Statutes, case law and other applicable authorities in preparing your case as they contribute to forming the complete legal profile of your case. They may be the only law on point, or they may merely supplement a much larger collection of law found in the statutes or elsewhere.

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The rules are issued by the Oklahoma Supreme Court and should control over conflicting local district court rules issued by the courts of our various state judicial districts, usually comprising multiple counties, which also cover matters of civil and criminal procedure, and must also be researched and followed when practicing in the courts of that district.

The Rules for District Courts of Oklahoma as a set is like the drawer in your house that holds the mishmash of odd keys and tools. These items could logically be stored separately elsewhere but are collected in one convenient place because they operate something you frequently use or unlock something you may not need for years but would otherwise never find the key. It is important to check the rules every time prior to approaching any matter before an Oklahoma district court. You'll sleep better.

ABOUT THE AUTHOR

Travis Pickens is a civil litigation and ethics lawyer in private practice in Oklahoma City. From August 2009 to January 2015, he served as ethics counsel for the Oklahoma Bar Association and as an OBA liaison to the Lawyers Helping Lawyers Assistance Program Committee. For many years, he served as an adjunct professor of law practice at the OCU School of Law.

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The Naked Cat

Preparing Your Family Law Case for Trial

By Allyson Dow and M. Shane Henry

OVERVIEW

It's been said, "There are many different ways to skin a cat, but the goal is a naked cat." Likewise, there are many ways to prepare for and try a family law case, but the following steps will help you get to that naked cat – and may stop your client from wanting to skin the opposing party or their lawyer.

A family law case is unique in that the client is typically going through something they never imagined they would face. On their wedding day, they stood before family and friends and recited their vows, believing they were entering a union that would last a lifetime. Instead, for whatever reason, it didn't, and they have come to you for resolution. Whether this is the person leaving or the person being left, it is painful for them. They are going through a paradigm shift. Their future is going to be far different than what they envisioned. It's quite uncertain, and no one likes uncertainty. However, as in a quote often attributed to American physicist and inventor Robert Goddard reminds us, "Just remember – when you think all is lost, the future remains."

Many of the clients will feel lost and afraid. For most, it is their first time going through a divorce. The fear and uncertainty of not knowing how the future looks causes people to act in different ways – most of them are not positive. Even worse for the clients is that they are dealing with two of the most important areas of their lives: their kids and their money. This is why you should brace yourself for heightened emotions when dealing with family law clients.

BEGIN AT THE END

The poet T.S. Eliot wrote, "What we call the end is often the beginning."[1] Actually, the best place to start with a client is at the very end. Begin every initial meeting with a client by asking them to define their ultimate goals. A new client is always quite eager to share their story. Tell them you want to hear everything about the facts of their case, but first, you want to know what end result they would like to achieve. Then, add that by understanding their goals, you can determine which of the facts in the case are helpful, useable and important. By stating this upfront to clients, they will be less inclined to engage in an "information dump." They will understand that you don't need to know everything about their situation and that learning what their goals are will help you focus the case.

We are counselors to some degree, but we are trained in the law, so the resolution of their legal case is where we must focus. Often, the best thing a family law attorney can do for a client is to refer them to personal counseling, such as a licensed counselor or psychologist. This will not only steer the client to a professional who is better able to help them psychologically deal with their situation but might also save them money.

When you ask them to determine their goals, be sure they understand each potential area of their case. For example, if they have minor children, explain the

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difference between sole and joint custody[2] and what parenting time means, which will affect their goals. Then, talk with them a bit about child support. Explain how that works,[3] find out what they owe and own, and then help them set reasonable child support goals. Find out if a name change is requested.[4] Talk about tax exemptions. Find out if alimony[5] is applicable and, if so, what their monetary goals are. Most importantly, listen and take notes. Lastly, read all of their goals back to them. Be sure you are on the same page and that you're communicating clearly with the client. Once they hear you read their goals back to them, they might say, "No, that's not what I wanted in that area." By establishing exactly what their realistic, achievable goals are, you will have the basis for knowing where you will eventually end the case – hopefully, with a win.

When you ask the client to give you the facts of their case, really listen. If possible, have a paralegal take detailed notes. It's important that you take notes, too, but you should spend most of your time absorbing what the client is saying and processing that information. If you try to take down everything that is said, it will impede

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your ability to really listen. When they are finished sharing, go back through everything so they can see that you've been listening. It will increase their confidence in you, knowing that you understand the facts and where they would like to end up in terms of custody, visitation, child support, asset and debt division and alimony.

SET EXPECTATIONS

As you review each goal with the client, your next step is to set client expectations. For example, one parent will often ask that the other parent never see the kids again. Absent certain extenuating circumstances, that is not a reasonable expectation under Oklahoma law, so you need to correct those expectations with the client. Different attorneys do this in different ways. Some will confront the client directly. Personally, I like to explain to the client that I don't make the laws in the state of Oklahoma and sometimes don't even agree with them, but those are the parameters in which we're working. Any solutions I can achieve for them will have to be filtered through the statutes and case law. And sometimes, if they keep pushing back, I say: "Look, I agree with you, and I wish the law were that way. So what I need you to do is run for office. Get elected and change the laws. But until then, here is the framework under which we're going to have to work." Usually, this backs them down and helps them understand the realities.

As you are helping the client set reasonable expectations while reiterating each goal, you should also speak with them about the relevant legal standards and the authorities. This is a critical step. You have shown the client that you have

listened to their goals and are helping them set reasonable goals. This reinforces that you care about them and what they have to say. You are also building your credibility by demonstrating that you know and understand the law and want the client to be a part of the process of goal setting and understanding what you'll be doing together.

COMMIT IT TO WRITING

Your next step will be to start working on the request for relief. Each of the client's specific requests should be listed for each area. Ideally, this list should be short and simple – one or two pages. For example, list custody and state precisely what your client is requesting. The request for relief will become your guide throughout the case. In addition, you can draw on it if your client goes off track, wasting money just to prove a point. If that happens, you can help the client refocus by asking, "How is this going to help us achieve one of these goals?" You can also remind them that they are getting ready to spend a lot of time and money on something that is not going to further one of their goals.

When you start requesting discovery, your request for relief also helps you guide your case as it becomes the basis for gathering information and tailoring your questions. You may want to offer your client's request for relief to the judge at the beginning of the trial as an aid to the court by stating that this is what your client will be requesting. Your trial strategy is going to be organized around this request for relief as you seek to show the judge what your client is requesting, why the request should be ordered, what the legal standards are and what facts support the request. Prepare the request for relief as soon as possible because it keeps everyone on the same page. I have tried preparing cases when the request for relief was completed right before trial, but that is a very inefficient and ineffective way to prepare.

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TRIAL PLANNING

The next thing to do early on is start looking for the theme[6] of the case. The theme is just a short phrase – a sentence or two that helps you sum up your client's position in the case and helps separate your case from the hundreds of others the judge is hearing. Some themes our firm has used in the past, for example, have been "runaway mom," "greed beyond the grave," "big guy vs. little guy" and "set up for failure." Explain to the client what a theme is, what it does and how it ties the facts together to make their case memorable.

Next, after your client has shared the facts of the case, the two of you need to work together to prepare an outline and timeline of relevant events. For example, what events led up to the divorce? When we say relevant, we are referring to the events the judge needs to know that support the items in your request for relief. The request for relief and outline of events will serve as the basis of your case. Then, create a little story for each of these events. We call these chapters.[7]

As you are preparing chapters, you will hear things from your client like, "Oh, I've got a picture of that," or, "I have text messages [or emails] supporting that!" This is the kind of evidence that will become the exhibits for your chapters. Throughout the case, work on crafting these chapters and obtaining what is needed for the supporting exhibits. Create a chapter index and an exhibit index, and Bates stamp the exhibits. Do this throughout the case so that if the client mentions a worthwhile new event or story, you can easily create a new chapter and start pulling together the relevant exhibits. Don't rule anything out, as it is best to gather as much information and create as many chapters and exhibits as possible. Keep those chapters and exhibits together, index them, and Bates stamp the exhibits so they're easy to find. When a client comes in with a big stack of text messages, photos, etc., take the time to go through them and Bates stamp them. There's nothing worse than losing something critical to a case. Also, by letting the client see the chapters, exhibits and indexes, you are showing them that they're part of the team. Ultimately, the client knows the facts of the case better than you do. They have lived it, so they can update chapters and assist with their case as an integral part of the team.

MEDIATION CONSIDERATIONS

In addition to preparing for trial, you need to take several steps to prepare for mediation. By the time mediation rolls around, you will know exactly what your client wants and why. Being armed with this information and what you learn from opposing counsel will allow you to properly advise your client about the range of settlement options. You will be able to tell your client whether something is or is not a good deal and what they likely would be facing if they go to trial. You will also be able to give them at least an idea of the best, likely and worst-case scenarios.

Throughout this process, your job in getting a case ready for trial is, first, to work with the client to determine all of their goals, starting with the end goals, and then take all the facts and boil them down to the information, evidence and exhibits that are needed to present to the court. This is ideally to arm the judge with the information needed to rule in your client's favor and achieve all of your client's predetermined goals.

Movie director and producer Ridley Scott said, "I think ... filmmaking is a team, but eventually there's got to be a captain."[8] As the lawyer, your role is like that of a producer or a captain of a team. The recent movie *Top Gun: Maverick* was pared down from more than 800 hours of footage to its running length of two hours, 10 minutes.[9] Despite the overabundance of solid footage that might have been included, it was condensed to only the very best takes. That is like your role as a trial lawyer – sifting through good material to find only the best for trial.

CONSIDER THE AUDIENCE

As we think about the judges in our cases, we know they are very hardworking and have a lot of pressure on them to be efficient and move their dockets along. They want to help people and take a lot of cases when the parties are unable to settle. Because trial time is a precious resource to all judges, the more we can boil down the relevant evidence and present it to the court, the more efficient, effective and successful we are in the courtroom.

Besides facing enormous time pressures, judges' attention spans and focus are limited, just as they are for all of us. Judges are human, after all. TED Talks present some of the greatest ideas and information being shared in the world today, even though the maximum time limit for each one is 18 minutes.[10] TED Talks presenters have no choice but to boil their presentations down. Our attention spans

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only last so long. In family law cases, clients often don't understand this. They want to tell the judge every little detail. As their lawyer, our job is to highlight the most important information so that we can hold the judge's attention and be the most effective.

GET THE CLIENT INVOLVED

Here's an example of how to do that. Let's say a client comes in with an overabundance of information, such as countless emails saved on a thumb drive. This is common. Usually, the best thing you can do is identify the main topics covered in these emails and then, for each topic, identify the three best examples to use as exhibits in the various chapters you'll be presenting to the court. The client can then testify that there are hundreds of other examples just like those. The timeframe from the start of a case until the case goes to trial is typically several months or even more than a year. During that time, things will happen. Exhale. The parties may call or text you regarding new issues or developments that have arisen. You must have an organized way to capture that information; otherwise, right before pre-trial, you will have to go through a month's or even a year's worth of information and try to pull out the relevant details. That is not only stressful, but it is also an ineffective way to prepare your client's case for trial.

Instead, as information comes in, add chapters as needed. Do it right away. They don't have to be perfect, but when an event happens, create a new chapter on it. Bates stamp and index all new information and evidence so that you'll have an updated list of everything the client has sent you. This will help you in client meetings when the client says, "Well, I already sent you that." You can pull out the exhibit index and ask the client to point out what they're talking about because you've indexed everything they sent.

Getting the client involved in their case is essential to giving them a sense of empowerment and control during their time of fear and uncertainty. Do this by sharing the chapters, indexes and corresponding exhibits with them throughout the process, including any new chapters or exhibits. Put it all in a cloud storage link, and send it to them for easy review. Bates stamping the exhibits is key because it lets you easily go to a specific document or page of a document in the cloud. Also, ask the client if they have any additional ideas when they review this material because no one else knows the facts of the case better than they do.

Keep chapters to one or two pages. They should contain facts the judge needs to know regarding certain incidents. For example, if your client experienced an incident during a visitation exchange, the chapter would contain that information. When did it happen? Who was there? What happened? Who said what? Who did what? The chapter should be sourced to any supporting documentation, such as photos or videos of the exchange or relevant text messages sent or received before or after the exchange. As you prepare for trial, you can use the chapter index while working with the client and your paralegal (if you have one).

You can decide on the order to present the chapters and evidence right before trial, a process called sequencing,[11] but do not wait till the last minute to get the chapters ready. Procrastinating will make it very difficult to deliver a strong case at trial. Procrastination also puts a lot of stress on you, your staff and your client.

Most judges statewide require mediation before pretrial. Fortunately, you'll be well prepared for mediation because you'll know what your client wants and what evidence you have as support – assuming you've established your client's end goals in the request for relief and prepared your chapters, exhibits and indexes. All you need to do is send the request for relief, which can serve as the mediation statement, to opposing counsel and the mediator prior to mediation so that your client's position on each issue is clear to everyone. This saves the client a lot of money and streamlines a mediation because the mediator doesn't have to spend a lot of time in the room trying to figure out what the client wants.

PRETRIAL

The next step is pretrial. Pretrial is handled differently in family law cases than in other civil cases. The courts often handle it quickly and informally. Still, you'll need to get a draft of the pretrial order started before pretrial. Identify what issues are agreed upon. Do the parties agree on jurisdiction and venue? If so, cite those details. List any other factual issues or matters the parties agree on as well. And then identify the issues that are not agreed upon. The judge will need to hear those issues and make a ruling on them. However, identifying them early on will help you organize issues for trial and pare things down so that the trial can be more efficiently run and more effective for both parties. Also, it's always

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smart to arrange for a phone call or in-person meeting with opposing counsel before pretrial to see which matters might be resolved in advance.

Exhibits, of course, need to be listed on the pretrial order and exchanged with opposing counsel in advance of pretrial with enough time for the parties to review them and state any objections to the pretrial order. Different judges handle objections in different ways. Some allow objections to be reserved for trial. Nonetheless, in such cases, be sure to note the objections. Prepare for any objections that opposing counsel is going to make at trial. To summarize, exchange everything before pretrial, list all objections on the pretrial order, and then talk through those objections at the pretrial conference if the judge allows it. You are now prepared for both pretrial and trial – and the client has had significant input throughout your preparations.

Schedule a phone or in-person meeting with opposing counsel before pretrial or certainly before trial to discuss which exhibits can be agreed upon and stipulated. For example, if you have a bunch of bank statements or tax returns, why waste time at trial laying the foundation for those kinds of things? Go through and see what can be stipulated. Then, when you first go on the record at trial, you or opposing counsel can announce to the judge the mutual understanding of the stipulated exhibits. Judges like that because it shows the attorneys are prepared, it saves trial time, and for the client, it even saves money. Also, by talking with opposing counsel beforehand about their objections and the reasons for them, you can see if something can be worked out. Typically, evidence in a family law trial is going to be admitted because it is not a jury trial. In bench trials, most judges allow parties to make their case with evidence being allowed in the record, viewing this process as separating the "wheat from the chaff." Most of the time, relevant evidence is going to come in. Keep that in mind as you are deciding where to fight your battles.

At trial, the judge's time is a limited resource. So is the client's money. We have a duty to our clients to be efficient and effective, which can help preserve the client's resources as well as our own.

The next step in efficiently preparing for trial is to go back and improve on the chapters. Again, work with your client to pare down which exhibits are used while fine-tuning factual details in the chapters. Throughout the trial, you need to be presenting evidence that supports your requests or refutes the requests of the opposing party. Otherwise, you are wasting time. Sometimes, you will decide not to use a chapter you've created. That's perfectly fine; it's better to have created chapters that are scrapped than to scramble to add a chapter at the last minute.

CONCLUSION

Every successful lawyer wants the same end result or naked cat – a win for their client. Although different attorneys may "skin the cat" differently to get there, having a clear understanding of a client's end goals, being organized throughout the process, being well-prepared in advance of trial and clearly and succinctly presenting your case to the court is the most efficient and least stressful way to achieve that win.

As stated in the quote often attributed to Chinese philosopher Lao Tzu, "New beginnings are often disguised as painful endings." In the process of properly preparing your family law case for trial, you are successfully leading your client to their new beginning.

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Ms. Dow and Mr. Henry are partners and trial lawyers at Henry + Dow + Masters + Aycock. They are also siblings.

ENDNOTES

1. Line from the poem "Little Gidding," T.S. Eliot. https://bit.ly/3CSBmO7 (last visited June 12, 2024).
2. 43 O.S. §§109 and 112.
3. 43 O.S. §§118-120.
4. 43 O.S. §121(A) (1-2).
5. 43 O.S. §121(B).
6. Thomas A. Mauet, *Trial Techniques*, Sixth Edition (2002).
7. Roger J. Dodd and Larry Pozner, *Cross-Examination: Science and Techniques (2018).*
8. Kenneth Turan, "Man of Vision," *Directors Guild of America*. https://bit.ly/4fbHbU6 (last visited Dec. 5, 2024).
9. "How Top Gun: Maverick Left 800 Hours on the Cutting Room Floor," *ScreenRant*. https://bit.ly/3BIMfY5 (last visited June 12, 2024).
10. "TEDx Rules," TED. https://bit.ly/3ZAPIeA (last visited June 12, 2024).
11. Roger J. Dodd and Larry Pozner, *Cross-Examination: Science and Techniques (2018).*

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Every Lawyer Should Use a Written Fee Agreement (This Means You!)

By Richard Stevens

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A LAWYER'S CONTRACT WITH A CLIENT DOES NOT HAVE TO BE IN WRITING in most cases, but when a lawyer agrees to represent a new client or represent a current client on a new matter, the lawyer should prepare and execute a written contract. These agreements are known by several names, including engagement agreements, fee agreements, engagement letters, retainer agreements or simply fee contracts. Whatever the name of these agreements, reducing the agreement to writing can define the attorney-client relationship, define the duties and obligations of both the lawyer and the client, reduce the risk of misunderstanding and reduce the risk of grievances and disciplinary action.

AGREEMENTS REQUIRED TO BE IN WRITING

Contingent fee agreements must be in writing. ORPC 1.5(c) states, in part:

> *A contingent fee agreement shall be in writing* signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party (emphasis added).

A contingent fee agreement must be in writing and must contain all the elements mentioned above to be in compliance with the Oklahoma Rules of Professional Conduct.

Rule 1.5(b) requires:

> The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, *preferably in writing*, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client (emphasis added).

All written fee agreements, contingent or not, should contain the information required by 1.5(c) and more, and all fee agreements should be in writing.

A WRITTEN FEE AGREEMENT SHOULD CLEARLY IDENTIFY THE CLIENT

Defining the scope of the representation is essential. Essential to

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defining the scope of the representation is the identification of *who is* and *who is not* the client. A few common situations may give rise to uncertainty as to the identity of the client. For example, when a lawyer represents a business organization but not constituents, employees or officers of that organization. The identity issue may arise when a lawyer represents a partnership but not individual partners. Similarly, this issue may also arise when the lawyer represents constituents, partners or officers of organizations but not the organization itself.[1]

At times, someone other than the client may pay the fee for the representation. A third-party payor may think they are entitled to direct the representation or obtain confidential information about the representation. ORPC 1.8(f) prohibits a lawyer from accepting compensation for representing the client unless the client gives informed consent, there is no interference with the attorney-client relationship or the professional judgment of the lawyer and confidential information is kept confidential. When there is a third-party payor involved, a written fee agreement is a handy place to document informed consent. A statement signed by the third-party payor acknowledging that they have no ability to direct the representation or get confidential information without the consent of the client can also be included or contained in a separate document. An agreement about who (the client or the third party) is entitled to any refund of any unused part of the fee is also advisable.

