

ALSO INSIDE: Sovereignty Symposium Highlights  
Board of Governors Vacancies • Oklahoma Tax Legislation

# THE OKLAHOMA BAR Journal

Volume 90 — No. 6 — August 2019

Access  
to  
Justice





THURSDAY,  
SEPTEMBER 26, 2019  
9 A.M. - 2:50 P.M.

Oklahoma Bar Center  
1901 N. Lincoln Blvd.  
Oklahoma City, OK 73106

MCLE 6/0

# DIG INTO OIL AND GAS HOT TOPICS:

Land Titles, Deeds, Heirship,  
Horizontal Drilling, and More!

## Program Planners / Moderators:

Jereme Cowan, Cowan, Hubbert, & Franklin  
Kraettli Epperson, Mee Mee Hoge, & Epperson

## PROGRAM DESCRIPTION:

The oil and gas industry continues to thrive in Oklahoma, creating job opportunities for both landmen and attorneys alike. Recognizing the many careers and legal practices linked to the industry, this seminar covers selected topics in oil and gas land titles. While the topics discussed are intended to be more intermediary or advanced in nature, all professionals, including those new to the industry, will find the information resourceful. Topics include the impact of recent legislation on the recordation of Affidavits of Heirship; a look into the legal effect of reforming deeds; an overview of riparian rights in Oklahoma, particularly the legal consequences of accretion; a general outline of Indian Land Titles; a discussion of possible issues related to LLCs, and a formal discussion on how horizontal drilling is impacting Oklahoma's oil and gas reserves.

**TUITION:** Early registration by September 19, 2019 is \$150 for the program. Registration received after September 19, 2019 will be \$175 and \$200 for walk-ins. Registration includes breakfast. For a \$10 discount, enter coupon code FALL2019 at checkout when registering online for the in-person program. Members license 2 years or less may register for \$75 for the in-person program (late fees apply). All programs may be audited (no materials or CLE credit) for \$50 by emailing ReneeM@okbar.org to register.

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# 2019 LABOR AND EMPLOYMENT LAW UPDATE

Cosponsored by the OBA Labor and Employment Law Section

## Program Planners / Moderators:

Kristin Richards, Hammons, Gowens, Hurst, OKC  
Samanthia Marshall, McAfee & Taft, Tulsa

## PROGRAM DESCRIPTION:

The 2019 OBA Labor & Employment Law Section's annual CLE features esteemed speakers who are specialists in their fields covering important and relevant legal updates. Attendees will receive their ethics credit for the year, and this event serves as a great opportunity for practitioners to network with other attorneys of the labor & employment sector.

**TUITION:** Early-bird registration by September 21 (OKC) and 27th (Tulsa) is \$150. Registrations received after September 21 (OKC) or 27th (Tulsa) is \$175 and walk-ins are \$200. Registration includes continental breakfast and lunch. Registration for the live webcast is \$200. Members licensed 2 years or less may register for \$75 for the in-person program (late fees apply) and \$100 for the webcast. All programs may be audited (no materials or CLE credit) for \$50 by emailing [ReneeM@okbar.org](mailto:ReneeM@okbar.org) to register.

# THE OKLAHOMA BAR Journal

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Editors: Melissa DeLacerda & Jim Calloway

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# Leave a Legacy

By Charles W. Chesnut

**A PERSON WHOM I RESPECTED GREATLY** when I was growing up was a man in town who was very well to do, but you would never have known it by his lifestyle. He lived modestly, was rock solid in character, had a self-effacing sense of humor and was exceedingly generous in his giving to his community, his church and people in need. He never talked about his giving, but later you could sometimes spot his tracks. Most importantly, he always gave sage advice. (Side note: On his bucket list, he told me he had always wanted to fly in the cockpit of a jet plane, ride in a locomotive with an engineer of a train and ride in the cab of a semitrailer. The only one he didn't get to do was ride in the semitrailer. Aren't people interesting?)

He told me once that he didn't understand why people, when they wanted to do good works, didn't do them in their field of training. He thought people could accomplish the most good if they stuck to helping others through areas in which they were specially trained.

I think that most of us enjoy reaching out and aiding others in need. It makes us feel good about ourselves and can be a huge help to others who really need the assistance.

If we adhere to my friend's philosophy, then as attorneys, we can accomplish the most productive results by helping someone resolve a legal issue that requires an attorney's legal skills.

We are all familiar with the term "access to justice." It describes the ability of any person, regardless of income,

to use the legal system to advocate for themselves and their interests. It provides a means of leveling the playing field so that everyone can have their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable. While the civil legal system can be a powerful tool for remedying wrongs, it is also extremely complex and can be difficult to navigate without the help of a trained attorney. For those unable to afford an attorney, access to the court system and the justice it can provide are limited.

Lack of access to an attorney is not the only access to justice issue facing low-income individuals and families. For

those who choose to represent themselves, court costs and filing fees can be a barrier to obtaining justice. It can also be difficult to find information on simple procedural issues, like when and where to file a lawsuit and what rights you have in court.

There are many ways to participate in increasing access to justice. Some attorneys choose to provide pro bono legal services while others feel that working low bono (providing services at a low hourly rate) is right for them.

Nonlitigators can contribute by helping individuals through an administrative law maze, drafting simple legal documents, just giving some quality legal advice or contributing to legal aid.

In Oklahoma, we have "Free Legal Answers," which is an easy and convenient way to provide legal advice to those seeking answers to legal questions and issues.<sup>1</sup>

Talk about leaving a legacy. The people you help will never forget you. Your time and talent will have solved a problem for them that they could never have solved on their own. Often, it really is not that difficult of an issue to solve; it just takes a little of your time and effort. It also sows good seed.

If each of us tried to do just one legal task a year for someone who could use our assistance but cannot afford it, think about all of the good deeds you could look back on in the course of your legal career. The cumulative effect of thousands of us doing that would be immense.

I encourage you to resolve to provide a legal service at least once each year for someone in need at no or low charge. It will build a better you, a better society and a better bar association.