Clarity in an agreement about who is and who is not the client may prevent issues about confidential information, disqualification and later claims by constituents, officers, employees or a third-party payor, who believed they were represented by the lawyer. Providing that clarity in written form may later save a lawyer from disqualification motions, malpractice actions or disciplinary proceedings.

The written agreement may also remind the client of the uncertain cost of the representation when billed by the hour. If the fee is a flat or a fixed fee, it is imperative that the lawyer specifically describe the service to be provided.

A WRITTEN FEE AGREEMENT SHOULD CLEARLY DEFINE THE SCOPE OF THE REPRESENTATION

The lawyer's fee agreement should clearly set forth the scope of the representation. In many instances, the scope of the representation will be clear. In litigation, for example, a lawyer may be engaged to prosecute or defend a particular action settlement, judgment, dismissal or sentencing. In other representations – such as business formation, purchasing a business or real estate transactions – the scope of the representation may not be as clear. A lawyer who is engaged to represent a client in the acquisition of a business may need to list particular services that are included within the representation, such as preparing contracts, dealing with regulatory agencies, zoning issues and real estate closing.

It is as important to define what the lawyer will *not* do in the course of the representation as it is to define what the lawyer will do. For instance, the lawyer engaged to represent a client in the acquisition of the business may want to specifically exclude conducting due diligence on the viability of the acquired business to avoid misunderstanding should the business not perform to the client's expectations.

REPRESENTING MULTIPLE CLIENTS

When representing multiple clients in one matter, the lawyer must address issues that may arise in joint representation. Those issues include potential adversity between the clients, informed consent to the representation and the potential of a nonconsentable conflict as defined by ORPC 1.7(b) and Comment [17]. The agreement should address the issue of confidential information and how it will be shared. The clients should

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also be made aware of the consequences of adversity between the clients and the possibility of withdrawal from the representation of one or more of the clients.

MORE ABOUT THE FEE

The requirements of ORPC 1.5(c) do not contain everything that should be disclosed about a fee in the written agreement. The agreement should define the requirement of any advanced fee (retainer) and how that advanced fee is to be replenished. The due date of payments and whether late fees will be required and how those fees will be calculated should also be included.

The written agreement may also remind the client of the uncertain cost of the representation when billed by the hour. If the fee is a flat or a fixed fee, it is imperative that the lawyer specifically describe the service to be provided. Any flat fee should be accompanied by a statement of when and how portions of the fee will be earned. These "benchmarks" will help prevent misunderstandings about whether the lawyer is entitled to some part of the fee if the entire representation cannot be completed through no fault of the lawyer.

The agreement should also define acceptable manners of payment. If credit card transactions are an acceptable form of payment, the agreement should provide for the responsibility for any fees associated with the transaction. Without giving any opinion on whether credit card surcharges are lawful in Oklahoma, I will direct lawyers to 2019 OK AG 12. If a surcharge is imposed, sufficient notice must be given in the agreement, and the surcharge should be reasonably related to the fee imposed. A lawyer's fees must be reasonable.[2] If the lawyer takes possession of or a security interest in property of the client, the transaction must comply with ORPC 1.8(a).[3]

NONMONETARY OBLIGATIONS OF THE CLIENT

Written fee agreements should also contain other obligations of the client. Those obligations should include keeping the lawyer informed of contact information. The client also has an obligation to provide honest and accurate information to the lawyer, and that should be included in the agreement.

TERMINATION OF THE REPRESENTATION

The addition of a termination provision in your agreement will prevent misunderstandings. Language that defines the end of the representation as the submission of a final bill or another benchmark may be added. This will not only define the end of the representation but also define whether the client is a current or former client for conflict purposes.

CONCLUSION

The provisions listed in this article are not intended to be exhaustive. Not all of these provisions will be desirable in every practice, and I certainly have not included every conceivable provision. I have known many lawyers who do not use written contracts and some who have used them in pro bono representations (for the nonmonetary provisions). I believe it is best for every lawyer to use a written contract for the security and certainty it provides.

ABOUT THE AUTHOR

Richard Stevens has served as OBA ethics counsel since September 2019. Previously, he was a solo practitioner following his retirement from the District 21 District Attorney's Office after 33 years as a prosecutor. Mr. Stevens is a member of the OBA Criminal Law Section and the Rules of Professional Conduct Committee. He served as the 2018 OBA vice president, on the Board of Governors from 2013 to 2015 and as a member of the Professional Responsibility Commission.

ENDNOTES

1. *See* ORPC 1.13.
2. *See* ORPC 1.5(a).
3. *See* ORPC 1.8 Comment [1].

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Initial Appearances: How To Make the Most Out of a Cursory Court Date

By Amanda Lilley

THIS MAY BE YOUR CLIENT'S FIRST TIME GOING TO THE COURTHOUSE. There can be many quick deadlines and hearings, all of which require countless pleadings or motions. The court date may only be a few minutes long but still have extensive amounts of information given. The criminal justice system can be overwhelming for both clients and attorneys who are either new to practice or just new to criminal law. This article will address the most common issues for attorneys representing clients in criminal cases.

ARRAIGNMENT

In Oklahoma, the first appearance in front of the judge is an arraignment.[1] Many courts and attorneys will call this court appearance the initial appearance or will use the two terms interchangeably. An easier way to differentiate the two terms is to think of the act of being in court as the initial appearance and the legal steps that occur as the arraignment. For this article, the term initial appearance will be used unless specifically talking about the steps for the arraignment. On either a misdemeanor or a felony, the purpose of an initial appearance is for the defendant to be made aware of the charges, confirm the identifying information is correct[2] and enter a plea if it's a misdemeanor.[3] When your case is called, you will announce why you are in court (for the initial appearance on [identify the case number] or the initial appearance on a motion to revoke suspended sentence or an application to accelerate sentence). You will then tell the court whether the identifiers are correct and announce any changes, such as an updated address. Next, you will tell the court that the defendant understands the charges and waives the reading[4] or, in rare circumstances, read the charges aloud to your client. You will also need to tell the court how your client wants to plead to the pending matter.[5] All pleas must be oral and recorded in the court minutes.[6]

While misdemeanor charges allow counsel to appear without a client's personal appearance, defendants must be present when charged with a felony.[7] Failure to appear could result in the issuance of a bench warrant. In the event that you have been hired by a family member or otherwise do not get to see your client before court, be aware that some courts conduct video arraignments[8] for incarcerated clients, which would prevent client consultation. You will want to check with the court to determine if you need to make alternative arrangements to speak with your client before their appearance.

Oklahoma's criminal code requires the prosecutor to file all criminal misdemeanors and felonies by information.[9] While law enforcement can make recommendations for specific charges, ultimately, the final decision on charges lies with the district attorney's office. The district attorney's

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office should give you a copy of the charging information. If your client is in custody, the court may have given them a copy prior to court. The information must contain the title of the action, the name of the court to which the information is presented and the name of the party.[10] The information must also contain a statement outlining the charged offense, written in a way that "a person of common understanding" will know what they are charged with.[11] Endorsement of witnesses is required at the time of filing the information. If the state wants to redact endorsements for witness safety, the district attorney's office is required to ask the court prior to redaction.[12]

If your client's case contains a charge involving rape, sodomy, sex crimes, sexual images, lewd or indecent conduct, pornography, child abuse or neglect, domestic abuse, kidnapping, extortion of a vulnerable victim, human trafficking or a similar offense, some documents may not be available for viewing on the Oklahoma State Courts Network website.[13] You will be able to get document copies from either the district attorney or the court clerk.

BOND

If bond was not set prior to the initial appearance, you may be able to address the issue of bond. If bond was set prior, many courts will allow you to request bond reductions.[14] However, some courts will require a written request and the bond reduction hearing to be set for a later date. Most counties follow a predetermined bond schedule,[15] but several charges require the court to review the individual charges prior to setting bond.[16] The district attorney's office may present additional information about the circumstances relating to the charges as well as the defendant's criminal history to the court for the setting of bond. Charges relating to violations of protective orders and domestic violence are not eligible for personal recognizance bonds. There are also some crimes for which a judge can order no bond.[17] If bond is denied, the court must do a written finding of fact outlining

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the reasons for the detention and why no conditions of release can reasonably assure the safety of the community or any person and that proof or presumption of guilt is great. There is a possibility the bail amount could increase if your client bonded out of jail and the charge severity increased after bonding or if any additional charges were added.[18]

An initial appearance serves a second, equally important purpose, as it can be the date used to start other critical deadlines.

SPECIFIC ISSUES OR DEADLINES TO BE PREPARED FOR

An initial appearance serves a second, equally important purpose, as it can be the date used to start other critical deadlines. While not an exhaustive list, these are some specific situations that could arise at or immediately after an initial appearance for which you should be prepared.

Probation Violation Cases

If the matter is a motion to revoke or an application to accelerate, both the state and the defendant are entitled to a hearing on the merits within 20 days of the initial appearance.[19] You will need to announce whether the defendant will waive the 20 days or if your client wants the hearing set. Something to keep in mind, though, is that the state may request a hearing within 20 days as well and may not waive, depending on the factual circumstances involved in the allegations.

Second Page

In felony cases, the punishment range can change dramatically if your client has prior felony convictions. Depending on the current charge, you could end up with enhanced punishment ranges that include large mandatory minimums[20] or prohibitions against probation.[21] If your client's prior convictions are out of county or out of state, there is a possibility the prosecutor may delay filing the supplemental information page, also called a "second page or page two," if the priors are more difficult to ascertain. Usually, the state will file an amended information with the "second page" attached to the back. You could be handed the enhancement page at the initial appearance or even later. Keep in mind that for domestics,[22] protective orders or driving under the influence, the case used for enhancement purposes can be a misdemeanor from any court of record, including municipal courts.

Pleas

Some courts will let you plead cases at the initial appearance. This will allow your client to save time and money. Often, small charges like traffic issues, trespassing or public intoxication can be resolved at the initial appearance. However, you will want to make sure the district attorney's office has correctly identified the punishment range for the charge listed, as some of these charges can have multiple statutes covering similar or the same offense but with different punishment ranges.

Demurrer

There are several reasons in statute allowing a defendant to request the information be set aside and the case be dismissed, such as: the facts as alleged do not constitute a crime, the information contains a legal justification for the offense or simple conformity flaws in the format of the information.[23] If the defendant is not ready to respond to the information, you can ask for additional time.[24] However, if you are able, you can file a motion requesting the court set aside the information or demur to the information.[25] The demurrer must be put in open court, either at the time of the initial appearance on arraignment or at a later date if the court allows for it to be set at a later date.[26] You need to make sure to ask for a reservation of time if you think you may want to demur, as statute requires it to be done at the time of arraignment unless you are making a jurisdictional argument.[27]

Speedy Trial Issues

The United States and Oklahoma constitutions guarantee an "accused" the right to a speedy trial. A person becomes "accused" either when charges are filed (whether by information or indictment) or when an arrest[28] for the offense

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has occurred, whichever happens first.[29] Defendants are also entitled to speedy preliminary hearings.[30] The court has applied the same speedy trial logic to applications and motions.[31] The Oklahoma Court of Criminal Appeals has held that delays in prosecution in excess of just one year are sufficient to trigger speedy trial analysis under *Barker v. Wingo,* 407 U.S. 514 (1972).[32] The factors set out are: length of delay, reason for delay, defendant's assertion of their right and prejudice to the defendant. When looking at the delay, the court considers "the extent to which the delay stretches beyond the bare minimum needed to trigger judicial examination of the claim."[33] Although negligence is a more neutral reason for delay than deliberate bad faith, it is still considered because "the ultimate responsibility for such circumstances must rest with the government rather than with the defendant."[34]

If your client is appearing on an application to accelerate or a motion to revoke suspended sentence, you will want to look at the date of the application/motion filing as well as the procedural history of the case. If there is a significant delay between the filing and your client's arrest, you may be able to allege that the state failed to prosecute. As the court does look at whether the delay was "acquiesced to by the defendant," you will want to get your request for dismissal on file and set for hearing as quickly as possible, so as not to waive the speedy trial argument.

Competency

If you arrive at the initial appearance and have questions about whether your client understands the nature of the charges or whether they can assist in the preparation of their defense due to either intellectual disabilities[35] or mental illness,[36] you can ask the court to stay the criminal proceedings and set off initial appearance pending a competency evaluation. The question of competency can be raised by any party in the case, including the judge.[37] Requests should be in writing unless the court is the party requesting the evaluation.[38] You will want to include any concerns about your client's competency. It can also include any prior mental health history. The court sends your application to the evaluator to assist them in asking questions during the later evaluation or to assist the evaluator in finding treatment records they can reference in the evaluation. Once the application is filed, all criminal proceedings are stayed.[39] Depending on your county, the court may require a hearing on your application, while some counties may order the competency evaluation based solely on the application.[40]

Once a determination is made that a competency evaluation is needed, the court will send an order to the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) for evaluation.[41] ODMHSAS will either conduct the evaluation or refer it to a qualified forensic examiner contracted by ODMHSAS. This order will give specific determinations the evaluator must make based on statute[42] (*i.e.*, whether the defendant can understand the charges, whether the defendant can consult with their attorney and whether the defendant is dangerous[43]). Once ODMHSAS completes the evaluation, it will notify the court.[44] Parties can stipulate to the report instead of having a hearing. However, if the parties do not agree to the results of the evaluation, a hearing on the report must be held within 30 days.[45] This hearing can be in the form of a bench or jury trial. A jury trial must be held within 72 hours of the request for one.[46] At a competency trial, the party seeking to show incompetence must do so by a preponderance of the evidence.[47]

Mental Illness Defense

Defendants must raise mental illness defenses with the court within 30 days of an initial appearance for misdemeanors or a formal district court arraignment for felonies. There are several steps involved in requesting that the court pay for the services of a qualified mental health professional if your client cannot afford to pay for those services. Statute does make it clear that a defendant is not required to have an Oklahoma Indigent Defense System attorney to request that the court provide access to a qualified mental health professional to assist in the evaluation and possible presentation of a mental illness defense. This request must be filed at the same time as the notice of intent to use a mental illness defense.[48]

CONCLUSION

While an initial appearance is typically a quick, couple-sentence announcement by counsel with the intent to continue the case to a new date, it can be an effective and important appearance for your client, depending on the circumstances in their case. While this summary barely touches on the wide array of complications

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that could crop up at an initial appearance, many future issues can be avoided or the groundwork for defenses can be immediately laid if you are prepared. Not only will it help you with your case, but it can help alleviate the stress and anxiety a client may have when presenting themselves to a judge for the first time.

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ENDNOTES

1. In felony cases, you will have a second court appearance similar to an initial appearance once your client is bound over to district court called a formal district court arraignment. This appearance must be held within 30 days of the bind-over. However, the court can go beyond the 30-day requirement for good cause. *See* 22 OS 470.
2. 22 OS 466.
3. 22 OS 251, 22 OS 257, 22 OS 465.
4. The statute involved was adopted from Comp. Laws Dak. 1887, §7277, and first appears as Stat. 1890, §5539. It is long established that a defendant can waive reading of the information. *See Shivers v. Territory*, 13 Okl. 466, 74 P. 899.
5. 22 OS 465.
6. 22 OS 514.
7. 22 OS 452.
8. 20 OS 130, 22 OS 451-452, codifying court rules created during the COVID-19 pandemic to expand access to the courts, allowing for videoconferencing "in all stages of civil or criminal proceedings." *See also* District Court Rule 34.
9. 22 OS 301.
10. 22 OS 402.
11. 22 OS 401.
12. 22 OS 303. Also, the district attorney's office can add endorsed witnesses to the information without notice up until the preliminary hearing. *See* 22 OS 524.
13. 12 OS 39.
14. In *Brill v. Gurich, 1998 OK CR 49, 965 P.2d 404 (Okla. Cr. 1998)*, the Oklahoma Court of Criminal Appeals reminds us, "The right to freedom before conviction permits the unhampered preparation of a defense and serves to prevent the infliction of punishment prior to conviction. The judges of this State have a duty and responsibility to apply the law and, further, in these matters they must ensure bail is not used as a tool of punishment." They then cite to *Petition of Humphrey*, which outlines the factors to use to determine the amount of bail.
15. For a discussion on the legality of bond schedules, review the opinion and order in *Feltz v. Regalado et al.*, No. 4:2018cv00298 – Document 256 (N.D. Okla. 2021). The appellate court indicates the trial court should go into an individual's ability to pay their bond at the initial appearance if it was set by bond schedule and the defendant did not post bond by the initial appearance.
16. 22 OS 1105.
17. Oklahoma Constitution, Article 2, Section 8.
18. 22 OS 462.
19. 22 OS 991b.
20. 21 OS 51.1.
21. 22 OS 991a (C). However, the prosecutor may waive this prohibition in writing.
22. 21 OS 644 (I). Deferred sentences on domestic charges qualify as enhancements, as it is still a finding of guilt. *See* 21 OS 644 (N). Further, the prior conviction does not have to be charged as a domestic for it to qualify as a prior for the purpose of enhancement to a felony. If the parties had a qualifying domestic relationship and a record to support the charge, a simple assault and battery can qualify as an enhancement. *See State v. Rutledge*, OK CR 8 | 509 P.3d 625 (2022).
23. 22 OS 504.
24. 22 OS 491.
25. 22 OS 492.
26. 22 OS 503.
27. 22 OS 512.
28. 22 OS 812.1 and 22 OS 812.2.
29. *See also*, *United States v. Marion*, 404 U.S. 307, 320, 325, 92 S. Ct. 455, 463 (1971); *State v. Powers*, 952 P.2d 997, 999-1000 (Okla. Cr. 1997).
30. 22 OS 258 requires a show cause be held if a preliminary hearing has not been commenced within nine months of the initial appearance. 22 OK Stat §524 requires defendants to request a preliminary hearing within 10 days of grand jury indictment if the defendant wants one, as a preliminary hearing is not required after indictment. However, the shortened time under 22 OS 812.1 essentially invalidates the speedy preliminary hearing statute.
31. The court held a five-year delay between the filing of the motion to revoke and the defendant's arrest, making it "apparent the State had abandoned their application," especially when "the delay was apparently neither caused by nor acquiesced in by appellant." *Cheadle v. State*, 1988 OK CR 226, 762 P.2d 995 (1988).
32. *See also*, *United States v. Gomez*, 67 F.3d 1515, 1521 (10th Cir. 1995), while not a "bright line beyond which pretrial delay will trigger a *Barker* analysis," they are mindful of the one year "presumptively prejudicial" delay recognized in *Doggett*.
33. *Doggett v. United States*, 505 U.S. 647652 (citing *Barker* 407 U.S. at 533-34). In *Doggett*, the reason for the delay was the government's negligence in not pursuing Doggett. 505 U.S. at 652-654, 112 S. Ct. at 2691.
34. *Barker v. Wingo*, 407 U.S. at 531, 92 S. Ct. at 2192.
35. As defined by 10 OS 1408. If the underlying issue is intellectual disability, the court can order a second evaluation through the Department of Human Services.
36. As defined by 43A OS 1-103.
37. 22 OS 1175.2 (A).
38. *Id*.
39. 22 OS 1175.2 (C). If your client is declared incompetent after evaluation, the state is allowed a "reasonable period of time" for restoration of competency. *See* 22 O.S. §1175.1(6); "Reasonable period of time" is defined as to not exceed the lesser of: "a) the maximum sentence specified for the most serious offense with which the defendant is charged," or "b) a maximum period of two (2) years." If your client cannot be restored, multiple options may be considered, including transitioning to a public guardianship under 22 OK Stat §1175.6b.
40. 22 OS 1175.2 gives procedures and notice requirements.
41. 22 OS 1175.3(D)(1). *See also*: The Court of Criminal Appeals in *State of Oklahoma, ex. Rel. Michael J. Fields, District Attorney v. The Honorable Tom Newby, District Judge*, MA 2023-651, affirmed the court's determination that the court did not have discretion to order a second evaluation from ODMHSAS, which was requested because the state did not agree with the evaluator's determination of incompetency. Additional briefs on this issue are found in Garfield County case CF-2022-138.
42. 22 OS 1175.3 (E).
43. As defined by 43A OS 1175.1.
44. 22 OS 1175.3 (F).
45. 22 OS 1175.4 (B).
46. 22 OS 1175.4 (B).
47. 22 OS 1175.4 (B), *Allen v. State*, 956 P.2d 918, 919 (Okl.Cr.1998).
48. 22 OK Stat §1176 (2023).

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The Basics of Preserving Error for Appeal

A Trial Lawyer's Guide for Making a Better Appellate Record

By Justin A. Lollman and Andrew J. Hofland

ALL LAWYERS MAKE MISTAKES. Often, they are small and can be fixed. But that is not always the case. And sometimes it is those small mistakes that carry the harshest consequences.

Nowhere are harsh consequences for small mistakes more common than in the rules governing error preservation for appeal. A moment's hesitation, a poorly phrased objection, one too many questions – that is all it takes to waive or forfeit an issue. The consequences can be devastating. Within seconds, inattentive counsel can lose an appeal before one ever gets filed.

Avoiding this result requires vigilance and preparation. While the rules for preserving error on appeal are extensive and – in some areas – complex, trial counsel must have a firm grasp of the basics. That is what this article aims to provide – a trial lawyer's guide for not only avoiding some of the most common preservation mistakes at trial but also making the best record possible.

THREE CARDINAL RULES FOR PRESERVING ERROR

While the rules for preserving error on appeal are nuanced and can vary by issue, broadly speaking, there are three cardinal rules. You need 1) a timely and specific objection or motion, 2) a ruling from the court and 3) a record establishing both.

Making a Timely and Specific Objection or Motion

Preserving error starts with a timely objection, request or motion. Error preservation rules are grounded on principles of procedural fairness and judicial economy, the idea being "the best place to correct error in the first instance is in the trial court where ... the principal focus of the litigation should be."[1] For that to occur, parties must raise issues in a timely and specific manner, giving the court "the opportunity to take corrective action and to avoid unnecessary error."[2]

Timeliness. The timeliness of a motion or objection depends on the issue. A summary of the applicable timing requirements for some of the most common objections and motions at trial is provided on the next page.

Depending on the circumstances, timeliness may require repetition. While it is generally unnecessary to repeat or renew an objection made at trial after it has been conclusively overruled,[14] if the evidence or circumstances have changed, a renewed objection may be required.[15] That the court overrules an objection to a particular piece of evidence does not necessarily preserve an objection to all future evidence or testimony offered on the same general topic.[16] When in doubt,

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TIMING REQUIREMENTS FOR COMMON TRIAL OBJECTIONS AND MOTIONS	
Issue	**Deadline(s)**
Jury Selection	Before the jury is sworn[3]
Evidentiary Rulings	At the earliest possible opportunity after the objection becomes apparent[4]
Sufficiency of the Evidence	
■ State – Civil	At the close of the plaintiff's case, and if a defense case is presented, at the close of all the evidence[5]
■ State – Criminal	At the close of the state's case, and if a defense case is presented, at the close of all the evidence[6]
■ Federal – Civil	Before the case is submitted to the jury and renewed after the jury returns its verdict[7]
■ Federal – Criminal	At the close of the government's case, and if a defense case is presented, at the close of all the evidence.[8] The defendant may also "move for a judgment of acquittal, or renew such a motion, within 14 days after a guilty verdict or the court discharges the jury, whichever is later."[9]
Jury Instructions	Before the jury is instructed[10]
Verdict Form	Before submission to the jury[11]
Form of the Verdict	Before the jury is discharged[12]
Trial Misconduct	Promptly, at least before the jury retires[13]

counsel should object and ask for a continuing objection.[17]

When inadmissible evidence is introduced before an objection can be interposed, counsel should object and make a motion to strike. Although dated and subject to criticism, there are cases in Oklahoma holding that once a witness has answered a question, a delayed objection alone will not preserve the issue for appeal without a motion to strike.[18]

Specificity. A proper objection must also be specific. While the degree of specificity required will often vary depending on the issue and the context in which it is raised, the basic requirement remains the same: An objection must be "specific enough to allow the trial court to address the matter,"[19] giving the court "the opportunity to correct its action in the first instance."[20] While it is clear that a general objection that evidence is "incompetent," "improper" or "inadmissible" is

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not enough,[21] the degree of specificity required is not reducible to precise a definition or quantification. It all depends on context. When in doubt, counsel should generally err on the side of specificity.[22]

The specificity requirement requires parties to state all grounds on which an asserted objection is based. If a party believes a piece of evidence is inadmissible on three grounds but only states one of those grounds in its objection, it has forfeited the other two.[23]

While they generally cannot independently preserve an issue or objection for appeal, motions *in limine* and trial briefs can play an important role in building specificity for objections anticipated at trial. It is no secret that the "psychological pressure of low-tone bench conferences" often leads attorneys to make objections in a "truncated" manner.[24] If an attorney cannot state the specific grounds for an objection without a lengthy explanation or argument, it can be helpful if the grounds for the objection have already been stated elsewhere in the record, which counsel can then refer back to in stating or renewing the objection at trial.[25]

Obtaining a Ruling

The second cardinal rule for preserving error is to obtain a ruling. While it may seem small, this requirement is nonetheless critical. Appellate courts review rulings, not unresolved objections.[26] Thus, after making a proper objection, it is counsel's "obligation to obtain a ruling ... or such objection is waived on appeal."[27]

To preserve error, a ruling must be "definitive."[28] A court's nonfinal statement about the way it is inclined to rule is not enough.[29] Nor is a ruling that is vague or conditional.[30] If the court reserves its ruling on an objection, it is the objecting party's obligation to press for a positive ruling, even if that ruling is simply a refusal to rule.[31]

Creating a Record

When it comes to preserving error for appeal, nothing an attorney does at trial matters unless it is documented in the record. Counsel can make the best objections and obtain the clearest rulings from the court, but if it is not in the record, it is treated as though it never happened.[32] This is important because decisions "reviewed on appeal [are] presumed correct unless the contrary is shown by the record."[33] It is counsel's obligation to create a record adequate for appellate review, ensuring that is clear and complete, both in general and in particular with any legal issues that overtly come to a head at trial.[34]

A complete record captures all relevant objections, motions, rulings, evidence, nonadmitted exhibits and other proceedings relevant to an issue on appeal. Counsel must ensure that all relevant proceedings are recorded or, if a court reporter is unavailable, otherwise documented in the record through a journal entry or narrative statement of the evidence or proceedings.[35]

Creating a complete record requires a methodical approach for handling exhibits. All counsel should have a system in place to track in real time which exhibits have been offered and admitted into evidence. But it's just as important to track how exhibits and materials not admitted into evidence are preserved for the record. While the clerk usually retains copies of nonadmitted exhibits for the record, counsel should confirm that's the case. The same should be considered for impeachment-only exhibits. Demonstrative evidence, including a witness's markings on demonstrative evidence, should be preserved, oftentimes with a photograph if the exhibit is of a size not easily maintained with the paper record. For the sake of clarity, all the above should be captured, labeled, referenced accordingly and submitted for inclusion – as an appellate or court exhibit – in the official record. Consistently practicing good trial record hygiene will

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help avoid logistical preservation issues, whether the issues were obvious or nonobvious as they sprang up during trial.

In addition to being complete, the record should also be clear. A clear record is one that successfully captures the experience as if the appellate court were physically present for the trial. Considering that the court reporter's transcription (and not an audiovisual recording) is how the appellate court reviews what happened below, it behooves counsel not only to speak clearly but to also meta-narrate what might otherwise escape transcription. Clarifying a witness's "uh-huh" as either a "yes" or "no" response can have a big impact on appeal. Being precise when referring to "Defendant's Exhibit 3" as opposed to "this exhibit" avoids future confusion. Describing nonverbal actions that occur at trial – such as a witness's gesture about the size of an object or their behavior in winking, laughing, crying, making facial expressions or looking to opposing counsel for approval – ensures all relevant underlying circumstances at trial are preserved in the record.

ADDITIONAL ISSUE-SPECIFIC PRESERVATION REQUIREMENTS AND BEST PRACTICES

In addition to the three cardinal rules set forth above, there are a variety of additional issue-specific preservation rules that often come up at trial. From *voir dire* through final jury instructions, counsel should be familiar with and prepared for how to appropriately object and preserve their objections for appeal in these commonly seen areas as well.

Voir Dire

Jury selection has its own set of appellate issues. One nuanced aspect to be aware of relates to preserving contested challenges for cause. "In order to properly preserve an objection to a denial of a challenge for cause," a party must show it "was forced over objection to keep an unacceptable juror."[36] To do so, counsel should 1) use a peremptory challenge to excuse the challenged-for-cause juror,[37] 2) exhaust all peremptory challenges,[38] 3) request additional peremptory challenges[39] and 4) after the conclusion of the challenges but before the jury is empaneled, make a record of who else counsel would have excused and why.[40]

Motions in Limine

With limited exceptions, rulings on motions *in limine* generally preserve nothing. In Oklahoma, rulings on motions *in limine* are "advisory until finally determined at trial."[41] "Consequently, liminal rulings are not appealable, and only evidentiary rulings during trial remain subject to review."[42] At the federal level, the 10th Circuit has carved out a limited exception to this rule where the trial court makes "a definitive, well-thought-out pretrial ruling on a subject that will not be affected by the evidence that comes in at trial."[43] But Oklahoma state courts have not followed this trend, sticking with the traditional rule requiring a party to make a renewed objection or offer of proof at trial.[44] Whether in state or federal court, "[p]rudent counsel [should continue to] renew objections at trial," given "the inherent risk that the appellate court might find that the objection was of the type that must be renewed and that the party, by relying on the motion in limine, has waived the objection."[45]

Offers of Proof

If a ruling excludes evidence, the proponent of the evidence must make an offer of proof.[46] An offer of proof is the procedure whereby excluded evidence is placed in the record.[47] Its purpose is not only to enable "the trial judge to make informed decisions based on the substance of the evidence," but also to create "a clear record that an appellate court can review to 'determine whether [excluding the evidence] was reversible error.'"[48]

But "merely telling the court the content of proposed testimony is not an offer of proof."[49] Instead, "the proponent must, first, describe the evidence and what it tends to show and, second, identify the grounds for admitting the evidence."[50] In doing so, specificity is key: As courts have acknowledged, "[s]pecificity and detail are the hallmarks of a good offer of proof" and "conclusory terms, especially when presented in a confused manner, mark poor ones."[51]

When it comes to witness testimony, there are four ways to make an offer of proof:

1) Examine the witness on the record outside the presence of the jury,
2) Have counsel dictate the substance of the witness's testimony into the record,
3) Have counsel put a written statement of the witness's testimony into the record or
4) Have the witness submit a signed statement of their testimony into the record.[52]

Of these methods, the 10th Circuit has described the first as the "most desirable" and the second as the "least favored," observing that narrative summaries are

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more likely to lack the specificity and detail required for a proper offer of proof.[53] While counsel can and generally should seek to make offers of proof via the first method, particularly when the excluded testimony is important or complex, the rule vests "the trial judge with discretion in determining the form of the offer."[54]

But that discretion is not unlimited. "[I]t is an error for the trial court to permit [a party to make] a seasonable offer of proof."[55] When a court does so or otherwise restricts a party's ability to make a proper offer of proof, counsel should object and prepare and file a written offer of proof.

Opening the Door

While counsel must regularly balance the objective of persuading the factfinder at trial with preserving potential legal issues for appeal, special care should be taken to not inadvertently "open the door" for legally problematic evidence. Under the rule, "[t]he party who first introduces improper evidence cannot object to the admission of evidence from the adverse party relating to the same matter."[56]

This issue can come up in any number of ways at trial. But one area where it frequently occurs is when counsel tries to "take the sting out" of the other side's evidence. Here's the typical scenario: The other side has some prejudicial, arguably inadmissible evidence against your client. You move *in limine* to exclude it. The court denies your motion. As a result, you want to "take the sting out" of the evidence by contextualizing it in opening statements or on direct examination before the opposing counsel can parade it around before the jury.

It is at this point that counsel should stop and evaluate whether "taking the sting out" is worth potentially waiving the objection to the evidence's admission. As a pure matter of timing, the general rule is that the first party to introduce evidence waives any objection to an opponent's later admission of the same or similar evidence – even when initially introduced to preemptively address such evidence.[57] This remains true whether the door is opened on direct examination,[58] cross-examination[59] or even during the opening statements despite the court's admonitions to the jury that the statements of counsel are not evidence.[60] Should counsel wish to preserve the issue for appeal, the best practice is to 1) not be the first to raise challenged evidence regardless of the stage of the case, 2) object when the other side first raises it and 3) if the court allows the evidence, keep your discussion of challenged evidence "confined to matters" first raised by the other side (meaning, don't expand the scope).[61]

Trial Misconduct

As with any other issue, counsel must contemporaneously object to trial misconduct to preserve the matter for appeal.[62] This includes not only misconduct by opposing counsel but anyone else in the courtroom whose conduct may impact the fairness of the proceeding – jurors, attendees, witnesses, court staff and, yes, even the judge.[63]

When objecting to trial misconduct, counsel should expressly request any desired relief, typically a curative instruction or a mistrial, and be prepared to further object should the court's curative response be inadequate.[64] Absent such steps, any dispute over the adequacy of the court's curative measures will be deemed forfeited and reviewed for plain error[65] if not entirely waived.[66]

Jury Instructions

Erroneous jury instructions are one of the most common areas where district courts get reversed. But to have such impact, counsel must make a clear record. The process starts with preparing a set of proposed jury instructions. While it is the "court's duty to accurately state the law of the case," it is the party's "duty to frame the issues," ensuring the "instructions accurately reflect the issues tended by the evidence adduced at trial."[67]

But preparing a set of proposed jury instructions is just the beginning. Near the conclusion of the trial, the court – armed with both parties' proposed instructions and any written objections – will prepare its own set of draft instructions. Judges all have their own systems for doing so, often involving informal, off-the-record conferences and the exchange of preliminary drafts and redlines. But regardless of the system, by rule, the court must give the parties an opportunity to make any final objections to the court's proposed instructions on the record before the instructions are delivered.[68] This is often referred to as the "instructions conference" or "charge conference," and it is at that time that parties must state any remaining objections to the court's instructions on the record to preserve them for appeal.[69]

Objections to jury instructions generally require a greater specificity, particularly in the federal system, where the objecting party must state distinctly the matter objected to and the grounds for

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You will likely make mistakes – we all do. But do not let those mistakes distract or discourage you. Stay focused and keep objecting.

the objection.[70] Under this standard, counsel must make an objecting party's position "abundantly clear."[71] While state courts in Oklahoma appear to take a less rigid approach,[72] existing precedent on the level of specificity required is limited. As a matter of best practice, counsel should aim to comply with the federal standard, regardless of the forum.

A word of caution regarding off-the-record conferences and communications: Many judges like to work through objections to jury instructions, at least initially, on an informal basis through off-the-record conferences and communications. As the 10th Circuit has noted, this practice can often lead to the creation of an inadequate record.[73] While there is nothing wrong with trying to resolve objections informally and by agreement, when that process is done, counsel must ask for the opportunity to state any remaining objections on the record.[74] The process will likely involve a fair deal of repetition. When the time comes, counsel must make any on-the-record objections with the requisite specificity, doing so as though any prior off-the-record conferences or communications had never occurred – because, from an appellate perspective, they didn't.[75]

A final note regarding jury instructions: The Oklahoma Uniform Jury Instructions (OUJIs) are not infallible. While state law ordinarily requires courts to use any applicable OUJIs when instructing the jury, crucially, that mandate does not apply if the court determines that an instruction fails to "accurately state the law."[76] In that case, "it is the trial judge's duty to deviate from the OUJIs."[77] Counsel should not hesitate about objecting to OUJI instructions when an instruction "fails to accurately state the applicable law, is erroneous, or is improper."[78] The same is true at the federal level with circuit pattern jury instructions. Such instructions "are merely intended to serve as a guide to assist judges and counsel" – "they are not binding"[79] and will often "lag behind [the circuit's] decisions."[80]

CONCLUSION

If we were to offer a final word of advice, it would be this: Just do your best. Preserving the record for appeal is hard work. You will likely make mistakes – we all do. But do not let those mistakes distract or discourage you. Stay focused and keep objecting.

ABOUT THE AUTHORS

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ENDNOTES

1. *SEC v. Mayhew*, 121 F.3d 44, 54 (2d Cir. 1997); *see also Myers v. State*, 1981 OK CR 12, ¶3, 623 P.2d 1035, 1036 ("The policy considerations underlying this rule [to contemporaneously object] are to draw the alleged error to the attention of the trial court and to provide that court an opportunity to correct any error at the time of trial.").

2. *United States v. Mitchell*, 783 F.2d 971, 975 (10th Cir. 1986); *Matter of C.A.R.*, 1994 OK CIV APP 124, ¶20, 882 P.2d 582, 585 ("The purpose of timely objection is to call attention to the alleged error at a time when the trial court could reasonably be expected to correct it").

3. *Brown v. State*, 1965 OK CR 84, ¶17, 404 *P.2d 78, 81; McAlester Urb. Renewal Auth. v. Lorince*,

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*1973 OK 148, ¶6, 519 P.2*d 1346, 1348; *United States v. Tomlinson*, 764 F.3d 535, 537 (6th Cir. 2014).

4. *Russell v. Davison*, 1939 OK 1, ¶21, 89 P.2d 352, 357; *Woods v. State*, 1988 OK CR 222, ¶10, 762 P.2d 987, 989; 21 Wright and Miller, *Federal Practice & Procedure* §5037.1 (2d ed. 2024).

5. *Phillips v. Nat'l Oilwell Varco, LP, 2024 OK* CIV APP 4, ¶41, 544 P.3d 980, 992; *Drouillard v. Jensen Const. Co. of Oklahoma, 1979 OK 126, ¶5, 601 P.2d* 92, 93 (holding that "[i]f a defendant presents evidence after his demurrer to the plaintiff's evidence is overruled, that particular demurrer is waived" and the defendant must move for a directed verdict at the close of all of the evidence to preserve the challenge for review). As commentators have noted, "Case law is sparse and indirect on whether a demurrer to the evidence [at the close of the plaintiff's case] is required to preserve sufficiency of the evidence." 5 Harvey D. Ellis Jr. and Clyde A. Muchmore, Oklahoma Appellate Practice §15:6 (2024 ed.). Rather than risk the issue, counsel should raise any sufficiency challenge both at the close of the plaintiff's case (a demurrer) and, if a defense case is presented, at the close of all the evidence (a directed verdict).

6. *Omalza v. State*, 1995 OK CR 80, ¶97, 911 P.2d 286, 310; *Young v. State*, 2000 OK CR 17, ¶34, 12 P.3d 20, 35.

7. Fed. R. Civ. P. 50(a)(2), (b); *Brothers v. Johnson*, 105 F.4th 1279, 1283 (10th Cir. 2024).

8. Fed. R. Crim. P. 29(a); *United States v. Freeman*, 70 F.4th 1265, 1272 (10th Cir. 2023) (defendant must "renew the motion ... after introducing evidence in his own defense").