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

President Chesnut practices in Miami.  
charleschesnutlaw@gmail.com  
918-542-1845

#### ENDNOTE

1. To access Free Legal Answers, go to [oklahoma.freelegalanswers.org](http://oklahoma.freelegalanswers.org).



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#### JOURNAL STAFF

JOHN MORRIS WILLIAMS  
Editor-in-Chief  
[johnw@okbar.org](mailto:johnw@okbar.org)

CAROL A. MANNING, Editor  
[carolm@okbar.org](mailto:carolm@okbar.org)

MACKENZIE SCHEER  
Advertising Manager  
[advertising@okbar.org](mailto:advertising@okbar.org)

LAURA STONE  
Communications Specialist  
[lauras@okbar.org](mailto:lauras@okbar.org)

LAURA WOLF  
Communications Specialist  
[lauraew@okbar.org](mailto:lauraew@okbar.org)

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# The Work of the Oklahoma Access to Justice Commission

By M. David Riggs

## “EQUAL JUSTICE UNDER LAW.”

**This inspiring phrase is displayed on our United States Supreme Court building and is a promise which runs throughout our Constitution and other documents and writings of our founders. Historically, our American system of justice has been viewed as a leading model of fairness and efficiency. With rare exceptions, our courts have been remarkably free of outside influence and corruption. Our founding fathers strove to create an independent judiciary and the principal of equal justice under law, but is it a promise we have kept?**

Major barriers to truly equal civil justice have fallen, but only recently have those remaining barriers begun to get the attention they deserve. What are those remaining barriers? To start with, we must acknowledge the inherent unfairness of an adversarial system designed to find the truth where one side is represented by skilled legal counsel and the other is not. Today, as many as 70 percent of civil cases filed involve disputes where one side, sometimes both, cannot afford a lawyer. Most of these cases involve and affect basic human needs such as child welfare and child protection, home foreclosures, debt collection, wage garnishments, repossessions, predatory lending and so forth.

We lawyers have learned to navigate our courts, but for the uninitiated, courthouses often are frightening and confusing places, especially if your family or your home is at risk. People with disabilities such as vision

impairment, hearing loss or cognitive challenges are disadvantaged trying to navigate the legal system – as are those who are not proficient in English. Our court system, with relatively few simple forms and unusually complicated procedures, is often not seen as “user friendly.” This is particularly acute in Oklahoma.

The National Center for Access to Justice is a nonpartisan law and policy organization created to develop a response to this growing problem. It created the *Justice Index* which ranks the various states with respect to access to justice. Oklahoma has not fared well in this *Justice Index*, ranking 50<sup>th</sup> when it was first created six years ago.

## OKLAHOMA ACCESS TO JUSTICE COMMISSION

In response, our Oklahoma Supreme Court established the Oklahoma Access to Justice Commission (commission) on March 13, 2014. In its order

establishing the commission, the court stated that due to “inadequate funding and uncoordinated efforts ... many low-income Oklahomans are unable to receive full representation on civil legal matters.” The court said the commission was created “to serve as the umbrella agency for all efforts to expand access to justice in civil matters in Oklahoma.”

The court appointed seven voting members to the commission, provided for the attorney general to be an exofficio member, and for the governor, speaker of the House and president pro-tempore of the Senate each to appoint a nonvoting member of the commission.

The commission meets regularly and has undertaken several major initiatives to address the problems which caused Oklahoma to be ranked so poorly in access to justice.

Some of the more notable steps taken by the commission to improve access to justice in Oklahoma include: 1) implementing a

statewide needs assessment survey to measure and better define the greatest needs of Oklahoma's unrepresented litigants; 2) launching OklahomaFreeLegalAnswers.org, a statewide interactive website empowering volunteer lawyers to provide essential legal information to needy Oklahomans; 3) facilitating a change in court rules (District Court Rule 33) allowing lawyers to provide limited scope services to clients who would otherwise be unrepresented altogether; 4) preparing and securing adoption of licensed legal intern rule changes to facilitate greater participation in the program; 5) assisting in securing funding for certification and training of qualified courtroom interpreters; 6) facilitating our first Oklahoma Access to Justice Summit, an event which inspired and informed many Oklahoma lawyers; and 7) supporting and assisting Legal Aid Services of Oklahoma in its development of a single portal triage website for Oklahomans facing legal challenges.

Because the court has focused the attention of many of Oklahoma's lawyers and judges on the access to justice challenge, and because of steps taken by the Access to Justice Commission to address the problem, the most recent *Justice Index* now ranks Oklahoma 42<sup>nd</sup> in the nation – but more work remains.

## OKLAHOMA LAWYERS CAN HELP IMPROVE ACCESS TO JUSTICE

There are many ways you, as an Oklahoma lawyer, can help the commission in its work and help your fellow citizens.

1) You can provide financial support. The newly created Access to Justice Foundation can receive tax-deductible financial contributions to improve access to justice. The commission has no funding sources other than voluntary contributions by people and organizations who share the commission's commitment to equal justice. The commission's website [okaccesstojustice.org](http://okaccesstojustice.org) has a link to the foundation's online donation page. All lawyers who work in our justice system should be willing to financially support the work of the commission. You may soon receive a letter from the Access to Justice Foundation asking for your financial support. Please do what you can individually and urge your firm to give priority to the access to justice cause in its charitable giving.

2) You can donate your time by answering legal questions for needy Oklahomans. OklahomaFreeLegalAnswers.org provides a unique opportunity – Oklahoma lawyers can register with the site to anonymously answer simple legal questions from fellow Oklahomans. Just click the "Volunteer Attorney Registration" tab. It is a relatively simple way to donate your time on a limited basis. You decide which questions you want to answer – nothing is assigned to you. You provide these answers only when your schedule permits. The more volunteers we have, the more our volunteer time commitment is shared.

3) Volunteer to serve on the Oklahoma Bar Association Access to Justice Committee. This committee often does research or legwork to assist the commission with its projects. It can also make recommendations to the OBA Board of Governors. In 2018, this committee was awarded the OBA Golden Gavel Award, which is presented to an OBA committee or section performing with a high degree of excellence.

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OklahomaFreeLegalAnswers.org provides a unique opportunity – Oklahoma lawyers can register with the site to anonymously answer simple legal questions from fellow Oklahomans.