9. Fed. R. Crim. P. 29(c)(1); *United States v. Gonzalez*, 528 F.3d 1207, 1211 (9th Cir. 2008).

10. Fed. R. Civ. P. 51(c)(2); *Baker v. Shaw*, 1938 OK 628, ¶5, 184 Okla. 194, 86 P.2d 319, 321; Ellis and Muchmore, *supra*, note 5, §15:26.

11. *Quarles v. Panchal*, 2011 OK 13, ¶7, *250 P.3d* 320, 322; *Kloepfer v. Honda Motor Co.*, 898 F.2d 1452, 1456 (10th Cir. 1990).

12. *Rodebush By & Through Rodebush v. Oklahoma Nursing Homes, Ltd., 1993 OK 160, 867 P.2d 124*1, 1245 n.2; *Okland Oil Co. v. Conoco Inc.*, 144 F.3d 1308, 1319 (10th Cir. 1998).

13. *Levy v. Tharrington*, 1936 OK 711, ¶3, *62 P.*2d 641, 642; *Booth Tank Co. v. Symes*, 1964 OK 160, ¶14, 394 P.2d 493, 497.

14. 12 O.S. §630; 22 O.S. §86; Fed. R. Civ. P. 46; Fed. R. Crim. P. 51(b); *see also United States v. Paul*, 542 F.3d 596, 599 (7th Cir. 2008).

15. *See* Wright and Miller, *supra*, note 4 §5037.4; 1 *McCormick on Evidence* §52 (8th ed. 2022).

16. *See id.*

17. *McCormick*, *supra*, note 15, §52.

18. *St. Louis & S. F. R. Co. v. Davis*, 1913 OK 295, ¶2, 132 P. 337, 339; *Relf v. State*, 1929 OK CR 345, 280 P. 851, 853; *see also* Wright and Miller, *supra*, note 4 §5037.7 (describing the waiver rule as "nonsense").

19. *United States v. Mitchell*, 783 F.2d at 975; *United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996).

20. *United States v. Winder*, 557 F.3d 1129, 1136 (10th Cir. 2009).

21. *See McCormick*, *supra*, note 15, §52 (providing examples of general objections).

22. One clear exception to this advice is with sufficiency of the evidence challenges, where specificity is either unnecessary to preserve the issue for appeal (as in criminal cases), *Speegle v. State*, 1976 OK CR 299, ¶31, 556 P.2d 1045, 1049; *United States v. Murphy*, 100 F.4th 1184, 1194 (10th Cir. 2024), or the requirement is less rigorously enforced (as in civil cases). See *Oklahoma City v. Richardson*, 1937 OK 195, ¶4, 69 P.2d 334, 335 ("[I]f the trial court is content to rule upon a general demurrer to the evidence or motion for directed verdict, without requiring the reasons to be stated, and the other party is likewise content, this court is bound to pass upon any issue in the case which reasonably may be said to be within the scope of the demurrer or motion." (citation omitted)); *Dillon v. Mountain Coal Co.*, 569 F.3d 1215, 1221-22 (10th Cir. 2009) ("In evaluating the sufficiency of a Rule 50 motion, we liberally construe Rule 50's requirements. Technical precision is unnecessary." (citation omitted)); *Myklatun v. Flotek Indus., Inc.*, 734 F.3d 1230, 1234 (10th Cir. 2013) ("When the party moving for judgment as a matter of law fails to articulate its motion with sufficient specificity, the non-moving party must object in order to preserve the issue for appeal." (alteration omitted)).

23. *See McKenzie v. Benton*, 388 F.3d 1342, 1350 (10th Cir. 2004); *Graves v. Graves*, 1970 OK 177, ¶10, 475 P.2d 171, 176; *Armstrong v. State*, 1991 OK CR 34, ¶23, 811 P.2d 593, 599.

24. *Hall v. United States*, 378 F.2d 349, 350 (10th Cir. 1967).

25. *See* Wright and Miller, *supra*, note 4, §5036.2 ("If the party has filed a motion in limine or has made a more specific objection to a prior attempt to elicit similar evidence, less specific later objections will more likely suffice.").

26. *Slater v. Mefford*, 188 Okla. 525, 111 P.2d 159, 160 (1940); *see also Nelson v. Pollay*, 1996 OK 142, ¶13, 916 P.2d 1369, 1376 ("An appellate court will not make first-instance determinations of law or fact.").

27. *Fixico v. State*, 1987 OK CR 64, 735 P.2d 580, 583 (citing *Midwestern Engine & Equip. Co. v. Childers*, 1957 OK 274, ¶4, 323 P.2d 738, 740-41).

28. *United States v. McConnell*, 749 F.2d 1441, 1448-49 (10th Cir. 1984).

29. *Id*. at 1448.

30. *See United States v. Banks*, 687 F.2d 967, 971-72 (7th Cir. 1982); *United States v. Sternback*, 402 F.2d 353, 355-56 (7th Cir. 1968).

31. *See McConnell*, 749 F.2d at 1448-49; Wright and Miller, *supra*, note 4, §5034.3 ("Presumably the lawyer need not push the judge to the edge of contempt; if the judge refuses to rule despite a request to do so, the refusal to rule should be treated as an error itself for purposes of review.").

32. *Duke v. Duke*, 2020 OK 6, ¶34, 457 P.3d 1073, 1085 ("A trial court's record constitutes the only means for communication of its proceedings to an appellate court.").

33. *In re Baby Girl L.*, 2002 OK 9, ¶50, 51 P.3d 544, 561; *Hamid v. Sew Original*, 1982 OK 46, ¶6, 645 P.2d 496, 497; *Matter of Adoption of Baby Boy W.*, 1992 OK 58, ¶14, 831 P.2d 643, 646 (appellate court affirmed judgment since, without an entire trial transcript and "nothing in the record to show that the trial court ruled incorrectly," "it must be assumed that the facts underlying the trial court's judgment were proven.").

34. *United States v. Bornfield*, 184 F.3d 1144, 1146 (10th Cir. 1999).

35. *See id.*; Okla. Sup. Ct. R. 1.30; Fed. R. App. P. 10(c).

36. *Eizember v. State*, 2007 OK CR 29, ¶36, 164 P.3d 208, 220; *see Cox v. Sarkeys*, 1956 OK 294, ¶19, 304 P.2d 979, 984-85.

37. *Ross v. Oklahoma,* 487 U.S. 81, 89 (1988) (discussing requirement under Oklahoma law). While this step is not required in federal court, *see United States v. Martinez-Salazar*, 528 U.S. 304, 314-15 (2000), it remains a best practice regardless of forum. Failure to excuse a challenged-for-cause juror may result in a determination on appeal that a party's concerns of prejudice were not genuine. *See Turnbull v. Missouri Pac. R. Co.*, 1991 WL 544257, at *3 (W.D. Okla. Dec. 10, 1991).

38. *Matthews v. State*, 2002 OK CR 16, ¶16, 45 P.3d 907, 915; *Cox*, 304 P.2d at 985.

39. *Sanchez v. State*, 2009 OK CR 31, ¶37, 223 P.3d 980, 995; *Cox*, 304 P.2d at 985; *City of Guthrie v. Snyder*, 1914 OK 412, 143 P. 8, 9.

40. *Eizember*, 164 P.3d at 220; *Snyder*, 143 P. at 9.

41. *Clark v. Turner*, 2004 OK CIV APP 69, ¶23, 99 P.3d 736, 741.

42. *Id.*

43. *United States v. Mejia-Alarcon*, 995 F.2d 982, 986 (10th Cir. 1993).

44. *Clark*, 99 P.3d at 742-43.

45. *Mejia-Alarcon*, 995 F.2d at 988.

46. Fed. R. Evid. 103; 12 O.S. §2104.

47. *Yeager v. Farmer*, 1976 OK 44, ¶¶21-23, 549 P.2d 345, 348.

48. *United States v. Adams*, 271 F.3d 1236, 1241 (10th Cir. 2001) (citing *Polys v. Trans-Colorado Airlines, Inc.*, 941 F.2d 1404, 1406-1407 (10th Cir. 1991)).

49. *Id.* (citations omitted).

50. *Id.* (citations omitted).

51. *Id.* at 1242 (citations omitted).

52. *Id.* at 1241-42.

53. *Id.*

54. *Id.* at 1241.

55. 75 *Am. Jur. 2d* Trial §348; Wright and Miller, *supra* note 4, §5040.6; *see also Gray v. Lucas*, 677 F.2d 1086, 1100 (5th Cir. 1982).

56. *Carver v. Knutson Elevators, Inc.*, 1955 OK 183, ¶15, 285 P.2d 391, 395; *Midland Sav. & Loan Co. v. Cheves*, 1916 OK 629, ¶4, 158 P. 362, 363 ("If a party opens the door for the admission of incompetent evidence, he is in no plight to complain that his adversary followed through the door thus opened.").

57. *See id.* ¶¶4-5.

58. *Vehicle Mkt. Research, Inc. v. Mitchell Int'l, Inc.*, 839 F.3d 1251, 1257-58 (10th Cir. 2016); *see also Reinard v. Crown Equip. Corp.*, 983 F.3d 1064, 1069 (8th Cir. 2020) ("[P]reemptively introducing evidence constitutes a waiver of any objection to the evidence's admission even if the opposing party referenced the evidence in its opening statement.").

59. *Mitchell v. Koch*, 1943 OK 402, ¶¶14-15, 143 P.2d 811, 812-13.

60. *EEOC v. JetStream Ground Servs., Inc.*, 878 F.3d 960, 964 (10th Cir. 2017); *United States v. Chavez*, 229 F.3d 946, 952 (10th Cir. 2000).

61. *See Mitchell v. Koch*, 143 P.2d at 813.

62. *Lerma v. Wal-Mart Stores, Inc.*, 2006 OK 84, ¶23, 148 P.3d 880, 886.

63. *United States v. Baez*, 703 F.2d 453, 455 (10th Cir. 1983) (reviewing improper judicial comments not objected to for plain error); *Preventive Energy Sols., LLC v. nCap Ventures 5, LLC*, 2023 WL 7148434, at *11-12 (10th Cir. Oct. 31, 2023) (same); *McCracken v. State*, 1994 OK CR 68, ¶13, 887 P.2d 323, 328 (same).

64. *United States v. Currie*, 911 F.3d 1047, 1056-57 (10th Cir. 2018); *United States v. Taylor*, 514 F.3d 1092, 1096 (10th Cir. 2008); *Smith v. State*, 1979 OK CR 83, ¶6, 599 P.2d 413, 414-15.

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65. *See Currie*, 911 F.3d at 1056-57; *Taylor*, 514 F.3d at 1096; *Smith v. State*, 148 P.3d at 885-86.

66. *Lerma*, 148 P.3d at 886.

67. *Farris v. Masquelier*, 2022 OK 91, ¶14, 524 P.3d 942, 948 (quoting *Sellars v. McCullough*, 1989 OK 155, ¶9, 784 P.2d 1060, 1062-63.).

68. Fed. R. Civ. P. 51(b)(2); 12 O.S. §578; *Bornfield*, 184 F.3d at 1146; *Wooldridge v. State*, 1990 OK CR 77, ¶9, 801 P.2d 729, 732.

69. *See* 12 O.S. §578; Fed. R. Civ. P. 51(c)(2), (d)(2); *see Abuan v. Level 3 Commc'ns*, 353 F.3d 1158, 1172 (10th Cir. 2003); *But see Cantrell v. Henthorn*, 1981 OK 15, ¶4, 624 P.2d 1056, 1057 (holding plaintiff adequately preserved objection even though his "counsel did not specifically dictate his objection into the record," as 12 O.S. §578 requires, where "the spirit of the law was complied with").

70. Fed. R. Civ. P. 51(c)(1); *see* Fed. R. Crim. P. 30(d).

71. *Aspen Highlands Skiing Corp. v. Aspen Skiing Co.*, 738 F.2d 1509, 1514 (10th Cir. 1984).

72. *See e.g.*, *Cantrell*, 624 P.2d at 1057.

73. *See Bornfield*, 184 F.3d at 1145-46 (collecting cases).

74. *Id.* at 1146.

75. *Id.*

76. 12 O.S. §577.2.

77. *In re T.T.S.*, 2015 OK 36, ¶18, 373 P.3d 1022, 1029.

78. *Id.*

79. *United States v. Freeman*, 70 F.4th 1265, 1280 n.13 (10th Cir. 2023).

80. *United States v. Harper*, 118 F.4th 1288, 1301 (10th Cir. 2024).

SHOW YOUR CREATIVE SIDE ON THE BACK PAGE

We want to feature your work on "The Back Page" of the *Oklahoma Bar Journal*! Submit articles related to the practice of law, or send us something humorous, transforming or intriguing. Poetry, photography and artwork are also welcomed.

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

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Tasked With Drafting an Order for the Court? Start Here.

By Claire C. Bailey

ORDERS ARE THE VOICE OF THE COURT. They encapsulate and declare the court's application of the law to the facts. Orders establish the rights and obligations of the parties and guide future proceedings, and some orders provide a basis for appellate review. Orders are a critical component of the record, which tells the story of the case. Therefore, all orders should fully and accurately reflect the court's rulings.

An attorney, as an officer of the court, may be charged directly by the court or by local or district court rule to draft a proposed order for the court's signature. A proposed order is the work product of the court and not of the drafting attorney, so it should be prepared in the neutral voice of an independent arbiter of the law. The attorney should honor the court by using articulate, objective legal writing that accurately reflects the court's entire ruling and by thoroughly complying with all rules in the execution of the process.

In the preparation of a proposed order, as in the broader practice of law, it is the duty of the attorney – to the client and the judiciary – to be cognizant of and adhere to the Supreme Court, district court, local and chamber rules. This article provides a basic framework for the preparation of a proposed order. It is not intended, however, to supplant the due diligence required to review and follow the most up-to-date rules.[1]

A proposed order may take several forms. Some local rules provide premade forms for certain adjudications. If using a form, ensure every applicable box is checked and every applicable blank is completed. A final order or an appealable interlocutory order is a jurisdictional prerequisite to the commencement of an appeal.[2] Accordingly, such orders should provide a clear, comprehensive basis for review and should strictly adhere to the rules. A proposed order should never take the form of a minute order.[3] A deficient order will be reversed and possibly remanded for additional proceedings if it does not conform to the rules. This avoidable error strains the efficiency of the judicial system, and it taxes the parties financially and emotionally.

An order is a chain link made of multiple components. As succinctly described by the North Carolina Supreme Court: "Evidence must support findings; findings must support conclusions; conclusions must support the judgment. Each step of the progression must be taken by the trial judge, in logical sequence; each link in the chain of reasoning must appear in the order itself."[4] For this reason, it is advisable to use the specific requirements from the rules or statutes as the organizational framework for a proposed order. Prior to seeking relief from the court, identify the applicable law, the required findings of fact and the precise legal relief sought. This framework will assist in pursuing the appropriate relief and drafting the proposed order granting the relief, if so ordered by the court.

A comprehensive order includes the following components: case caption, reference to the motion under consideration, hearing logistics, court's response, statement of disposition, approval

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as to form by counsel and the court's signature. The order must then be filed and served.

CASE CAPTION

The caption sets forth the name of the court, the names and designations of all parties, the case number and the title of the instrument.[5] The title of a final order should specify that it is a final order to assist the court clerk in the proper designation upon filing.

REFERENCE TO THE MOTION UNDER CONSIDERATION

Specify which claims, issues or filings are before the court, state the name of the motion exactly as it is captioned and include any prior orders that affect the current posture. For example:

> Pending before the Court is Defendant's Motion for New Trial on the denial of Defendant's Motion for Summary Judgment.

> This matter comes before the Court upon Plaintiff's Motion for Temporary Injunction.

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HEARING LOGISTICS

If the order is entered following a hearing, identify in general terms the information before the court. Include the evidence and argument presented along with the date of the hearing. For example:

> The Court reviewed and considered the motion, the brief in response, the affidavits filed by the parties, and heard the oral argument of counsel at the hearing on September 5, 2023.
>
> After reviewing the motion and Plaintiff's response, the Court was presented with oral argument at the hearing on November 6, 2024.

COURT'S RESPONSE

The court's response may include stipulations, findings of fact and conclusions of law. The court may prescribe procedures for the preparation of the proposed order and/or may direct the inclusion of certain language. When tasked with drafting the proposed order, it is prudent to seek guidance from the court at the hearing. Should you need additional guidance following the hearing, ensure your communication is not *ex parte*.

Findings of Fact

Findings of fact are not merely a recitation of the facts. Findings of fact specify the court's resolution of disputed evidence. They should be accurate, concise and related to the specific relief granted or denied. To improve accuracy, take contemporaneous notes during the hearing or review the transcript of the hearing, if available, prior to drafting the order. Specify the source for numbers used in any mathematical calculations and include references to exhibits or testimony that support the findings of fact.

> When tasked with drafting an order of the court, endeavor to capture the court's complete ruling in a clear, objective voice while strictly complying with all applicable rules.

Relevant statutes may provide an organizational framework by dictating the inclusion or exclusion of specific requirements. Orders that grant attorneys' fees, provide for relocation or address domestic abuse must include findings of fact. On the other hand, orders that grant summary adjudication – which is based on a lack of disputed facts – never include findings of fact. Any facts in a summary adjudication order should be denominated as "uncontested facts."

Findings of fact are comprised of three parts: an explanation of the conflict, a recitation of the pertinent fact(s) and the court's finding. For example:

> The parties disagree about …
> There is a dispute regarding …
> Plaintiff claims …, while Defendant claims …
>
> The evidence showed …
>
> The court finds …
> The court finds the greater weight of the evidence supports …
> The court finds Plaintiff has not met its burden of proof on this issue.

Conclusions of Law

Clearly state the law that controls the court's decision and use the correct citation to the law to build credibility.

Statutes are regularly amended, so citing the applicable version is essential. To locate the applicable version on the Oklahoma State Courts Network (OSCN), scroll down to "Historical Data" toward the bottom of the statute. Oklahoma Statutes are recodified each decade. The most recent recodification occurred in 2021. Accordingly, unless there is a reason to cite an older version of the statute or the specific statute has been supplemented since that time, cite to 2021. For example:

> 12 O.S. 2021 §2401.
> 85A O.S. Supp. 2025 §13(D).

Citations to case law should include references to two reporters: the *Oklahoma Reporter* and the *Pacific Reporter*. The *Oklahoma Reporter* will include the paragraph number, and the *Pacific Reporter* will include the page number. The paragraph number is available on OSCN but not always on Westlaw. Using both OSCN and Westlaw

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takes time, but it bolsters your work and credibility. For example:

> *Wille v. GEICO Casualty Co.*, 2000 OK 10, ¶10, 2 P.3d 888, 891. *Whisenant v. Strat Land Expl. Co.*, 2018 OK CIV APP 65, ¶9, 429 P.3d 703, 706.

STATEMENT OF DISPOSITION

The disposition is the operative portion of the order that grants or denies relief. It should precisely outline the liabilities and obligations imposed on the parties, granting no more or less relief than the court intended.[6] For example:

> For the foregoing reasons, the Court finds Defendant's Motion to Dismiss fails on the merits. Defendant's Motion to Dismiss is denied. IT IS SO ORDERED.
>
> IT IS THEREFORE ORDERED Plaintiff is entitled to a declaratory judgment. The Court hereby enters judgment in favor of Plaintiff and against Defendants on Plaintiff's Petition for Declaratory Judgment.

APPROVAL AS TO FORM BY COUNSEL

Counsel for all interested parties or pro se litigants must sign the proposed order. This is straightforward if the order is an agreed order. If the order is not agreed, the order is signed as to form indicating that while a party does not agree with the court's findings and disposition, the party acknowledges the order accurately reflects the court's decision.

The attorney charged with preparing the proposed order has a duty to be prompt in providing the proposed order to opposing counsel for signature.[7] The court or local rules may provide a specific deadline. If no time is prescribed, 20 days is more than sufficient. If the opposing counsel is assigned the preparation of the proposed order and too much time lapses, follow any pertinent local rules to address the situation. If none exist, a friendly reminder email or letter is appropriate. If the delay persists, a motion seeking relief from the court may be in order. If counsel cannot agree on the wording of the order, a "motion to settle" is typically required.

COURT'S SIGNATURE

Submit the proposed order for the court's signature. The court may request an electronic version of the proposed order to enable revisions and modifications prior to approving and signing the order.

Provide the date immediately above a line for the court's signature. Include the name of the judge and the title of the court.[8] For example:

> Signed this ___ of February, 2025.
>
> _____
>
> The Honorable [Name of Judge]
> Judge of the District Court

FILING AND MAILING

Once the order is fully executed, it must be filed. A file-stamped copy must then be served on all parties by the attorney charged with preparing the order, unless otherwise directed by the court, no later than three days after the order is filed.[9] The certificate of service must also be filed with the court clerk.[10]

Note that a proposed order is only proposed and should never be filed on its own. If filed, it should be filed only as a clearly marked exhibit to a motion.

CONCLUSION

Orders serve as the official declaration of the court's decision. When tasked with drafting an order of the court, endeavor to capture the court's complete ruling in a clear, objective voice while strictly complying with all applicable rules. Follow a logical structure with evidence supporting findings, findings supporting conclusions and conclusions leading to the judgment. And finally, in this noble profession of ours, relish in the honor of being entrusted to give voice to the court's order.

ABOUT THE AUTHOR

Claire C. Bailey is a staff attorney at the Oklahoma Court of Civil Appeals. Previously, she practiced law in Cleveland and Oklahoma counties with a focus on estate planning and civil trial litigation. She is a graduate of OSU and the OU College of Law.

ENDNOTES

1. A good place to begin is a review of your local rules, District Court Rule 4, 12 O.S. 2021, Ch. 2, App., and 12 O.S. 2021 §§696.2, 696.3, including the statutes found on OSCN in the *Citationizer Summary of Documents Citing This Document* for §696.2 and §696.3 that address specific circumstances. For information regarding appealable orders, *see* Supreme Court Rules 1.20, 1.50 and 1.60.
2. 12 O.S. 2021 §696.2(D)(E).
3. *Mansell v. City of Lawton*, 1994 OK 75, ¶1, 877 P.2d 1120, 1120-21.
4. *Coble v. Coble*, 300 N.C. 708, 714, 268 S.E.2d 185, 190.
5. 12 O.S. 2021 §696.3(A)(1).
6. *See* 12 O.S. 2021 §696.3(A)(2).
7. Oklahoma Rules of Professional Conduct Rule 1.3, 5 O.S. 2021, Ch. 1, App. 3-A.
8. 12 O.S. 2021 §696.3(A)(3).
9. 12 O.S. 2021 §696.2(B).
10. *See* 12 O.S. 2021 §2005 for more information regarding service.

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Oklahoma Enacts Seven Uniform Acts in 2024

By Judge Thad Balkman

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UNIFORM LAWS HAVE BEEN PART OF THE LEGAL LANDSCAPE in Oklahoma for more than a century. The first uniform act was adopted in Oklahoma more than 100 years ago: The Uniform Negotiable Instruments Law of 1896, the first uniform law adopted in every state, was adopted in Oklahoma in 1909. Since then, Oklahoma has enacted more than 140 uniform acts – including the landmark Uniform Commercial Code – and, in recent years, the Revised Uniform Anatomical Gift Act, the Uniform Athlete Agents Act, the Uniform Emergency Volunteer Health Practitioners Act and the Uniform Military and Overseas Voters Act, as well as important revisions to the Uniform Commercial Code.

Uniform laws impact the lives of Oklahoma citizens every day – from a simple transaction, such as a child buying candy, to a complex partnership agreement, these and many more transactions are governed by uniform laws. Although lawyers in Oklahoma use uniform laws every day, many are unfamiliar with the origins of these laws.

Uniform laws are the product of the Uniform Law Commission (ULC or sometimes known as the National Conference of Commissioners on Uniform State Laws). The ULC has worked for the uniformity of state laws since 1892. The ULC was originally created by representatives of seven states to consider state law, determine in which areas of the law uniformity is important and then draft uniform and model acts for consideration by the states. Oklahoma has been a member of the ULC since 1895.

Several new acts have been added to the list of uniform acts enacted in Oklahoma. Seven new acts were enacted in the 2024 session of the Oklahoma Legislature and signed into law by Gov. J. Kevin Stitt. These laws went into effect Nov. 1, 2024.

UNIFORM DIRECTED TRUST ACT

The Uniform Directed Trust Act (UDTA)[1] addresses the rise of directed trusts. In a directed trust, a person other than a trustee has power over some aspect of the trust's administration. Such a person may be called a "trust protector," "trust adviser" or, in the terminology of the UDTA, a "trust director." The division of authority between a trust director and a trustee raises difficult questions about how to divide fiduciary power and duty. The UDTA provides clear, functional rules that allow a settlor to freely structure a directed trust while preserving key fiduciary safeguards for beneficiaries. The UDTA also provides sensible default rules for a variety of matters that might be overlooked in the drafting of a directed trust, including information sharing among trustees and trust directors, the procedures for accepting appointment as a trust director, the distinction between a power of direction and a nonfiduciary power of appointment and many other matters.

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UNIFORM ELECTRONIC ESTATE PLANNING DOCUMENTS ACT AND THE UNIFORM ELECTRONIC WILLS ACT

The Uniform Electronic Estate Planning Documents Act (UEEPDA)[2] fills a gap in the law regarding the execution of certain estate planning documents, including trusts and powers of attorney. The Uniform Electronic Transactions Act (UETA),[3] which was adopted in Oklahoma in 2000, authorizes the electronic execution of bilateral contracts if the parties to a transaction agree. The Uniform Electronic Wills Act (UEWA) authorizes the testator of a will and witnesses to execute a will in electronic form. However, trusts, powers of attorney and some other types of estate planning documents fell into a legal grey area where the law governing electronic execution was ambiguous. The UEEPDA clarifies that these documents may also be executed in electronic form. The UEEPDA was drafted to complement the UEWA and was adopted by Oklahoma simultaneously with that act to comprehensively authorize the electronic execution of wills, trusts, powers of attorney and several other types of common estate planning documents.

UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT

A fiduciary is a person appointed to manage the property of another person, subject to strict duties to act in the other person's best interest. Common types of fiduciaries include executors of a decedent's estate, trustees, conservators and agents under a power of attorney. The Uniform Fiduciary Access to Digital Assets Act (UFADA)[4] extends the traditional power of a fiduciary to manage tangible property to include the management of a person's digital assets. The UFADA allows fiduciaries to manage digital property – like computer files, web domains and virtual currency – but restricts a fiduciary's access to electronic communications – such as emails, text messages and social media accounts – unless the original user consented in a will, trust, power of attorney or another record.

UNIFORM SPECIAL DEPOSITS ACT

A special deposit is an account at a bank that holds funds that may be paid upon the occurrence of one or more contingencies. Although such accounts are common, the legal protections afforded to them are uncertain and outdated in the context of modern banking. The Uniform Special Deposits Act (USDA)[5] minimizes these legal uncertainties by providing clear and executable rules. First, the USDA sets forth several elements for when a deposit is considered a "special deposit." Second, the USDA specifies that a special deposit is a debt owed to the beneficiary after the determination of a stated contingency. Third, the USDA clarifies that a special deposit is remote from a depositor's bankruptcy estate unless the depositor has a determined right to the special deposit in its capacity as a beneficiary. Finally, the USDA reduces the vulnerability created by the prospect of the bank holding the special deposit, exercising a right of set off against the special deposit for a mature debt of the depositor or a beneficiary. The USDA gives banks and their customers legal certainty that the expectations of special deposit account users will be respected.

AMENDMENTS TO THE UNIFORM COMMERCIAL CODE

The 2022 amendments to the Uniform Commercial Code (UCC)[6] update and modernize the UCC to address emerging technologies. A new UCC Article 12, "Controllable Electronic Records," governs transactions involving new types of digital assets (such as virtual currencies, electronic money and nonfungible tokens), and corresponding changes to UCC Article 9 address security interests in digital

For more than a century, the ULC has helped secure uniformity of state law in legal areas where conflicting laws would obstruct the interests of United States citizens.

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assets. The 2022 amendments also update terminology to account for digital records, electronic signatures and distributed ledger technology; provide rules for electronic negotiable instruments; and clarify the rules for the UCC applicability to hybrid transactions involving both goods and services.

UNIFORM UNREGULATED CHILD CUSTODY TRANSFER ACT

In some cases, parents find that after the birth or adoption of their child, they experience considerable difficulty or even inability to care for or effectively manage the child's behavior, which sometimes leads to families transferring a child to another person outside of the courts and the child welfare system. Without specific regulations directed at these types of unregulated transfers, a transfer of custody might go unnoticed within the child welfare system. The Uniform Unregulated Child Custody Transfer Act[7] addresses the transfer of children in these types of cases.

CONCLUSION

For more than a century, the ULC has helped secure uniformity of state law in legal areas where conflicting laws would obstruct the interests of United States citizens. These laws – such as the Uniform Commercial Code, the Uniform Probate Code, the Uniform Trade Secrets Act and the Uniform Anatomical Gift Act – cover business transactions, trusts, probate, real property family matters and many more. More than 300 ULC acts have been promulgated by the ULC and enacted across the country.

Businesses and individuals benefit from the consistency and certainty ULC acts bring across the nation. States that enact ULC acts keep their commercial laws uniform and current. Family law is continuously improved, conflict between state laws is reduced, and the role and authority of state legislatures and state laws is defended by the ULC. Put simply, each and every day, a ULC act affects citizens in every state.

Working together with other uniform law commissioners through the ULC, Oklahoma joins with every other state to produce the impressive body of laws known as the "Uniform State Laws."

Information on these recently approved acts, as well as all current uniform acts, can be found on the ULC website at www.uniformlaws.org.

ABOUT THE AUTHOR

Judge Thad Balkman was appointed district judge for the 21st Judicial District (Cleveland County) in 2013. Judge Balkman currently serves as presiding judge of the Oklahoma Court on the Judiciary, Trial Division, and chairman of the Rules of Professional Responsibility Committee. He has served as president of the Oklahoma Judges Association since 2018, and he is the past president of the Oklahoma Judicial Conference. He is also a member of the Uniform Law Commission.

ENDNOTES

1. Approved by the ULC in 2017, HB3962 of 2024; Okla. Stat. tit. 60 §§1201-1217.
2. Approved by the ULC in 2022, SB468 of 2024; Okla. Stat. tit. 84 §§901-927.
3. Approved by the ULC in 2019, Okla. Stat. tit. 12A §§15-101 - 15-120.
4. Approved by the ULC in 2015, HB3778 of 2024; Okla. Stat. tit. 58 §§3101-3119.
5. Approved by the ULC in 2023, SB1819 of 2024; Okla. Stat. tit. 6 §§910-910.14.
6. Approved by the ULC in 2022, HB 2776 of 2024; Okla. Stat. tit. 12A §12A-A-101.
7. Approved by the ULC in 2021, SB1601 of 2024; Okla. Stat. tit. 43 §§561-101–561-402.

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- Clif Gooding, OBA Member

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Green Country Lawyer Leads Association in 2025

D. Kenyon 'Ken' Williams Jr. To Focus on Expanding Access to Justice and Bringing Attorneys Back to Rural Oklahoma

By Emily Buchanan Hart

IN THE HEART OF GREEN Country in northeast Oklahoma lies Skiatook Lake – with its pristine, sky-blue water surrounded by rolling hills, rocky cliffs and dense greenery. This lake is part of OBA President Williams' stomping grounds – a 10-minute drive from his home near Sperry and one of his favorite places to be.

This year's president, D. Kenyon Williams Jr., who goes by Ken, grew up in Skiatook and feels fortunate to have spent much of his life living in Osage County.

"I've always loved the country," Ken says. "It's my natural default – where I like to be."

Ken and his wife, Teresa, who have three grown children and eight grandchildren in both Oklahoma and Arizona, live on an acreage near the small town of Sperry and have been there for nearly 42 years.

"The kids got to see lots of wildlife growing up in the country," Ken said. "We have 50 acres they got to explore, and they learned to love the countryside. We built a big pond outside our back door; the kids have been able to fish anytime they want to, kayak, and now, our grandkids get to do that here, too."

LIFE IN RURAL OKLAHOMA

As a child, Ken was also able to spend a lot of time outdoors and in nature. He had his first "job" at just 5 years old, cleaning pots at his grandparents' greenhouse. He continued to work there throughout high school, taking on more tasks as he got older, such as delivering plants across Tulsa.

When he was 16, he began working for his father's steel company, both in the warehouse and making deliveries. His work with his dad and granddad taught him many valuable skills – including carpentry and electrical work – which would serve him later in life when he built his own home.

Ken, who is the oldest of four boys and spent a lot of time caring for his younger brothers, reflects on how life in a small town helped him become a sort of Renaissance man. In high school, Ken served as yearbook editor, played trombone in the band, sang in the school choir and was in speech and drama. He was a football player and helped start the school's wrestling and tennis teams. He also spent time doing photography and had the opportunity to learn how to develop film in his grandfather's darkroom.

Young Ken, who loved spending time outdoors

"I think all the different life experiences we have kind of develop different aspects of our

Ken and Teresa at their wedding. The two got married at Sharp Memorial Chapel on the TU campus in 1974, just two weeks before Ken started law school.

Teresa and Ken in 1984. The two have been together since 1973.

personality," Ken said. "That experience of being active in so many different things – everything from scouting to student government and Boys State and all the different experiences I had – caused me to be more of a generalist and be adaptable. That, and the personal responsibility I had early in life, all helped shape me to be the person I am."

Following his graduation from Skiatook High School, Ken attended TU, majoring in petroleum engineering. It was during his junior year in college that he met his wife, Teresa, through his church youth group.

"We became good friends; we used to ride bicycles together," he said. "Eventually, she asked me out, and we started dating."

The two lived in Midtown Tulsa while Ken finished engineering school. As soon as he graduated, they moved back to Osage County in Gilcrease Hills, just northwest of Tulsa. They got married in 1974, just two weeks before Ken started law school.

LAW STUDENT BY DAY, JANITOR BY NIGHT

Ken had received scholarships for his engineering program, but those scholarships did not cover the cost of living. That was when he decided to start his own janitorial business to make ends meet.

"I started my small business while in engineering school, taking care of the buildings at night," he said. "By the time I got out of engineering school, I was tired of the government reporting requirements and regulations that I had to learn as a small business owner."

He decided to go to law school and learn how to help other small businesses like his navigate the regulations.

HANGING A SHINGLE

While in law school, he interned for two law firms, but because Ken had already been running his own janitorial business for years, he was not hesitant to start his own law office straight out of law school.

"Having run my own little janitorial business for eight or nine years, when I got out of law school, I just went out and hung a shingle in Skiatook, America, in 1977," he said. However, he was still running his janitorial business at night and continued to work both jobs for another year or two before selling the janitorial business.

Richard D. White Jr., this year's OBA vice president, was Ken's first law partner shortly following the opening of his law practice. After a few years of working as a solo and small firm practitioner, Ken went to work for an international company, where he became well-versed in environmental law. During that time, Teresa went to school to get her teaching and library science degrees.

When Teresa was finished with her schooling and started her teaching career, Ken went back to work as a solo practitioner. During

Ken graduated from the TU engineering program in 1974.

that time, his small firm focused primarily on environmental and administrative law, helping companies and cities take care of regulatory matters.

In 1996, Ken was approached by Hall Estill of Tulsa about merging his successful environmental practice with the larger firm. Ken has been with Hall Estill ever since and is now a senior director at the firm.

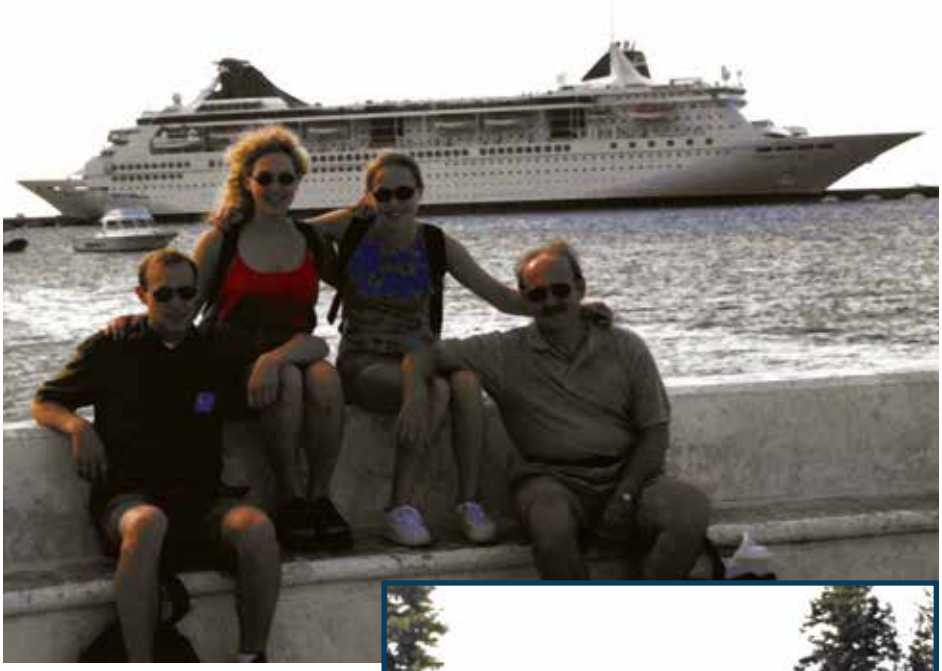
"It's been a great place to practice – a great bunch of lawyers," he said of Hall Estill. "The firm is well run, well respected."

LOOKING FORWARD

Ken says his experiences living in a small town in rural Oklahoma and coming from a lower-income background have influenced his perspective on the needs of rural Oklahomans, particularly when it comes to access to justice. His experiences have also influenced his goals for the OBA and where he hopes to see the association in the future. In the year ahead, Ken's primary focus is on access to justice – both addressing legal deserts and making justice more affordable – as well as connecting with rural attorneys to address topics important to them.

"I came from a very poor family, and so did Teresa; I have come to understand, having a general practice for a while, how devastatingly expensive any kind of legal services can be to private citizens," he said. "I am focused on trying to do something about making legal services more affordable for common hard-working folks who can't afford representation."

"That, coupled with the recognition of legal deserts," he continued, "in so many different parts of the state, there aren't enough lawyers to help people. I want to focus conversations on those topics."



Above: *The Williams family enjoys a family cruise on summer vacation.*

Right: *The Williams family visits Durango, Colorado, for a ski trip.*

With several counties in Oklahoma having few or no attorneys, Ken encourages law school students to consider practicing law in their hometowns after graduation.

"We are desperately looking for solutions to legal deserts; it may come down to encouraging students to think about practicing law in their area when they get out of school and be a local resource," he said. "There are 17 counties in our state where there are almost no attorneys – not enough people to even fill judge and DA spots."

He also wants to hear from attorneys across the state to bring focus on issues that affect them, hoping to elevate these issues to the board so they can be addressed.