- 4) Share information. Not every lawyer you know will take the time to read this article. You can engage them to improve their awareness of our state's challenges and access to justice ranking. The OBA Management Assistance Program will provide a speaker for a limited scope service CLE program for your county bar association.
- 5) Act locally. A county bar association may be able to work with county officials on minor improvements that make a huge difference when a citizen enters an imposing courthouse for the first time and is confused about where to go. We are starting to experiment with volunteer courthouse navigators as one possible solution.
- 6) Volunteer your services. Lawyers have a rich tradition of pro bono support representing the needy. If you do not know the best way to determine who is deserving, Legal Aid Services of Oklahoma will pre-screen individuals for you. The Oklahoma Lawyers for America's Heroes Program is always looking for volunteers to assist those who have honorably served this country and cannot afford to hire an attorney. Sign up to volunteer at [okbarheroes.org](http://okbarheroes.org).

### CONCLUSION

I am proud to be an Oklahoma lawyer. I know many of our lawyers already donate a lot of their time to assisting the underserved. Serving as the first chairman of the Oklahoma Access to Justice

Commission has opened my eyes to the improvements that must be made before all of our citizens may truly have access to "Equal Justice Under Law." Please join the effort we should all make to meet this challenge.

---

### ABOUT THE AUTHOR

David Riggs is the senior partner of Riggs, Abney, Neal, Turpen, Orbison & Lewis, which has offices in Tulsa, Oklahoma City and Denver. He was appointed to the Access to Justice Commission by the Supreme Court when it established the commission in 2014 and was chosen to serve as its first chair.



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# The Oklahoma County Courthouse Access Clinic

*By Sara Murphy Bondurant*





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**A**S THE DIRECTOR OF THE OKLAHOMA COUNTY COURTHOUSE ACCESS CLINIC, I routinely witness the desperation of people walking the halls seeking legal help. It is common for a pro se litigant to wander the courthouse hallways asking for help from anyone that “looks” like a lawyer. These brave souls go from clerks and bailiffs to the law library trying to solicit any legal advice while being turned away with only a packet of paperwork often with outdated instructions. If the litigant even makes it to the courtroom, more often than not they leave with no resolution to their matter.

After arguments and pleas of the litigants for the judge to alter the legal requirements of which they do not understand, judges often provide the time-honored request – “hire a lawyer.” Most often, as attorneys, we think this is the obvious answer – for the pro se to hire a lawyer. This assumption that a litigant refused or forgot to hire a lawyer and now can quickly remedy this error is an apparent oversight to the much larger problem they are facing.

The majority of these litigants either cannot afford an attorney or cannot wait months for a pro bono volunteer attorney. Their matters are urgent and life-altering. They are so desperate for help that they are willing to attempt navigation of a system designed for them to fail. Once they do fail, the message of inequality sent to these litigants makes them frustrated, angry and disillusioned with our legal system. The judicial system is full of barriers which disproportionately harm those without means.

As a legal community, we have a responsibility to ensure access to the courts to litigants like these. We can and should do better.<sup>1</sup>

### CHALLENGES WITH CIVIL ACCESS TO JUSTICE

#### *In the United States*

Before discussing the pro se clinic, some context is necessary. The United States has one of the highest numbers of lawyers *per capita* in the world, yet in 2019 it ranked 99 of 126 countries in the category of providing accessible and affordable civil access to the judicial system.<sup>2</sup> In the measure of countries, the United States has fallen 30 spots since its 2015 ranking in this category.<sup>3</sup> Not only is the court system designed to be inaccessible and unaffordable to the average low income individual, but a lack of education exists among the underserved populations which would create a remedy to the legal services gap.

A commonplace solution has been to provide limited legal assistance through not-for-profit programs such as Legal Aid.<sup>4</sup> These programs have become the primary source of services to aid in the service gap to the poor. However, these pro bono clinics have barely scratched the surface in the unmet need for legal services among the poor. The gap is consistently growing, and clinics are unable to meet the needs of the poor. Legal Services Corporation published studies in 2005 and 2009 finding over 50 percent of individuals requesting legal aid services did not receive aid due to insufficient resources.<sup>5</sup> In 2016, the number rose to 86 percent with 71 percent of low-income households experiencing at least one civil legal issue that year.<sup>6</sup>

#### *In Oklahoma*

Oklahoma has mostly the same challenges with civil access to justice as the other states across the nation. Yet, Oklahoma has been slow to tackle the issues due

to lack of funding. The Oklahoma Supreme Court has taken a keen and timely interest in civil access to justice. In a 1990 landmark case for Oklahoma,<sup>7</sup> the court indicated that the Oklahoma Constitution affords due process to indigent individuals in civil litigation matters.

Twenty-four years later in 2014, the Oklahoma Supreme Court established the Oklahoma Access to Justice Commission that was designed to develop and implement policies to expand civil legal services to low-income individuals. A commission website<sup>8</sup> was developed which provides information on legal aid in Oklahoma. The mission of the commission is to study successful clinics across the country and implement effective programs in Oklahoma.<sup>9</sup> Primarily, the commission is seeking programs that use inactive, retired or attorneys licensed in different states to serve as pro bono attorneys.<sup>10</sup> The significant challenges for Oklahoma for access to justice are lack of resources and lack of qualified volunteers.

### THE CLINIC

To combat these challenges and complexities of navigating the courthouse, attorneys in Oklahoma County created the Oklahoma County Courthouse Access Clinic (OCCAC)<sup>11</sup> on Feb. 1, 2019. OCCAC is the first of its kind incubator project in the largest county in Oklahoma. The legal volunteers assist with minor guardianships, adult guardianships and probates.<sup>12</sup>

The distinction between other legal aid clinics and OCCAC is that OCCAC is permanently housed inside the courthouse where clients have daily, immediate access to attorneys and law student volunteers on a first-come, first-served basis. Attorney and law student volunteers have assembled to combat a growing gridlock occurring in the probate and guardianship docket. Due to complexities in the law such as the requirement for three separate background checks for adult members of a household for a minor guardianship proceeding<sup>13</sup> or the Department of Human Services (DHS) referral of families to obtain a guardianship in order to divert children from DHS custody, pro se litigants are often confused and unprepared for their hearing dates. To complicate this situation further, with online and paralegal services, pro se litigants are given a false sense of the “user friendliness” of the legal system.

OCCAC’s purpose is to ensure civil access to Oklahoma County residents and those with current cases in the Oklahoma County District Court involving minor and adult guardianships and probates. Attorneys and law students who participate in the pro se clinic are given an instructional manual created by OCCAC. The manual includes detailed instructions concerning pro se filing requirements for adult guardianship, minor guardianship and probate matters.<sup>14</sup>

The clinic utilizes multiple resources including self-help

services, pro bono programs and technical tools to assist individuals unrepresented by legal counsel. In its first three months of providing services, OCCAC volunteers assisted 114 families.<sup>15</sup>

### *Income Qualifications*

Initially, the OCCAC clinic did not have rigid income qualification requirements for adult and minor guardianship clients.<sup>16</sup> The board’s reason was that if the pro se litigant was already attempting to navigate the courthouse without representation, legal advice from a clinician would streamline the process and allow for less congestion in the courtroom. During the first months of the clinic, it became apparent while mostly utilized by client’s without means to retain an attorney, the occasional prospect attempted to circumvent the need to hire an attorney while having the means to do so. The OCCAC board determined that an income requirement was necessary for all aspects of the clinic in order to preserve the delicate balance between pro se assistance and the attorney franchise.

### *Court Advisor Program*

If a client is unrepresented in an uncontested matter and in need of legal guidance in an adult guardianship, minor guardianship or probate matter in Oklahoma County, he or she may seek the assistance of a court advisor housed in the courthouse.<sup>17</sup> Attorneys with experience in these areas are available during a three-hour shift. Most attorneys volunteer one or two shifts per month in order to limit volunteer fatigue rates. The attorney answers questions, assists with pleadings, provides legal advice, and may even appear pro bono on behalf of the individual. The attorney volunteer has complete discretion regarding courtroom appearance when the attorney deems the appearance

2019	Minor Guardianship	Probate	Adult Guardianship	Total
February	22	3	8	33
March	28	5	8	41
April	26	4	10	40
May	23	6	5	34
June	22	3	7	32
<b>Total</b>				<b>180</b>



appropriate. Each of the attorney volunteers is provided training with the possibility of MCLE credit.

#### *Court Navigator Program*

Under OCCAC supervising attorneys, the Court Navigator Program was created to support and assist unrepresented litigants. Specially trained and supervised nonlawyers called “court navigators” provide general information, written materials and one-on-one assistance. Also, court navigators provide moral support to litigants, help them access and complete forms, assist them with keeping paperwork in order, help them access interpreters and other services including explaining what to expect and the roles of each person in the courtroom. Court navigators are also permitted to accompany unrepresented litigants into the courtroom in Oklahoma County. While these court navigators cannot address the court on his or her own, they can respond to factual questions asked by the judge. Each court navigator is required to attend at least three separate shifts with a licensed lawyer before assisting clients alone. The OCU School of Law recently granted an externship opportunity for its law students to volunteer as court navigators at the clinic while gaining course credit at the law school.

#### *Judge Pro Tem*

Modeled after a successful program in California, the *judge pro tem* (judge for a day) aspect of the clinic allows attorneys to review filing requirements for certain matters and report to the judge whether the requirements have been met. Due to the voluminous cases requiring accountings in Oklahoma County, it is nearly impossible for each judge to track, review and respond

to each party not meeting the accounting requirements required by statute in both adult and minor guardianship cases. Under this program, attorneys would be allowed access to courthouse cases biannually and provide notifications to the appropriate judge of those cases not meeting statutory requirements.

represents herself or himself in all other aspects but can receive legal representation on a limited basis.

The purpose behind these types of agreements is to lower attorney costs for the client while limiting malpractice exposure for the attorney. OCCAC clients are required to sign a limited scope services agreement before receiving clinic

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Limited scope agreements allow an attorney to provide piecemeal services in a legal matter rather than requiring a traditional, full-service representation agreement utilized by lawyers.

#### *OCCAC Awareness Program*

OCCAC volunteers provide education to attorneys, courthouse staff and the public about the clinic and its services. Courthouse staff training is essential so individuals may be identified and properly referred to the clinic. Community education is the means to empower litigants. The more education provided to community members the higher the demand will be for appropriate legal services.

#### *Limited Service Agreements*

Rule 33 of the Rules for the District Courts of Oklahoma authorizes limited scope services agreements. Limited scope agreements allow an attorney to provide piecemeal services in a legal matter rather than requiring a traditional, full-service representation agreement utilized by lawyers. Types of services could include legal advice, document preparation or single courtroom appearances. The client

services. This agreement delineates what legal services are to be provided by the clinic and notes the clinic’s lack of responsibility for failures of the case outside of the clinic’s purview. When the clinician deems a matter too complex or contested, he or she will refer the client to a legal aid service that will be better able to meet his or her needs. Comment 7 to Oklahoma Rule of Professional Conduct 1.2 states the limited representation must be “reasonable under the circumstances.”<sup>18</sup> The clinician has a time limitation goal of 20 minutes per client; therefore, complex and contested matters are not appropriate for the clinic at this time.<sup>19</sup>

#### *Further Considerations*

Reports of the success of legal aid clinics should be viewed with a skeptic’s lens. Simply providing legal volunteers to answer questions and provide basic pleadings is based on a failed patchwork

system.<sup>20</sup> While legal aid clinics are intended to supplement the gap of inequality in the judicial system, these pro se clinics can also be viewed as imposing self-representation with minor legal assistance on poor people. In order to empower pro se litigants, we must not only provide services, but we must educate and nurture access to the courthouse. Furthermore, pro se clinics alone are not the appropriate response to the Sixth Amendment right to equal protection under the law. Greater emphasis must be placed on streamlining pleading processes, simplifying statutory requirements and eliminating vagaries in the judicial system.

Uniform and simple fill-in-the-blank forms must be created. Judges should be educated about the barriers caused by unnecessary continuances and appearances. They should also be free to provide instruction about resources available to pro se litigants and what information is necessary for the judge to make a decision. Attorneys should not be satisfied with limiting the discussion of access to pro se clinics. Instead, the legal community must commit to creating a holistic, user-friendly system that accommodates all levels of litigants.