"There are things private practitioners have to deal with that I don't even know about," he said. "But if they tell me, I can elevate it to the Board of Governors and, ultimately, the Supreme Court if needed. I find it rewarding to be a link between practicing attorneys and the board for issues that may not be under discussion. We are always looking for solutions to things that practitioners are dealing with."

Above: *Ken, Teresa, their three grown children and their eight grandkids celebrate Christmas together.*

Top right: *Ken and Teresa's daughters and son. From left Kristen, Kenyon and Kara.*

Bottom right: *Ken and Teresa visit the bar center in Oklahoma City.*

BALANCING LIFE, WORK AND LEADERSHIP

Throughout his legal career, Ken has made it a priority to serve his fellow attorneys. He was active in the Osage County Bar Association during his time working in Skiatook, and in 2014, Ken took the lead at the Tulsa County Bar Association.

"The opportunity to give back at a leadership level to a large bar association was great," he said. "Having interactions with other attorneys in nonadversarial ways and seeing the kind of volunteerism that lawyers have was really a defining moment. Some of the finest people I know are lawyers. I kind of took it on as a personal endeavor to let the general population know how much lawyers do that is good."

He soon became involved in the OBA, serving as a member of the Environmental Law Section, where he served for several years. After some time, he was approached by former OBA President William R. Grimm to finish his term on the Professional Responsibility Tribunal. Ken did not hesitate and stepped up to the challenge.

"I stepped in on his last term and was very impressed with the whole process and how seriously the panelists take their jobs of listening to matters pending before them and making recommendations to the Supreme Court," he said. "That was probably the impetus for me to focus on the state level of leadership."

He then saw an opportunity to run for an OBA board position as vice president and has served on the board since. Ken sees his current involvement on the board as very defining – an opportunity to advocate for professionalism, civility, volunteerism and improving the view of lawyers in the eyes of the public.

When not working in the career he loves or serving his fellow attorneys, Ken can be found on the beach, traveling abroad or being active with The Park Church of Christ in Tulsa.

"Our church is very active in community service work," he said. "If I were not working full time, I would spend more time using my carpentry skills in home repairs for the elderly or emergency situations. The church just sent a crew to North Carolina to help people impacted by the tropical storm to put tarps on roofs so that families can get back in their homes as quickly as possible. I would probably be using the skills I've learned through the years in a direct way."

For Ken, who serves as an elder in his church, work-life balance comes down to prioritizing three key things: "For me, it's faith and family and then work. That has been a successful prioritization for me for all my life. As long as I remain committed to my role as shepherd of my church family and my personal family, then give all that I can give to work, that's the recipe for a wholesome lifestyle. That's balance for me."

ABOUT THE AUTHOR

Emily Buchanan Hart is the OBA assistant director of communications.

PRESIDENTIAL Q&A

What are you most proud of during your time serving on the Board of Governors so far?

I think the increased focus (and personal passion) on professionalism and civility; Past President Brian Hermanson asked me to take that on while he was serving as president in 2023 and gave me an opportunity to be a spokesperson around the state to different voluntary bars, put on CLEs and really push that issue. To me, it is incredibly important, and for so much of my career, attorneys have not been respected for professionalism and civility. I think people are beginning to see the value of seeing opposing counsel not as an enemy but as another professional trying to do the best they can for clients. I am most proud, so far, of that elevation of professionalism and civility.

What advice would you give to a new attorney?

I would strongly recommend new attorneys look at the value of placing their practice somewhere other than big urban areas. It's a rewarding lifestyle to be actively engaged in your local community, chamber and all the activities that are available in small communities. You can be a vibrant part of a smaller group of people and have an immediate impact.

Why is the bar association important to you?

Clearly, a group is stronger than an individual. You can accomplish a whole lot more through focused efforts with a larger number of people than you can with one. I see the association as critically important to 1) be a public advocate for the rule of law and 2) be constantly looking for solutions to provide access to justice. These are challenges that can't be answered by a single attorney.

Why is it important to serve?

In many ways, service to our local communities, organizations or citizens is most important for us as "people." It is very easy to become consumed with the time pressures and demands of the practice of law to such an extent that we become isolated and lose touch with others. By serving others, we remain connected and a part of society. It keeps us human and leads us toward empathy and compassion. And, from a very cynical perspective, involvement with others through service is one of the least expensive and most effective ways to market your services and receive the very important referrals of work.

What is your favorite OBA member benefit?

Lawyers Helping Lawyers. For most of my career, the mental and emotional health of our members has been the least discussed and the least addressed challenge of our members. I am so very proud of all who are involved in LHL and believe them to be saving lives in a very real way.

Where do you see the OBA in the next five years?

I see the OBA becoming much more active in the access to justice issue. I think we are going to broaden the availability of access to justice for people who can't afford it. Practicing law is not a right, it's a privilege. Hand in hand with privilege is responsibility. We have a tremendous responsibility to provide access to justice for people who can't afford it.

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. 17, in the Supreme Court Courtroom at the state Capitol.

AMBER PECKIO

President-Elect
Tulsa

Amber Peckio is a solo practitioner with the Amber Law Group in 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 vice president in 2024 and is the past chair of the OBA Cannabis Law Committee. 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: 2024 Cannabis Legislation Preview" for OBA CLE.

She has served the OBA as an Oklahoma Bar Foundation Trustee (2014 to 2019), Women in Law Committee chair (2007), Lawyer Advertising Task Force member (2007), Young Lawyers Division board director for Tulsa (2006 to 2014), Professionalism Committee member, Law Related Education Committee chair, Solo and Small Firm Conference Planning Committee member, Audit Committee member (2022), graduate of the inaugural OBA Leadership Academy (2009) and as a frequent CLE speaker. Ms. Peckio was also active in the Tulsa County Bar Association, having served as vice president (2020), secretary (2019) and small firm director (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.

RICHARD D. WHITE JR.

Vice President
Tulsa

Richard D. White Jr. is a shareholder at the Tulsa law firm of Barber & Bartz PC. During his 40 years of practice, he has represented businesses throughout the U.S. in commercial disputes and has maintained a substantial family law practice. He is licensed to practice in all Oklahoma courts, the U.S. District Courts for the Northern, Eastern and Western districts of Oklahoma, the U.S. District Court for the Southern District of Illinois and the 10th Circuit Court of Appeals.

Mr. White represented Supreme Court Judicial District 6 as a member of the OBA Board of Governors from 2021 to 2023. He serves on the Professional Responsibility Tribunal, and he chaired the Professionalism Committee in 2024. He is a member of the Tulsa County Bar Association and has served as budget chair (2014 to 2015), treasurer (2015 to 2016), secretary (2016 to 2017) and professionalism chair (2019 to the present).

He is a long-standing member of the Commercial Law League of America, having served as chair of

the southern region and a term on the Board of Governors. He has been a Tulsa City-County Law Library Commission member since 2011. Mr. White received his bachelor's degree in criminal justice from California State University Long Beach and his J.D. from the TU College of Law.

MILES PRINGLE
Immediate Past President
Oklahoma City

Miles Pringle is the executive vice president and general counsel at The Bankers Bank in Oklahoma City. A native Oklahoman and third-generation attorney, Mr. Pringle is licensed to practice law in Oklahoma, Missouri and Texas. After graduating from Heritage Hall High School, he obtained his bachelor's degrees from the University of Kansas in political science and history and his J.D. from the University of Missouri – Kansas City School of Law, where he was a member of the national moot court team. Prior to joining The Bankers Bank, he was a partner with the law firm of Pringle & Pringle.

He has served the OBA and the legal community for many years, including as president, vice president and governor of the OBA Board of Governors, chair of the OBA Financial Institutions and Commercial Law Section and chair of the OBA Legislative Monitoring Committee. He is a frequent CLE speaker on topics ranging from banking law to legislative issues, and he has had multiple articles published in the *Oklahoma Bar Journal* and regularly contributes to the Oklahoma County Bar Association *Briefcase*. In 2018, he was awarded the Oklahoma County Bar Association Geary L. Walke Briefcase Award, and in 2021 and 2022, he received the OBA President's Award.

Mr. Pringle is a recognized leader in the banking community. He has been a teacher for the Oklahoma Bankers Association Intermediate Banking School and other banking organizations. As an officer and past chair of the Financial Institutions and Commercial Law Section, he helps coordinate and present at the Annual Banking and Commercial Law Update. In 2022, Mr. Pringle was named on the 40 Under 40 list of national emerging community bank leaders by the Independent Community Bankers of America.

He is also very involved in his community. He is a board member of the Oklahoma City Rotary Club, Oklahoma's oldest and largest civic organization, and he has served on the boards of local nonprofits. Mr. Pringle and his wife, Andrea, have two sons and are members of St. Luke's United Methodist Church.

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.

JOHN E. BARBUSH

Governor – District 2
Durant

John E. Barbush is a solo civil trial attorney who practices in the areas of torts, business litigation, securities and family law. He is also an approved provider for the Oklahoma Attorneys Mutual Insurance Co., representing attorneys in legal malpractice cases. He is a trained mediator and has served as an arbitrator. Mr. Barbush graduated from Ambassador University, where he was a student-athlete and received a bachelor's degree in business administration before attending the OCU School of Law. He was part of the 2017-2018 OBA Leadership Academy class and has served as a delegate and an executive committee member of the Oklahoma County Bar Association Family Law Section.

He and his family moved to Durant so his wife, Judge Amy J. Pierce, could serve the Choctaw Nation of Oklahoma as chief district court judge. They have two children, Ella and Mac, who are also proud members of the Choctaw Nation. Mr. Barbush served as the 2023 Law Day Chair for the Bryan County Bar Association.

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 12 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 (and currently the treasurer on the Board of Directors).

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 Sooner 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 engaged primarily 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, Cherokee Nation Bar Association, Oklahoma Criminal Defense Lawyers Association, 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 (6), Elizabeth (3) and Charles (1), plus a dog, Herbert (10). 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 and 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 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 Muscogee 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 around the local community, he enjoys traveling with his three daughters and wife, golfing, reading and spending time on the lake.

NICHOLAS E. THURMAN

Governor – District 8
Ada

Nicholas E. Thurman serves as an assistant district attorney in the Pontotoc County District Attorney's Office in Ada, where he handles major felonies, juvenile deprived cases and the county's civil matters. He also serves as president of the Pontotoc County Bar Association.

He earned a bachelor's degree in history at Southwestern Oklahoma State University in Weatherford, where he was a member of the varsity basketball team, graduating with honors in 2012. He received his J.D. from the OCU School of Law in 2015. While in law school, he served as treasurer for the Military, International and National Security Law Student Association and received the Pro Bono Service Award.

After graduating from law school, Mr. Thurman worked in the private sector with the law firm of Smith Simmons PLLC and served at several county prosecutors' offices, including Canadian and Atoka counties, and with Oklahoma County's Gang Enforcement Unit.

He lives in Ada with his wife, Hannah, and their three children, Faye, Booker and Farrah.

JANA L. KNOTT

Governor – District 9
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 for 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.

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 19 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*, *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.

TIMOTHY L. ROGERS

Governor – At Large
Tulsa

Timothy L. Rogers is a shareholder at Barrow & Grimm PC, where his practice focuses primarily on business and construction law. He maintains an active litigation practice, with an emphasis on construction, surety, business disputes, bankruptcy and employment law. The majority of Mr. Rogers' practice is in the construction industry, representing owners, developers, general contractors, subcontractors, material suppliers, architects, engineers and surety companies with drafting and negotiating contracts and dispute resolution involving contractual disputes, construction defects, mechanic's and materialmen's liens, bond claims and other related matters. He also regularly handles commercial leases and business contracts. He was recently named to *Oklahoma Magazine*'s 40 Under 40 list.

Previously, Mr. Rogers served on the OBA Young Lawyers Division Board of Directors and graduated from the OBA's Leadership Academy. He also served on the Tulsa County Bar Association Board of Directors and as chair of the TCBA Young Lawyers Division. He was named the TCBA's Outstanding Young Lawyer for 2010-2011 and received the President's Award for Distinguished Service for 2010-2011.

In addition to his legal activities, he served as president of the TU College of Law Alumni Association and on the Leadership Tulsa and Tulsa Mayfest boards of directors. He is a member of the Oklahoma Chapter of Associated Builders and Contractors Inc. and the Associated General Contractors of Oklahoma. Mr. Rogers graduated from OSU, where he received his BBA in economics and a minor in finance in 2005. He received his J.D. with honors from the TU College of Law in 2008.

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.

TAYLOR C. VENUS

Governor – YLD Chair
Enid

Taylor C. Venus is a native of Ponca City who graduated from OSU with bachelor's degrees in economics and finance. While attending OSU, Mr. Venus had the honor to be Pistol Pete. Thereafter, he obtained his J.D. and MBA at OU. While in law school, he served as the articles editor for the *Oil and Gas, Natural Resources and Energy Journal* and as an officer or representative in multiple student groups.

Mr. Venus has a passion for serving his local community and supporting other regional and statewide organizations. In Enid, Mr. Venus is the president of the Enid Public Schools Foundation, a member of Rotary and AMBUCS and actively volunteers with several other entities in Garfield County. Outside his local community, he is a member of his fraternity alumni board and president of the Cherokee Strip OSU Alumni Chapter.

In his time out of the office, Mr. Venus enjoys spending time with his friends and family, golfing, hunting and being an armchair expert on his favorite sports teams and political views.

What's Online

Want to learn more about your bar association? Visit 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.

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.

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. 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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2024 YEAR END REVIEW

DAY ONE:

Health Law Update
Maggie Martin, Crowe & Dunlevy, OKC
Bankruptcy Law Update
David Herber, GableGotwals
Cannabis Law Update
Felina Rivera, Renaissance Legal Solutions, OKC
Criminal Law Update
Barry L. Derryberry, First Assistant Federal Public Defender, Tulsa
Mental Health
Gina Stafford, A Chance to Change, OKC
Animal Law Update
Charis Ward, OKC

DAY TWO:

Business and Corporate Law Update
Gary Derrick, Derrick and Briggs, LLP, OKC
Law Office Management and Technology Update
Jim Calloway, Director, Management Assistance Program, OBA
Julie Bays, Practice Management Advisor, OBA
Real Property Law Update
Kraettli Epperson, Mee Mee Hoge and Epperson, OKC
Family Law Update
Stacy Acord, McDaniel Acord, PLLC, Tulsa
Estate Planning and Probate Law Update
Terrell Monks, Oklahoma Estate Attorneys, PLLC, OKC
Ethics Update
Gina Hendryx, General Counsel, OBA

Make 'Movie Night' Your New Year's Resolution

By Janet Johnson

WELL, HERE WE ARE AGAIN – another new year. We always start with the best of intentions: make resolutions, set new goals, become the best possible version of ourselves. I know; I try every year, and by now, you've seen a few articles from me on that front.

But here is at least one worthy resolution I promise you will actually enjoy sticking to: Resolve to come to at least one of our regular OBA CLE Movie Nights at the Oklahoma Supreme Court in 2025. Our members who attend these events can always expect an informative and entertaining experience where you will gain valuable insight into the legal landscape through the cinematic lens.

Past events have included movies from the hilarious – like *My Cousin Vinny* and *Legally Blonde* – to the serious – such as *Blossoms in the*

Panelists discuss "The Judge," an episode of the TV show Matlock, *during a recent OBA Movie Night at the Oklahoma Judicial Center. Chief Justice M. John Kane IV served as moderator, donning a trench coat inspired by the episode. Panelists were (from left) David Prater, former Oklahoma County district attorney; Taylor Henderson, director, Oklahoma Council on Judicial Complaints; and Trevor Pemberton, former judge, Oklahoma Court of Civil Appeals.*

Dust, a 1941 film depicting the true story of Edna Gladney, a woman who helped orphaned children find homes and began a campaign to remove the word "illegitimate" from Texas birth certificates. After a screening of each featured movie, the justices, judges, practitioners and subject matter experts who serve as panelists engage the audience and dissect the film and the legal concepts it presents in meaningful and thought-provoking ways. Attendance at these events is always a treat for the eyes and the mind.

And did I mention these events are free? I should also add that nearly every Movie Night includes at least 1 hour of ethics MCLE credit. There is truly no downside – except that attendance is limited, and these events always fill up quickly due to high demand. So you should also resolve to register early if you would like to join us – and we hope you will!

Our next OBA CLE Movie Night will be *Adam's Rib.* While the date for this event is still being determined, I can tell you that a solid panel has been assembled. We will be hearing from Oklahoma Attorney General Gentner Drummond as well as several former state attorneys general: Mike Turpen, Drew Edmondson and Mike Hunter. As always, Justice M. John Kane IV will serve as our moderator. I am also excited to share that recently retired Justice Yvonne Kauger, who has been a driving force in planning these events and assembling these terrific panels, has pledged to stay involved on a volunteer basis to keep our regularly scheduled programs going.

Now, I know many of us aren't thinking of CLE at this time of year, so here's an additional New Year's resolution for you to consider: getting a head start on earning your MCLE credit. Make this the year you avoid that last-minute scramble. With outstanding events like our Movie Nights in the works, the OBA is ready to support you in keeping your resolutions in 2025.

Janet

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

Thoughts on Legal Document Automation

By Jim Calloway

MORE TECHNOLOGY-BASED changes are ahead in legal service delivery, and I believe we are reaching the point where many Oklahoma lawyers will be exploring automated document preparation.

Automated document assembly is not new to the Oklahoma legal community. In the 1990s, Oklahoma City lawyer Doug Loudenback created a collection of WordPerfect macros he called the "Grande Macros." These macros interacted with each other in such a way that they functioned like a current automated document assembly tool. Lawyers entered the data about a case that was needed to prepare family law documents, and it assembled them. The petition was not only prepared but also the summons, a temporary order and the initial discovery requests. It was a huge time saver, and the macros gave the user the option to save the data so that it could be used again for future pleadings as the case proceeded.

Of course, WordPerfect did not win the office suite battle, and Doug Loudenback stopped updating the software when he retired. A few Windows and WordPerfect updates later and the macros were no longer functional.

Now, we see automation tools becoming easier to use. I appreciate that some Oklahoma law firms have embraced automated document assembly tools.

At ABA TECHSHOW 2024, one of the presentations was titled (in part) "Why Document Automation Technology Has Become Mandatory." People, especially lawyers, dislike being told they *must* do something. However, AI tools are making legal document automation easier and faster by simplifying template creation.

Barron K. Henley of Affinity Consulting noted in his paper accompanying the above-mentioned ABA TECHSHOW program:

> On the most basic level, document automation is the use of software to (very) quickly generate customized Microsoft Word documents. In other words, document automation adds significant functionality to your existing word processor. It allows you to capture the consistencies in your documents such as which sections, paragraphs, sentences, and words go where under any set of facts. It also allows you to capture the irregularities in your documents. Irregularities include custom provisions and intelligent language building that can accurately consider thousands of inputs to produce the correct phraseology every time. Instead of cut and paste, you can pick desired options or alternatives from a list or interview. Instead of manually replacing [testator name] with your client's name 25 times, you simply respond to on-screen questions and let the computer do the clerical work. Users must only answer questions in an interview/questionnaire to produce letter-perfect, completely customized documents. Neither word processing nor computer skills are required to use such a system once it is built. Even technophobe, two-finger typists can produce perfectly formatted, complex documents without assistance.

The benefits of proper document assembly technology implementation were also noted in the same paper:

> Properly deployed, DA technology can exponentially decrease drafting time and increase accuracy. For example, it would be normal for a DA system to compress what normally takes 6 hours of drafting time into 15 or 20 minutes. DA systems can be used as teaching tools, shared with others, and textually updated as necessary. If your practice involves generating complex documents (or a set of documents is the ultimate

deliverable), then DA can dramatically boost profitability and/or decrease costs.