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## ABOUT THE AUTHOR

Sara Murphy Bondurant is a senior attorney at Graft & Walraven PLLC in Oklahoma City and Clinton. Her practice focuses on estate planning, elder law, tax planning, probates and adult guardianships. Ms. Murphy Bondurant received her J.D. from the OU College of Law. She is a member of the OBA Access to Justice Section and Estate Planning, Probate and Trust Section. She has received the OBA Outstanding Pro Bono Service Award, Oklahoma Lawyers for Children Outstanding Attorney

Volunteer, *Journal Record* 50 Most Influential Women in Oklahoma recognition and OCBA Leadership in the Law Award.

## ENDNOTES

1. OCCAC would like to recognize and thank Judge Richard Kirby and Judge Allen Welch in their innovation and support for civil access to justice. Both judges recognize the barriers within their courtrooms and have taken a proactive approach in implementing various programs designed to alleviate the legal services delivery gap.
2. "U.S. Rank On Access To Civil Justice In Rule Of Law Index Drops To 94th Out Of 113 Countries," *National Coalition for a Civil Right To Counsel* (Oct. 27, 2016), [civilrighttocounsel.org/major\\_developments/217](http://civilrighttocounsel.org/major_developments/217); See Agrast Et Al., "The World Justice Project," *Rule Of Law Index 175* (2016).
3. *Id.*
4. By an act of Congress in 1974, Legal Services Corporation was created to provide a national program to provide legal services to the poor. See Pub. L. No. 93-355, 88 Stat. 378 (1974) (codified as amended at 42 U.S.C. §2996 (1994)).
5. "Documenting the Justice Gap In America: The Current Unmet Civil Legal Needs of Low-Income Americans," *Legal Services Corporation*, September 2005 (Updated June 2007 and September 2009), [www.lsc.gov/sites/default/files/LSC/images/justicegap.pdf](http://www.lsc.gov/sites/default/files/LSC/images/justicegap.pdf) and [www.lsc.gov/sites/default/files/LSC/pdfs/documenting\\_the\\_justice\\_gap\\_in\\_america\\_2009.pdf](http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf).
6. "The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans," *Executive Summary*, Legal Services Corporation, June 2017, [www.lsc.gov/sites/default/files/images/TheJusticeGap-ExecutiveSummary.pdf](http://www.lsc.gov/sites/default/files/images/TheJusticeGap-ExecutiveSummary.pdf).
7. *In re*: D.D.F., 801 P.2d 703, 706 (Okla. 1990), the Oklahoma Supreme Court held that the rights at issue in a termination of parental rights case were fundamental to the family unit and protected by the due process clause of the Oklahoma Constitution, Art. 2, §7.
8. Oklahoma Access To Justice Commission [sites.google.com/utulsa.edu/okaccesstojustice/home](https://sites.google.com/utulsa.edu/okaccesstojustice/home).
9. Kyle Schwab, "Oklahoma Access to Justice Commission looking at new ways to provide free legal help to the poor," *The Oklahoman*, Jan. 29, 2018, [oklahoman.com/article/5581221/oklahoma-access-to-justice-commission-looking-at-new-ways-to-provide-free-legal-help-to-the-poor](http://oklahoman.com/article/5581221/oklahoma-access-to-justice-commission-looking-at-new-ways-to-provide-free-legal-help-to-the-poor).
10. *Id.*
11. The OCCAC clinic can easily be replicated in other counties to assist with pro se litigants. To discuss starting a clinic in your county please contact the author.
12. Probate clients must receive a referral from an Oklahoma County probate judge to be eligible for OCCAC services. This referral system is designed to prevent nonincome eligible applicants from wrongfully utilizing OCCAC volunteer services.
13. 30 O.S. §2-101 (OSCN 2019).
14. The OCCAC instructors deliver the manual to all attorney and law student volunteers. Additionally, volunteers are asked to attend an orientation in which the manual is discussed. The manual has been approved by both judges assigned to the probate docket in Oklahoma County. The manual includes sample pleadings that are distributed by the Oklahoma County Court Clerk's Office and the Oklahoma County Law Library.
15. Assistance includes in-office assistance and email assistance.

16. Due to the inherent nature of probates containing assets in which to retain an attorney, all probate clients have required a referral from one of the two Oklahoma County probate judges since the clinic's inception.

17. This is true assuming the client meets strict income and asset requirements of the OCCAC.

18. 5 O.S. §1 Rule 1.2 – Scope of Representation and Allocation of Authority Between Client and Lawyer.

19. OCCAC has developed a referral source of pro bono and low bono attorneys willing to accept referrals from the clinic.

20. According to *The Justice Index 2016*, there are 6,953 civil legal aid lawyers in the nation out of 1.3 million lawyers. This translates to 0.64 civil legal aid attorneys for every 10,000 Americans living 200 percent below the federal poverty line. This is an unsustainable system. "Measuring Access to Justice (2016)," [justiceindex.org](http://justiceindex.org).





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# Certified Courtroom Interpreters

## A Quick Guide to Oklahoma's Program

By Debra Charles

**T**HE LANGUAGE USED IN THE COURTROOM can be confusing and difficult to understand, and ordinary words or phrases often have unexpected meanings. Lawyers often use a unique combination of legalese, acronyms, idioms and sports metaphors. For persons who are limited English proficient (LEP), having meaningful language access during their day in court can be challenging.

Qualified interpreters play an essential role in ensuring equal access to justice and helping court proceedings function efficiently and effectively.<sup>1</sup> To further this important goal, the Oklahoma Supreme Court has approved a credentialing program for interpreters in the Oklahoma courts.<sup>2</sup> Like attorneys, credentialed court interpreters have proven their skills through testing and training, are required to comply with continuing education and are bound by ethical standards. This article discusses a few important areas for lawyers who might encounter these interpreters in the courtroom: credentialing levels, modes of interpreting and interpreter ethics rules.

### CREDENTIALING LEVELS – REGISTERED AND CERTIFIED INTERPRETERS

Two levels of courtroom interpreter credential for spoken languages are recognized in the Oklahoma courts. “Certified courtroom interpreters” hold the highest level of credential, and “registered courtroom interpreters” hold the

second highest level of credential. The process is cumulative – a candidate must first become registered, and then he or she may apply to take the examination to become fully certified. The Oklahoma program utilizes nationally recognized standards for training and examination.<sup>3</sup>

Courtroom interpreting credentials are not easy to obtain. As with official court reporters, these language professionals are making the official record for the court. It takes more than just being bilingual to qualify. The first step is to become a registered courtroom interpreter. To do so, the candidate must:

- 1) Attend an intensive Oklahoma two-day orientation training program;
- 2) Pass a written English examination to verify adequate proficiency and understanding (including legal terminology and interpreter ethics); and
- 3) Pass a basic proficiency examination in the foreign language of expertise.