Let's repeat. It would be normal to compress the drafting of a document from six hours of an attorney's time to 15 or 20 minutes. Boost profitability. Decrease costs.

FASTER, CHEAPER, BETTER

Another point is this increased productivity should also result in a higher-quality legal work product.

Some lawyers could negatively react to this statement, as a lawyer's goal is to turn out a perfect work product. But mistakes are sometimes made. For example, if you start with a prior work product document that was similar, you can use copy and paste to change the prior client's name to the new client's name. But if you copy and paste multiple times, it is possible to miss one. It would be embarrassing to send a document to a client or opposing counsel with a former client's name in the document. It is not a good look on several levels.

Some of you may respond that Word's find and replace function should handle this, and it may do a better job. But it is not flawless and may miss things. For example, if your document has a space in the middle of a word or a misspelling, find and replace will miss that.

Starting with a prior work product instead of a template may also result in additional provisions being included that should not be used in the current situation.

DO-IT-YOURSELF?

If someone in the office had the ability and inclination, this could be a viable but challenging do-it-yourself project. But if you have done little yet with the free available Word automation tools (*e.g.*, macros, Quick Parts, customized templates), you likely are not going to dive into a major document automation project on your own.

I reached out to Mr. Henley for some thoughts about DIY Word automation. He said a good rule of thumb was that the project would probably take five times the investment of time than one would estimate. He also indicated that many people create far too many templates. For example, just because you have four types of family trusts you might create, you do not want four templates. Rather, you would prefer one trust template that changes the subsequent interview questions as you answer preliminary ones to generate the documents you need for this situation.

Document assembly tools have already made a significant impact over the past decades, revolutionizing the way legal documents are prepared.

There are numerous providers of document automation solutions. Product names keep changing, and new products are introduced frequently. Some of these offer template creation as a part of their services. Here is a list of leading document assembly products (my apologies to those omitted – it is a constantly updating category): ActiveDocs, Aurora, BigHand Create, Docassemble, Docmosis, Docrio, Doxserá, DraftOnce, Formstack Documents, Forte, Gavel (formerly Documate), HighQ (formerly Contract Express), HotDocs, Innova, Lawyaw, Leaflet, PatternBuilder (formerly Afterpattern), Rapidocs, Templafy, TheFormTool PRO, Woodpecker, XpressDox and ZumeForms.

PRACTICE MANAGEMENT SOLUTIONS

Lawyers who use practice management solutions (PMS) already have all the relevant information about a client's matter entered into the digital client file. It makes sense that a document assembly program either contained in the PMS or linked to it would make for a convenient method to automatically create documents.

The people at the PMS companies appreciate this reality as well. They are all working on tools to export data into documents. So if you are using one of these tools that doesn't appear to have document assembly, check the company's website or contact them to see what progress has been made and when the release is planned.

WHAT ABOUT BILLING?

Oklahoma City attorney Mark Robertson and I have written books for the ABA on alternative billing practices. We anticipated that automation tools would significantly reduce the time lawyers spend on routine tasks. Numerous new and enhanced document automation and AI tools have been introduced to the marketplace. While these tools offer time-saving benefits, they may also pose challenges for those who adhere strictly to hourly billing practices.

The best way to account for the time-saving advantages of this tool is to share the benefit with the client. The automation process may not happen overnight; therefore, many fee agreements will likely contain a mix of hourly fees for situations that are more difficult to predict or automate and flat fees for those tasks that have the benefits of automation. One method of setting those flat fees would be to determine how much was typically charged for the task under the hourly billing method. Then, you can set a flat fee at some reasonable percentage of the "old" fee. That way, when the clients inquire about the flat fee provisions, you can let them know you have automated this process, and it is now less expensive than it was previously.

More cases may lend themselves to charging a flat fee for the entire matter. In flat fee cases, an executed attorney-client contract is very important. A clear list of what tasks the lawyer will do for the flat fee is vital. But even more important is setting forth any related matters the lawyer is not engaged to do under the agreement.

Under Oklahoma law, flat fees should be deposited in the client trust account until earned. But that doesn't mean a lawyer must track their time as precisely as a matter billed hourly. It is appropriate to set stages or landmarks where the matter is deemed half or one-third completed, and partial trust account withdrawals may be made on that basis.

CONCLUSION

Document assembly tools have already made a significant impact over the past decades, revolutionizing the way legal documents are prepared. From bankruptcy petitions to complex legal agreements, automation has streamlined processes and increased efficiency. As more lawyers seek to automate their own forms, the investment of time and money into these technologies appears promising, offering a substantial return on investment by saving time and reducing costs for both lawyers and their clients. Embracing these advancements will undoubtedly lead to more efficient practice management and improved client service.

Mr. Calloway is the OBA Management Assistance Program director. Need a quick answer to a tech problem or help solving a management dilemma? Contact him at 405-416-7008, 800-522-8060 or jimc@okbar.org. It's a free member benefit.

From the President

(continued from page 4)

The Oklahoma Bar Foundation has conducted a survey to better identify and quantify legal needs here in Oklahoma. That survey should be released this year and will hopefully trigger conversations about possible solutions. Our Membership Engagement Committee is working on updates to brochures covering a variety of topics that are focused on the needs of the underserved, such as pro se representation, domestic law and landlord/tenant law, for example. Do we, as an association, need to begin encouraging children at the middle school level to focus on becoming attorneys in their hometowns? Do we need to reach out to local governments of underserved counties and try to collaborate on bringing more lawyers to these areas? What are your suggestions and thoughts regarding this very real issue? Please participate in conversations with your Board of Governors and each other and provide those practical suggestions to me.

As the first lawyer on either side of my family, I take very seriously the honor and responsibility of serving as president of the association for 2025. Executive Director Janet Johnson and our staff are doing an outstanding job of helping me plan and coordinate activities and events for the association in 2025. I am hopeful 2025 will be a year without epic problems to distract us from the areas in which we have chosen to be involved and to serve. I look forward to working with you in our joint goal of preserving the rule of law and educating all who will listen regarding the importance of the rule of law.

For your past and current plans of service, I thank you! If you are looking for new areas of service, please reach out to me, and we will find an area(s) for which your gifts and talents are a fit!

I look forward to working with you in our joint goal of preserving the rule of law and educating all who will listen regarding the importance of the rule of law.

Meeting Summary

The Oklahoma Bar Association Board of Governors met Nov. 15.

REPORT OF THE PRESIDENT

President Pringle reported he attended the joint reception with the Garfield County Bar Association, a Jackson County Bar Association reception and the Southern Conference of Bar Presidents in Jackson, Mississippi. He also led a law student tour of the Oklahoma Bar Center and the Oklahoma Judicial Center. He worked on and published educational communications about the judicial branch and consulted with counsel regarding communications and with Executive Director Johnson regarding OBA section programming.

REPORT OF THE PRESIDENT-ELECT

President-Elect Williams reported he attended the public hearing regarding the OBA 2025 budget, the Tulsa County Bar Association Energy and Mineral Law Section meeting, the OBF Board of Trustees meeting, the Council Oak/Johnson-Sontag Inns of Court meeting, the Jackson County Bar Association reception and the Southern Conference of Bar Presidents in Jackson, Mississippi. He virtually attended the Oklahoma Bar Foundation Development Committee meeting and the Membership Engagement Committee meeting and participated in OBF grant interviews. He conferred with counsel regarding association communications, worked on his presidential appointments for 2025 and assisted in revising the budget memorandum for the OBA's presentation to the Supreme Court.

REPORT OF THE VICE PRESIDENT

Vice President Peckio reported she attended the TU College of Law reception for veterans as well as the college's award presentations, where she presented awards to TU students. She also attended the joint reception with the Garfield County Bar Association.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Johnson reported she attended the public hearing regarding the OBA 2025 budget as well as prepared and filed the budget with the Supreme Court. She also attended the law student tour of the Oklahoma Bar Center and the Oklahoma Judicial Center, the Bar Technology Committee meeting, the Membership Engagement Committee meeting, the LegisOK training and the Southern Conference of Bar Presidents in Jackson, Mississippi. She reviewed educational and informational materials regarding the judicial branch, the Solo & Small Firm Conference and the Annual Meeting contracts for 2025 and the Lawyers Helping Lawyers Assistance Program contract with A Chance to Change with committee Chair Scott Good. She also met with OU College of Law partners and consultant Marcy Cottle to finalize the strategic planning map for presentation to the Board of Governors.

REPORT OF THE IMMEDIATE PAST PRESIDENT

Past President Hermanson reported he attended the Oklahoma District Attorneys Association Fall Conference at Quartz Mountain, the joint reception with the Garfield County Bar Association, virtually attended the OBA Membership Engagement Committee meeting and chaired the Justice Administration Grant board meeting. He served as master of ceremonies at the Kay County Courthouse administration building and the OSU Extension building open house and ribbon cutting, and he lined up volunteers for the Kay County Drug Store program. Additionally, he participated in numerous discussions with the public on the judicial retention election.

BOARD MEMBER REPORTS

Governor Ailles Bahm reported she attended a Bench and Bar Committee meeting and a Council on Judicial Complaints meeting. **Governor Barbush** reported he reviewed communication from the Cannabis Law Committee chair and the agenda for the October meeting, educated members of the local community regarding the judicial retention ballot and voted. He met with Past President Hicks to discuss OBA matters and attended the

joint reception with the Garfield County Bar Association. **Governor Bracken** reported he attended the OCU School of Law Networking Event/Mentorship Mixer and an OBF Board of Trustees meeting. He helped raise funds for judicial retention, educated the public about the judicial branch and retention ballot and attended the Garfield County Bar Association joint reception. **Governor Conner** reported he attended the Garfield County Bar Association meeting and has been working on planning the joint reception with the Garfield County Bar Association and the OBA Board of Governors. **Governor Dow** reported she attended the OBA Family Law Section meeting, the Oklahoma County Bar Association meeting, two meetings for the Mary Abbott Children's House Board of Directors and a Professional Rules Committee meeting. **Governor Hixon** reported he attended the joint reception with the Garfield County Bar Association. **Governor Locke** reported he attended the Cherokee Nation Bar Association meeting and the joint reception with the Garfield County Bar Association. **Governor Oldfield** reported he attended the Canadian County Bar Association joint reception at Czech Hall and the open house and dedication of the Kay County Courthouse. **Governor Rogers** reported he attended the TU College of Law Alumni Association board meeting and a Clients' Security Fund Committee meeting. **Governor Thurman** reported he met with Pontotoc County Bar Association officers and attended the swearing-in ceremony for newly appointed District Judge Brett Butner. He interviewed with KTEN regarding the Pontotoc County Drug Court and went to the local preschool with the HALO (Human Animal Link of Oklahoma) dog-in-training to explain the court process. **Governor Trevillion** reported he attended the annual Holloway Lecture hosted by the Western District of Oklahoma Federal Bar Association and the joint reception with the Garfield County Bar Association.

The board approved a motion to approve the new member benefit that will provide free trust accounting software to OBA members.

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

Vice President Peckio reported the **Strategic Planning Committee** is looking forward to the implementation of the strategic plan when it is fully adopted by the Board of Governors. Governor Barbush reported the **Cannabis Law Committee** recently met and is working to increase membership. He also said the **Lawyers Helping Lawyers Assistance Program Committee** has worked on proposed updates to the OBA's services contract with A Chance to Change. Governor Locke reported the **Membership Engagement Committee** is working on numerous projects, including updating public information brochures with the goal of having them all updated by the end of this year. The committee also worked on updating the OBA's website policy and reviewed a new member benefit for the Board of Governors' consideration. Governor Ailles Bahm said the **Bench and Bar Committee** is meeting regularly and discussing how to address the issue of legal deserts.

PROPOSED UPDATED OBA WEBSITE POLICY

The board approved a motion to approve the updated OBA website policy.

PROPOSED TRUST ACCOUNTING MEMBER BENEFIT

The board approved a motion to approve the new member benefit that will provide free trust accounting software to OBA members.

UPDATED LAWYERS HELPING LAWYERS CONTRACT

The board approved a motion to approve the recently updated contract.

STRATEGIC PLANNING UPDATE

The board approved a motion to approve the plan with the supplementation of quarterly status reports to the Board of Governors.

PRESIDENT-ELECT'S APPOINTMENTS

Audit Committee: President-Elect Williams appoints Governor Chad Locke, Muskogee, to a term beginning Jan. 1, 2025, and expiring Dec. 31, 2026; and appoints 2025 Vice President Richard D. White Jr., Tulsa, to a term beginning Jan. 1, 2025, and expiring Dec. 31, 2025.

Board of Medicolegal Investigations: President-Elect Williams appoints Angela C. Marsee, Arapaho, to a one-year term expiring Dec. 31, 2025.

UPCOMING OBA AND COUNTY BAR EVENTS – 2024

President Pringle reviewed upcoming bar-related events, including upcoming board meetings and the swearing in for new officers and board members, scheduled for Jan. 17, 2025, at the state Capitol.

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 Friday, Jan. 17, in Oklahoma City.

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

OKLAHOMA CITY AND TULSA DIVISIONS

NOTICE

Per Senate Bill No. 1456, a new Three-Judge Panel shall be appointed to serve as the Court of Existing Claims (CEC) Division of the Court of Civil Appeals. As of January 1, 2025, the Panel shall consist of:

Thomas E. Prince, Presiding Judge
Jane P. Wiseman, Judge
Robert Bell, Judge
Stacie L. Hixon, Judge (Alternate)

This Panel shall serve through December 31, 2025.

DONE BY ORDER OF THE COURT OF CIVIL APPEALS this 19th of November, 2024.

DEBORAH B. BARNES
Chief Judge

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

OKLAHOMA CITY AND TULSA DIVISIONS

NOTICE

Judge Robert Bell has been elected to serve as Chief Judge of the Court of Civil Appeals of the State of Oklahoma for the year 2025. Judge Stacie L. Hixon has been elected to serve as Vice-Chief Judge of the Court of Civil Appeals of the State of Oklahoma for the year 2025.

DATED this 19th day of November, 2024.

DEBORAH B. BARNES
Chief Judge

Meet 2025 OBF President Jim Dowell

2025 OBF President Jim Dowell celebrates a Cowboys win with his wife.

Jim Dowell

Law School:	OU College of Law (but Go Pokes!)
Graduation Year:	2002
Current Employer:	Solo practitioner
Location:	Woodward

Why did you decide to be a lawyer? Teachers had told me since I was young that I should be a lawyer because I argued too much. I ended up in law enforcement after undergrad. After a few years of being a broke cop, I decided my teachers were right.

What is one thing you're glad you tried but would never do again? Morcilla in Madrid

Are there any social norms that completely baffle you? People regularly sharing highly personal details of their lives with complete strangers on social media

What is your biggest pet peeve with modern technology? It has caused people to be more connected to screens than to each other.

What is on your bucket list? Skiing the Vallée Blanche in the French Alps

Explain the leadership roles you hold in professional and/or community settings and why these responsibilities are important to you. At present, I serve on the board of the nonprofit Broken and Mended, which provides resources to people around the world suffering from chronic illness and pain. I watched my mother suffer from chronic illness and pain from the time I was a young child, and there were no such resources available. I am also actively involved in my local church.

What would you tell current law students and young associates about the importance of professional and civic responsibility? As for professionalism, I will pass along good advice I received from my training sergeant when I started in law enforcement. On my first day on the job, he said, "You only have one reputation – guard it carefully." As for civic responsibility, I think most people want to make a difference. Making a difference requires taking action and not just talking about it. One of the best ways to do that is by being a part of something larger than yourself in your community.

What are your goals as the 2025 OBF board president? We have identified needs in underserved areas of the state. I hope to work toward getting resources to those areas to solve real problems that have been brought to our attention. In addition, I will continue to speak to lawyers who are not familiar with the OBF. We have made progress in that regard, but we need to continue to get the word out about the good work the OBF accomplishes.

President Dowell and his wife in Alaska

Partners Programs

Bring Justice Home for over 66,000 Oklahoma families. Here's how:

OKLAHOMA BAR FOUNDATION

COMMUNITY PARTNERS
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For Your Information

LONGTIME BOARD OF BAR EXAMINERS LEADER HONORED

Oklahoma Board of Bar Examiners Past Chair Bryan Morris recently completed 15 years of service on the board. He served a total of 22 years, seven as an associate member. Mr. Morris was honored on Dec. 9 by Justice Douglas Combs at the Supreme Court.

OKLAHOMA COURT OF CRIMINAL APPEALS ELECTS 2025-2026 LEADERSHIP

Judge Lumpkin

Judge Musseman

The Oklahoma Court of Criminal Appeals has announced that Judge Gary Lumpkin was chosen as presiding judge to serve a two-year term that began Jan. 1. Judge William Musseman was elected to a second two-year term as vice presiding judge for the same biennium.

Judge Lumpkin of Sentinel was appointed to the court in January 1989 by Gov. Henry Bellmon. He received his J.D. from the OU College of Law in 1974 and served as associate district judge and district judge in Marshall County for seven years prior to his appointment.

Judge Musseman of Tulsa was appointed to the Court of Criminal Appeals in 2022 after serving as a special judge and district judge in Tulsa and Pawnee counties for 13 years prior to his appointment. He received his J.D. from the OU College of Law in 1997. He served 11 years as an assistant district attorney in the Tulsa County District Attorney's Office as a prosecuting trial attorney and supervisor before his appointment as special judge in 2009.

MCLE DEADLINE APPROACHING

The deadline to earn your required credit for 2024 was Dec. 31. The deadline to report your earned credit or a qualified exemption for 2024 has been extended to Feb. 18 due to the Presidents Day holiday weekend. Unless you are reporting an exemption, the minimum annual requirement is 10 general credits and two ethics credits, for a total of 12 credits. All credit must be OK MCLE approved. Not sure how much credit you still need? Access your MCLE information by logging in to your MyOKBar page and clicking "MyMCLE." Still need credit? Check out great CLE offerings at ok.webcredenza.com. If you have questions about your credit, email mcle@okbar.org.

IMPORTANT UPCOMING DATES

The Oklahoma Bar Center will be closed Monday, Jan. 20, in observance of Martin Luther King Jr. Day and Monday, Feb. 17, in observance of Presidents Day.

LHL DISCUSSION GROUPS TO HOST FEBRUARY MEETINGS

The Lawyers Helping Lawyers monthly discussion group will meet Thursday, Feb. 6, in Oklahoma City at the office of Tom Cummings, 701 NW 13th St. The group will also meet Thursday, Jan. 13, in Tulsa at the office of Scott Goode, 1437 S. Boulder Ave., Ste. 1200.

Each meeting is facilitated by committee members and a licensed mental health professional. The small group discussions are intended to give group leaders and participants the opportunity to ask questions, provide support and share information with fellow bar members to improve their lives – professionally and personally. Visit www.okbar.org/lhl for more information, and keep an eye on the OBA events calendar at www.okbar.org/events for upcoming discussion group meeting dates.

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.

NEW OBA BOARD OF GOVERNORS OFFICERS AND MEMBERS TO BE SWORN IN JAN. 17

D. Kenyon Williams Jr. of Sperry will be formally sworn in as 2025 OBA president on Jan. 17 in the Supreme Court Courtroom at the state Capitol. Other new officers to be administered their oaths of office will be President-Elect Amber Peckio of Tulsa and Vice President Richard D. White Jr. of Tulsa. Miles Pringle of Oklahoma City will be sworn in as immediate past president. New board members to be sworn in are Cody J. Cooper of Oklahoma City, Benjamin J. Barker of Enid, Lucas M. West of Norman, Kate N. Dodoo of Oklahoma City and OBA Young Lawyers Division Chair Taylor C. Venus of Enid. New officers and board members officially took office on Jan. 1.