All candidates must also pass a background check and must be U.S. citizens or qualified to work in the United States. There are currently 62 registered courtroom interpreters on the Oklahoma registry.<sup>4</sup>

The second level of credential is a fully certified courtroom interpreter. This is the “gold standard” and is widely recognized in most state court systems. While registered interpreters have demonstrated a basic level of proficiency, certification as a court interpreter indicates the highest skill level and establishes the interpreter’s competence as a language professional to accurately perform in all three modes of interpreting.

The certification exam is challenging, even for individuals who are highly proficient in both languages. Multiple cognitive functions are involved when an interpreter listens, comprehends, decodes and produces the interpretation with the required speed and accuracy. Practice is necessary for a candidate to develop the skills needed to perform well in all modes of interpreting. Similar to the certified



shorthand reporter exam process, many candidates require more than one attempt before passing the certification exam.

In Oklahoma, the oral examination to become a certified courtroom interpreter is administered by the Administrative Office of the Courts twice a year. There are currently eight certified courtroom interpreters on the Oklahoma registry.<sup>5</sup>

#### **MODES OF INTERPRETING**

Three modes of interpreting are recognized in the court interpreting profession and have been adopted in federal and state courts: simultaneous interpreting, consecutive interpreting and sight translation of documents.<sup>6</sup> Each mode fits particular needs and circumstances in the courtroom. Court interpreters will switch between these modes during a proceeding as needed.

For lawyers attempting to work with interpreters in the courtroom, understanding the three modes of interpreting is essential.

#### *Simultaneous Mode*

Simultaneous interpreting occurs when the non-English speaker is not actively a part of the conversation. This mode (sometimes called whisper mode) is used whenever the LEP person (usually the defendant) is passively listening to other speakers, such as during witness testimony, statements from the judge or arguments of counsel. If someone is speaking during that LEP person's day in court, then the interpreter should be quietly interpreting in "whisper mode" so the defendant hears what is going on. During this mode, the interpreter is not heard by others in the courtroom.

#### *Consecutive Mode*

Consecutive mode occurs when the LEP person is playing an active role in the conversation and must speak or respond during examination, cross-examination or to the judge. During consecutive mode, the interpreter listens while the speaker completes a question or answer and then converts what was said into the target language. There is a pause after each question and each answer to allow the interpretation to go back and forth, between English and the foreign language, depending on who is speaking. During consecutive mode, the interpreter is heard by other participants in the courtroom, and the interpretation into English becomes part of the court record.



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The primary goal for court interpreters is accuracy and completeness – to preserve the language level, register, style and meaning of the speaker as precisely as possible.

#### *Sight Translation of Documents*

The third mode is sight translation. Certified courtroom interpreters are tested for their ability to read a document written in one language while translating it orally into the target language. “Live” sight translation in court is appropriate only for short documents (one or two pages), such as an affidavit, medical record, police report, foreign birth certificate, etc. Interpreters are trained to ask for a few minutes to quietly read the document before attempting to do a sight translation. Judges and lawyers are encouraged to allow the interpreter a few minutes to do so. For lengthy documents, such as articles or transcripts, the process will be much more accurate and efficient if the translation is completed prior to the live court proceeding.

#### **ETHICS RULES FOR INTERPRETERS**

The Oklahoma Supreme Court has adopted the nationally recognized ethics code which governs courtroom interpreters.<sup>7</sup> For lawyers and judges, understanding some of these key concepts is important when working with courtroom interpreters.

Courtroom interpreting is very different from interpreting in other settings. In medical or classroom

settings, skilled interpreters routinely summarize, simplify, embellish, rephrase and explain in order to convey the necessary information between the parties. However, in the courtroom, the opposite is true. The primary goal for court interpreters is accuracy and completeness – to preserve the language level, register, style and meaning of the speaker as precisely as possible. Rule 3 of the Code of Professional Responsibility for Interpreters mandates that “Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.”<sup>8</sup>

The mandate for completeness means that everything should be interpreted for an LEP defendant, including arguments of counsel, testimony of witnesses and statements of the court. Even when the defendant is not actually responding to questions, meaningful language access occurs when everything that happens at the proceeding is interpreted for the LEP litigant. Interpreters should never be instructed to “stop interpreting” during the proceeding if the LEP person is a party.

Courtroom interpreters must not summarize, embellish or

paraphrase anything. If the witness uses poor grammar, crude language or profanity, the interpretation should convey that same content and register. Interpreters should not be admonished for being the conduit for such utterances, as their rules and training prohibit them from censoring or cleaning up the speaker’s language.

The rules require interpreters to preserve the same level of speech being used by the speaker. In court, the interpreter must take care not to make a defendant or witness sound more educated, confident or sophisticated than their own words convey. It is important not to blame the interpreter, even if the interpretation contains fragmented or incoherent statements or improper grammar. Similarly, if the judge or attorney is using sophisticated language, the interpreter should use that same high level in the target language.

Many idiomatic expressions often used by lawyers have actual meanings very different from the literal interpretation and can cause major confusion. To be accurate, interpreters often must figure out the linguistic equivalent for a statement or concept. Some examples include turn a blind eye, take the law into your own hands, par for the course, null and void, fine print, chip on his shoulder, slap on the wrist, down to the wire and throw in the towel. Qualified courtroom interpreters are trained that verbatim “word-for-word” interpreting is not appropriate if it distorts the actual meaning. If there is no equivalent, the judge may need to instruct the attorney to rephrase the question.

Another important ethical rule governs scope of practice.<sup>9</sup> The rule provides that “Interpreters shall limit themselves to interpreting or translating and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other

activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.”

When LEP defendants finally meet their court interpreter, the interpreter may seem like a superhero – finally, someone who speaks their language has arrived! This can lead to a barrage of questions about the case, the judge, the plea forms, the prosecutor or the penalty for the offense being charged. However, the interpreter is permitted to convey legal advice *only while an attorney is actually giving it*. Courtroom interpreters are trained to avoid meeting with defendants without the attorney being present. Interpreters should not be asked to independently assist with preparation of forms or explain court procedure. Judges and lawyers are encouraged to protect interpreters from being placed into such positions.

During the actual proceeding, the LEP person might not understand what is going on or what is being asked. The scope-of-practice rules prevent interpreters from having an independent dialogue with the LEP person to explain what someone meant or to rephrase questions. Instead, the courtroom interpreter should simply act as a conduit – interpreting the LEP person’s questions or confused responses into English and allowing the attorney or the judge to clarify, rephrase or add more explanation for the LEP person to understand.

### CERTIFIED SIGN LANGUAGE INTERPRETERS

Oklahoma’s program also includes certified sign language interpreters. Although their credentialing process is somewhat different from spoken language interpreters, Oklahoma’s certified sign language interpreters have also satisfied rigorous requirements. Like the foreign-language

interpreters, they have demonstrated their abilities through testing and training, they are bound by the ethics rules and they must comply with continuing education requirements. A certified sign language interpreter whose registration is current is eligible to serve as a “qualified legal interpreter” pursuant to the Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act.<sup>10</sup> There are currently 10 certified sign language interpreters on the Oklahoma registry.

### TIPS FOR LAWYERS WORKING WITH COURTROOM INTERPRETERS

Oklahoma’s district courts are not funded for staff interpreter positions, and the courtroom interpreters on the registries are not court employees – they are freelance professionals. Interpreter scheduling for court proceedings is handled *by the local district court* or by the lawyers in the case (not the Administrative Office of the Courts). While the pool of credentialed interpreters continues to grow, it is not always feasible to secure a registered or certified interpreter for every proceeding.<sup>11</sup> Moreover, budget shortfalls limit the ability of the district courts to pay the costs for interpreter services in many instances.

Some practical tips for working with an interpreter in the courtroom:

- Position interpreters where they can see the participants and hear what is being said, including arguments of counsel at the bench.
- Speak clearly and slowly, and avoid talking over other speakers.
- Allow pauses for interpretation during long questions or answers. Many witnesses forget to pause, and interpreters cannot retain detailed lengthy narratives.

- Speak directly to the party or witness, not to the interpreter. Do not tell the interpreter to “ask him...” or “ask her...”
- Construct questions using straightforward language. If possible, avoid double negatives or compound sentences.
- Be mindful of interpreter fatigue and allow for breaks if the proceeding is lengthy.
- Interpreters are not immune to mistakes, slips of the tongue or memory lapses. Errors should be corrected as soon as possible, hopefully without causing undue embarrassment to the interpreter. If you believe the interpreter misunderstood the question or answer, or made a mistake, the best solution is to immediately follow up with a rephrased question.
- Allow the interpreter to converse briefly with the non-English speaker to ensure understanding of accents, dialect or pronunciation differences.
- Don’t ask the interpreter to independently explain or rephrase anything said by the LEP person. Instead, clarify by asking the LEP person questions *through* the interpreter.
- If possible, allow the interpreter to review helpful exhibits or pleadings prior to the hearing, to become familiar with names, dates and technical vocabulary. Distribute copies of jury instructions, plea forms, etc. to the interpreter.
- Don’t expect literal word-for-word interpretations. Interpreters convey the *meanings* of words and phrases, which is often different from the literal

translation. Be mindful of idioms, metaphors and sports-based expressions, which can be very confusing for non-English speakers.

- Interpreters are not attorneys. They can interpret questions and answers, but interpreters should not be asked to perform attorney-type work or explain legal forms to LEP persons.

## CONCLUSION

The Oklahoma Supreme Court's Interpreter Program is still relatively new, but a growing group of qualified professionals is emerging to provide language access in the district courts. These registered and certified interpreters have worked hard to earn their credential. As freelancers, many of them provide additional interpreting services and would be eager to provide language services for you – inside or outside of the courtroom. If you are in need of a qualified interpreter, please remember to check the registries on OSCN.

## ABOUT THE AUTHOR

Debra Charles is general counsel for the Administrative Office of the Courts and also directs the Supreme Court's Language Access/Certified Courtroom Interpreter Program. She works closely with the state boards of examiners for Oklahoma court reporters and court interpreters. She is a graduate of the OU College of Law.

## ENDNOTES

1. The Preamble to the Code of Professional Responsibility for Interpreters, at Rule 1, Title 20, Chap 23, App I, states:

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency or a speech or hearing impairment. It is essential that the resulting communication barrier be removed, as far as possible, so that these persons are placed in the same position as similarly situated persons for whom there is no such barrier. As

officers of the court, interpreters help ensure that such persons may enjoy equal access to justice, and that court proceedings and court support services function efficiently and effectively. Interpreters are highly skilled professionals who fulfill an essential role in the administration of justice.

2. The Supreme Court has approved detailed rules related to courtroom interpreting in the Oklahoma courts. The Code of Professional Responsibility for Courtroom Interpreters in the Oklahoma Courts is set forth at Title 20, Chap 23, App I. The interpreter credentialing and continuing education process is set forth in the Rules of the State Board of Examiners of Certified Courtroom Interpreters. Title 20, Chap 23, App II. Rules governing disciplinary proceedings are set forth at Title 20, Chap 23, App III.

The State Board of Examiners of Certified Courtroom Interpreters provides oversight of the interpreter credentialing and disciplinary program, with subject matter expertise, exam proctoring and program administration provided by the Administrative Office of the Courts professional staff. The board is created by statute, and its actions are supervised by the Supreme Court and subject to approval by the court. See 20 O.S. §1701, *et seq.*

3. The court interpreter credentialing process developed by the National Center for State Courts (NCSC) is widely recognized as the industry standard for certification of courtroom interpreters. Like most states, Oklahoma uses these nationally recognized standards and the NCSC examinations for its courtroom interpreter credentialing.

4. The registries of courtroom interpreters are posted on the Certified Courtroom Interpreters page of the Oklahoma State Courts Network, [www.OSCN.net](http://www.OSCN.net) (go to Programs > Certified Courtroom Interpreters).