BOARD OF BAR EXAMINERS ELECTS NEW LEADERSHIP

El Reno attorney Roger Rinehart was recently elected to serve as chair of the Oklahoma Board of Bar Examiners, which governs admission to the practice of law in the state. Attorney Thomas Wright of Muskogee was elected as the board's vice chair.

Mr. Rinehart, who has served on the board since 2012, was recently reappointed by the Oklahoma Supreme Court to serve on the nine-member statewide board as an examiner representing Supreme Court Judicial District 9. His appointment was at the request of Justice Richard Darby. Mr. Rinehart, who was originally appointed to the board by now-retired Justice Joseph M. Watt, previously chaired the board in 2018. He served as an associate examiner from 1997 to 2012, and he has been a member of the OBA since 1987.

LET US FEATURE YOUR WORK

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

SAVE THE DATE FOR THE LEGISLATIVE KICKOFF

The Oklahoma Legislature reconvenes in February, and hundreds of bills will be prefiled – many potentially affect your practice or the administration of justice. Join the OBA Legislative Monitoring Committee on Friday, Jan. 31, at the Oklahoma Bar Center as they identify top bills of interest to the OBA and your practice area. Be sure to docket the date. More details are to come!

OKLAHOMA COURT OF CIVIL APPEALS LEADERSHIP ANNOUNCED FOR 2025

Judge Robert Bell has been elected to serve as chief judge of the Oklahoma Court of Civil Appeals, and Judge Stacie L. Hixon has been elected to serve as vice chief judge of the Oklahoma Court of Civil Appeals for 2025.

The following have been selected to serve as presiding judges for their respective divisions: Brian J. Goree, Oklahoma City, Division 1; Jane P. Wiseman, Tulsa, Division 2; Timothy J. Downing, Oklahoma City, Division 3; Deborah B. Barnes, Tulsa, Division 4. These positions began Jan. 1 and are for a one-year term.

Judge Bell

Judge Hixon

ON THE MOVE

Virginia Henson and **Margaret A. East** have joined the law firm of Mullins Mullins Sexton & Reaves PC. Ms. Henson serves as of counsel. She received her J.D. from the OU College of Law in 1979 and practices family law, handles appeals and conducts mediations, as well as serves as an adjunct family law professor for the OU College of Law and a visiting professor at the OU Legal Clinic. She has received several awards and accolades during her career, including being named the Outstanding Family Lawyer for Oklahoma in 1996 and 2014 and receiving the OBA Maurice Merrill Golden Quill Award in 2020. Ms. Henson has published many articles in the *Oklahoma Bar Journal*, co-authored the *Oklahoma Juvenile Law Bench Book* in 1996 and 1997 and authored evidence, adoption, ethics, property division and children's code chapters for the *Oklahoma Family Law Practice Manual* from 2002 to the present. Ms. East serves as an associate attorney and practices family law. In 2024, she received her J.D. from the OU College of Law, where she served as the assistant articles editor for the *Oklahoma Law Review* and worked as a legal research and writing teaching assistant. Ms. East also participated in the Interdisciplinary Training Program in Child Abuse and Neglect.

Jordan Ensley has joined the new Tulsa office of Gilson Daub as a partner. She has more than 13 years of workers' compensation defense experience. Ms. Ensley was previously a partner at Gish McGivern PA. Her practice focuses on large retailers and complex permanent total disability claims. She has extensive courtroom experience, having litigated hundreds of cases in the Oklahoma Workers' Compensation Court of Existing Claims and the Commission. She received her J.D. from the OCU School of Law, where she received the CALI Excellence Award for Professional Responsibility. Ms. Ensley is a member of the OBA Workers' Compensation Section, the Tulsa County Bar Association and the Women's Law Association.

Jeffrey A. Levy has joined the Tulsa law firm of Atkinson, Brittingham, Gladd, Fiasco & Edmonds as an associate. He received his J.D. from the OU College of Law in 2023, where he was a member of the *Oklahoma City University Law Review.* Mr. Levy practices civil litigation with an emphasis on research and writing.

Kathryn Black, **Maureen Johnson** and **Adam Burnett** have been named partners at the Tulsa law firm of Frasier, Frasier & Hickman LLP. Ms. Black, who has led the firm's workers' compensation practice for several years, will help manage the firm. Ms. Johnson handles a variety of legal matters in the firm, including probate, estates, social security and various civil matters. Mr. Burnett joined the firm in 2019 after graduating from the OU College of Law.

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.

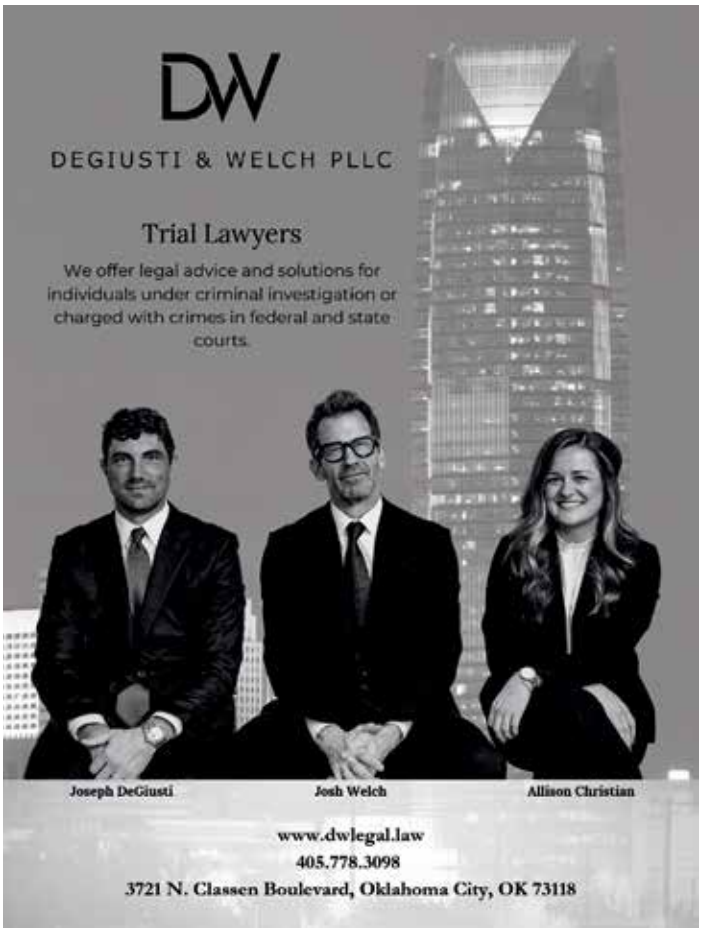
KUDOS

Philippa V. Ellis has been named president of the Georgia chapter of the American Board of Trial Advocates for a two-year term and a member of ABOTA's National Board of Directors. ABOTA was founded in 1958 and is an invitation-only national association of experienced trial lawyers and judges. Members are dedicated to the preservation and promotion of the civil jury trial right provided by the Seventh Amendment to the U.S. Constitution. Members must have at least five years of active experience as trial lawyers, have tried at least seven civil jury trials to conclusion and possess additional litigation experience, as well as exhibit the virtues of civility, integrity and professionalism.

Eric Johnson was recently named chairman of the Conference on Consumer Finance Law. The conference is a nonprofit organization founded in 1927 by members of the legal profession and the financial services industry to offer educational services, publications and research relating to consumer financial services law. Mr. Johnson is a partner at the national law firm of Hudson Cook LLP.

AT THE PODIUM

Thomas W. Hosty presented the CLE program "DUI Ethics and Updates" on Nov. 14. He talked about giving clients the best possible litigation, with a focus on ethics and duties to that representation agreement. He also covered new updates with Service Oklahoma and the Oklahoma Board of Tests for Alcohol and Drug Influence's testing devices.



In Memoriam

Debra Carol Cook of Norman died Sept. 25. She was born Aug. 18, 1958, in Edmond. She attended Norman High School and graduated from OU. Ms. Cook received her J.D. from the OU College of Law in 1982. She spent 35 years at the accounting firm KPMG, where she was a tax managing director before retiring in 2018. After retiring, she maintained friendships with many of her former colleagues around the country. Ms. Cook had also conducted genealogy research and recently completed a college-level genealogy course.

Gregory Ben Dixon of Norman died Nov. 17. He was born Dec. 16, 1966, in Muskogee. He was primarily raised in Checotah, where he attended school and graduated from Checotah High School in 1985. Mr. Dixon continued his educational and athletic career at OU. He was a member of the OU football team, achieving three conference championships and one national title and lettering all four years. He graduated with a bachelor's degree in business administration and received his J.D. from the OU College of Law in 1994. With experience in both public and civil litigation, he was elected district judge for Cleveland, McClain and Garvin counties in 2011. He also served as supervising district judge for McClain and Garvin counties. After four years on the bench, he returned to private practice and became a partner at Nichols Dixon. He served on various ministry boards and participated in many organizations and clubs, such as Sooner Brotherhood, rotary club and the chamber of commerce. Memorial contributions may be made to Susie Peters, Mr. Dixon's dear friend who is battling cancer.

Michael Scott Fern of Nichols Hills died Oct. 10. He was born May 29, 1954, in Oklahoma City. He graduated from Putnam City High School in 1972, earned his bachelor's degree in political science from OU in 1978 and received his J.D. from the OU College of Law in 1980. He spent the first decade of his legal career as an assistant attorney general with the Office of the Oklahoma Attorney General and devoted the remainder of his career to the higher education sector. He served as general counsel to the Board of Regents of Oklahoma Colleges in the late 1980s, and for the largest part of his career – over three decades – he acted as counsel to the Board of Regents for the Oklahoma Agricultural and Mechanical Colleges. During that time, he also taught several courses to undergraduate students at OSU in higher education law, administrative law and constitutional law. His career culminated with him being named executive vice president of Oklahoma City Community College in 2022.

Harry H. Goldman of Seattle died Nov. 22. He was born Nov. 13, 1952. Mr. Goldman received his J.D. from the OCU School of Law in 1976.

John Wayne Gosney of Yukon died Nov. 17. He was born Aug. 27, 1946, in Tulsa. Mr. Gosney graduated from Bethany High School in 1964. **He then attended OU before enlisting in the U.S. Air Force during the Vietnam War. Mr. Gosney was assigned to the Air Force Security Service as a Russian linguist, placing him in the top 1% of basic training graduates. After attending language school in Syracuse, New York, he was stationed in Italy for the duration of his service.** He then returned to Oklahoma and completed his undergraduate education at Central State College in Edmond. Mr. Gosney began working at Kerr-McGee in 1973 and eventually moved into the role of employee relations director. He attended night school and received his J.D. from the OCU School of Law in 1978. He retired from Kerr-McGee in 2003.

Saundra Floreta Lapsley of Gainesville, Texas, died July 10. She was born Aug. 23, 1948. Ms. Lapsley received her J.D. from the OU College of Law in 2001.

Patrick Thomas Layden of McAlester died Nov. 17. He was born April 18, 1961, in McAlester. He graduated from McAlester High School in 1979 and earned his bachelor's degree from OU and his J.D. from the OCU School of Law in 1987. As a third-generation attorney, Mr. Layden returned to McAlester, joining the Layden Law Firm and working alongside his family. His love for the law and dedication to his clients eventually led him to establish his own firm, Pat Layden Law Firm. He recently welcomed his daughter, Danielle, to the firm as a fourth-generation attorney. He was a proud, lifelong member of the community and served on several boards, including the Boys & Girls Club of McAlester and the McAlester Regional Health Center Foundation.

Brian Brendan Tully of Phoenix died Aug. 22. He was born Aug. 10, 1954. Mr. Tully graduated from the TU College of Law.

Terry Wayne Vanderpool of Jersey Village, Texas, died July 15. He was born Sept. 1, 1951, in Tulsa. **After graduating from Will Rogers High School in 1969, Mr. Vanderpool joined the U.S. Army and served honorably in duty stations in El Paso, Texas, and Bavaria, West Germany.** He graduated from the University of Texas at El Paso with a degree in metallurgical engineering in 1982 and received his J.D. from the Temple University Beasley School of Law in 2000.

EDITORIAL CALENDAR

2025 ISSUES

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

MARCH
Cannabis Law
Editor: Martha Rupp Carter
mruppcarter@yahoo.com

APRIL
Alternative Dispute Resolution
Editor: Evan Taylor
tayl1256@gmail.com

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

AUGUST
Labor & Employment
Editor: Sheila Southard
SheilaSouthard@bbsmlaw.com

SEPTEMBER
Torts
Editor: Magdalena Way
magda@basslaw.net

OCTOBER
Immigration Law
Editor: Norma Cossio
ngc@mdpllc.com

NOVEMBER
Trial by Jury
Editor: Roy Tucker
roy.tucker@oscn.net

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

2026 ISSUES

JANUARY
Family Law

FEBRUARY
Criminal Law

MARCH
Business & Corporate Law

APRIL
Health Law

MAY
Insurance Law

AUGUST
Taxation

SEPTEMBER
Civil Procedure & Evidence

OCTOBER
Corporate Law

NOVEMBER
Appellate Practice

DECEMBER
Law Office Management

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

Classified Ads

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FOR SALE

OFFICE FURNITURE. Paoli Desk (36x72 with glass top), Credenza (36x72 with glass top), Hutch (lighted), and Computer Table; matching Lateral File. $2,500. Contact Margie by call or text at (580) 542-3323, please leave message if no answer.

OFFICE SPACE

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

DOWNTOWN OKC WINDOW OFFICE SPACE AVAILABLE for immediate occupancy. Rental space includes internet, receptionist, parking, and other amenities. Call 405-239-2726 for more information.

POSITIONS AVAILABLE

OKC FIRM LOOKING FOR TULSA-BASED ATTORNEY to handle work on the East side of the State. Looking for self-motivated individual who desires courtroom work. Candidate will remote work. Ideal candidate has entrepreneurial spirit with desire to bring in clients. Salary is $70,000.00 a year, plus insurance and work vehicle provided. Firm has bonus structure for new business. Please email resume to resumeokclaw@gmail.com.

DISTRICT 17 IS SEEKING AN ASSISTANT DISTRICT ATTORNEY to work in Choctaw County providing a full range of legal services related to County government operations; to prosecute criminal offenses, including misdemeanors and felonies; assist in juvenile cases, including neglect, delinquency and child in need of supervision cases; and other duties as assigned. Salary up to $100k depending upon experience. Applicants should submit a cover letter, resume and references to: District Attorney Mark Matloff, 108 N. Central, Idabel, OK 74745, or email to: Jody.Wheeler@dac.state.ok.us.

POSITIONS AVAILABLE

DISTRICT 27 HAS AN IMMEDIATE OPENING for a full-time Assistant District Attorney in our Sequoyah County, Sallisaw Office. This candidate will have a variety of professional duties; specifically, prosecution of criminal offenses, including misdemeanors and felonies. Salary range 55k-92k, based on experience. Full State of Oklahoma benefits, including paid annual and sick leave earned monthly. Paid holidays. Please send inquiries and resume to diana.baker@dac.state.ok.us.

OKLAHOMA INDIGENT DEFENSE IS HIRING

The Oklahoma Indigent Defense System (OIDS) is seeking applicants for multiple positions within the agency. OIDS provides trial, appellate and post-conviction criminal defense services to persons who have been judicially determined to be entitled to legal counsel at State expense. OIDS employs attorneys and support staff in each of our 12 locations: Altus, Clinton, El Reno, Enid, Guymon, Lawton, Norman, Okmulgee, Poteau, Pryor, Sapulpa, and Woodward.

OIDS provides a comprehensive benefits package including:

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

To view our current openings and apply online, visit our employment page on our website at https://oklahoma.gov/oids/employment.html.

This is an open, continuous announcement; application reviews will be conducted periodically until all positions are filled. For questions concerning employment, please email jobs@oids.ok.gov.

POSITIONS AVAILABLE

General Civil Practice Attorney

The Ritchie Rock & Atwood Law Firm is seeking to fill two positions for General Civil Practice Attorneys to join the firm's team in Shawnee, Oklahoma and Pryor, Oklahoma.

The Ideal Candidate Will Have:

- 2-5 years experience as general civil practice attorney in the practice of law
- Experience in appellate brief writing (preferred not required)
- Experience in jury trial work (preferred not required)
- A willingness to represent the firm as part of the local community
- Relocation to Shawnee/Pryor or an adjoining community
- Join the team as a team player

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- Competitive compensation commensurate with qualifications
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- 100 % employee health insurance paid by the Firm along with dental, vision and life
- Firm monthly contribution to employee health savings account (HSA)
- Attorney discretion time off. We don't set a limit on vacation time and days off. We don't have a mandatory time in and time off for attorneys. We are professionals. We do what needs done, when it needs done and we take good care of our clients and maintain expected productivity in billings for the health of the Firm. So long as that is all done we take off when we want or need to do so to keep a healthy life balance.

To apply please submit your resume by email to hgerhart@rrmalaw.com. You may also mail a resume to Ritchie, Rock & Atwood Law Firm, P.O. Box 246, Pryor, OK 74362.

POSITIONS AVAILABLE

OKLAHOMA INDIGENT DEFENSE SEEKING ATTORNEYS

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

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

Salary for this position starts at $68,700; commensurate with qualifications and agency salary schedule.

OIDS provides a comprehensive benefits package including:

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

Applications must be submitted online. Visit https://oklahoma.gov/oids/employment.html to view job announcements and apply online. This is an open, continuous announcement; application reviews will be conducted periodically until all positions are filled. For questions concerning employment, please email Jobs@oids.ok.gov.

If you are a private attorney interested in conflict contract work with our non-capital trial division, please contact Brandon Pointer at Brandon.Pointer@oids.ok.gov or call the agency main phone line at 405-801-2601.

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The Joy of Zumba

By Tom Hird

LET ME TELL YOU ABOUT Zumba with LaRhonda at the YMCA in Moore.

About Zumba: It's a popular and fun Latin-based cardio/dance class. No partner, equipment, skill or fancy Zumba™ workout clothes are needed. Zumba gets a person out of the house and moving.

About LaRhonda: Creative and full of life, LaRhonda is the best Zumba instructor in the world. She'll do a call-and-response during a song and can yell louder than the rest of the class combined. LaRhonda can be hilarious, inspirational and intimidating – all at the same time. LaRhonda is big fun.

About the YMCA: The Y is what's good about America. You won't find a more egalitarian place. People of all stripes and shapes and sizes and abilities, young and old, every category of identity you can think of, are all present and accounted for. There's a sense of community there. The Y, like America, has perhaps seen better days. But the Y is what is good about America, and the Y looks like America. It's a cliché, but it's also true.

About Moore: It's a working-class town and the home of Toby Keith – says so on the water tower. The kaleidoscope of smiling, happy faces at Zumba in Moore gives me hope in these divisive times. "Sonder" is a cool new word that describes the epiphany/reminder you get at times that everyone around you cannot be pigeonholed; they are going through their own individual lives that are just as textured and complicated as yours. You can get that sonder feeling at times from the good people of Moore at the Y at Zumba.

Toby Keith was a complicated guy who can't be pigeonholed. He wrote a song called "Don't Let the Old Man In," which one can think about when they find themselves in old-man-yells-at-cloud mode (which can be too often these days). The joy of Zumba is a preventative of that.

What does all this have to do with the law? I don't know. But the great American lawyer Bryan Stevenson once said, "Hopelessness is the enemy of justice." So there's that. So maybe find your Zumba and become a better lawyer? Maybe that's the message.

Mr. Hird practices in Oklahoma City.

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