5. There is also a registry for "provisional status" interpreters. This level of credential is no longer available in languages where fully registered and/or certified interpreters are credentialed in Oklahoma. The provisional process is intended for interpreters speaking more exotic languages to have their names listed for possible use in the courts. A provisional interpreter has not achieved certification or registration but has met certain minimum verified requirements. Provisional interpreters do not possess an official certification and have not achieved the higher levels of training and qualifications required of registered and certified interpreters. See Rule 2, Title 20, Chap 23, App. II.

6. The certification process requires oral examinations testing the interpreter's skills in all three modes of interpreting. See Rules 4 and 11 of the Rules of the State Board of Examiners of Certified Courtroom Interpreters, Title 20, Chap 23, App II.

7. Code of Professional Responsibility for Courtroom Interpreters, Title 20, Chap 23, App I.

8. *Id.* Rule 3.

9. *Id.* Rule 9.

10. 63 O.S. §2407, *et seq.* and Rule 12, Title 20, Chap 23, App I.

11. It can be challenging to obtain a qualified interpreter in a timely manner. This issue has long been addressed in 20 O.S. §1710. This year, SB489 amends §1710, to become effective Nov. 1, 2019. The new version of §1710 states:

In district court proceedings, the court shall endeavor to obtain the services of a courtroom interpreter with the highest available level of credential prior to accepting services of an interpreter with lesser credential and skill. Certified courtroom interpreters have the highest recognized

level of credential in this state, and registered courtroom interpreters have the next highest level. When good cause is shown and the court has determined that it would not be practical, within a reasonable time frame, to secure the services of an individual certified under Sections 1701 through 1710 of this title, the court may utilize the services of a registered courtroom interpreter. When good cause is shown and the court has determined that it would not be practical, within a reasonable time frame, to secure the services of a registered courtroom interpreter, the court may utilize the services of a provisional interpreter or other person who does not hold a certified or registered credential. If the Board establishes additional levels of qualified interpreters, the court shall follow the recognized hierarchy of credential when endeavoring to obtain interpreter services. For purposes of this section, "good cause" means that due to the nature of the hearing, and time being of the essence, the securing of a certified or registered interpreter would not be possible due to the time, distance, or availability of a certified or registered interpreter. The court shall make a specific finding as to the good cause for the emergency circumstances. In addition, the non-credentialed person shall have reasonably demonstrated to the court and the parties such person's proficiency for the purposes of that hearing. It is also mandatory that the proceedings are audio taped, and in the event of deaf or hard of hearing individuals, audio and video taped. The recording shall be labeled and remain an official part of the record.

Also, Rule 16, Title 20, Chap 23, App II states, in part:

- c) The court shall endeavor to obtain the services of a courtroom interpreter with the highest available level of credential prior to accepting services of an interpreter with lesser certification and skill.
- d) As provided in 20 O.S. §1710, when good cause is shown and the court has determined that it would not be practical, within a reasonable time frame, to secure the services of a Registered or Certified Interpreter, the court may utilize the services of a Provisional Interpreter or other person who does not hold a Registered or Certified credential. Whenever possible, any court proceeding interpreted by a Provisional Interpreter, Registered Interpreter, or other person who is not enrolled as a Certified Interpreter shall be audio recorded and the recording shall be made an official part of the record as required by 20 O.S. §1710 and Supreme Court Rule 1.410.



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# Addressing the Court Reporter Crisis in Oklahoma

By Shelley Phillips and Debra Charles

**THERE IS A CRISIS IN THE COURTROOM** and it does not involve the litigants. You may have experienced it yourself. A significant shortage of official court reporters is impacting the judicial system across the state. Many district courts are attempting to manage very busy dockets while being forced to share a dwindling number of court reporters. This article examines some of the factors driving this crisis, and the efforts being made to reverse this trend.

A court reporter has the important role of protecting and preserving evidence and testimony and delivering an accurate record of the events in a legal proceeding. In Oklahoma, all court reporters must be certified by the State Board of Examiners of Certified Shorthand Reporters and approved by the Supreme Court of Oklahoma.<sup>1</sup> The standards are high, as the profession requires significant levels of skill and technical expertise.

To become certified, a candidate must pass a challenging, two-part exam. Part 1 is a two-pronged skills test consisting of a timed question-and-answer segment presented at 200 words per minute and a jury charge/literary segment presented at 180 words per minute.<sup>2</sup> The candidate must score at least 95 percent on these skills tests. Part 2 is the Oklahoma Written Knowledge Test, which covers law, court rules and procedures. The credentialing standards are rigorous because the court reporters play a vital role in the litigation process. They are the guardians of the record – in other words, the guardian of your case.

## WHAT IS HAPPENING TO THE COURT REPORTERS?

Several factors have contributed to the shortage of court reporters in Oklahoma, including lower salaries, fewer accredited schools, uncertainty of professional advancement and retirement. Compared to some other states, Oklahoma offers a low base salary for official court reporters. The base salary in Oklahoma is set by statute which has not changed since 2007, ranging from \$39,160 to \$45,160.<sup>3</sup> Meanwhile, other states offer salaries which can be enticing for Oklahoma's new court reporters. For example, a court in Texas recently posted a court reporter position with an annual salary of up to \$98,000 for a certified reporter.<sup>4</sup> Kansas offers an average of \$53,612 annually<sup>5</sup> and Wyoming offers \$60,000.<sup>6</sup> Iowa offers a salary range of \$52,478.40 to \$81,369.60 annually.<sup>7</sup> Missouri offers an average annual salary of \$51,808<sup>8</sup> while Arkansas pays an average of \$55,137 per year.<sup>9</sup> In addition to the salary, reporters in these states can earn additional income for producing transcripts, at various page rates.

New court reporters face education expenses and significant start-up costs to acquire the necessary equipment after certification. As they are weighing their job options, many court reporters are lured away from Oklahoma as soon as they successfully pass the exam to take advantage of higher salaries in the neighboring states.

Another factor in the downward trend of court reporter candidates is access to education. Until recently, only one school in Oklahoma offered the accredited stenographic court reporter training. Lack of schools makes certification much more difficult for court reporter students in outlying areas and leads to a shortage of young professionals entering the industry. In addition, the training for certification is arduous and the drop-out rate is high. There is a unique combination of skill and speed required in court reporting, and some candidates simply fail to develop the levels necessary to achieve certification.

The shortage looms even larger as more court reporters approach retirement age. Court reporters



are decreasing in number due to retirement at a faster rate than new court reporters are being certified. A 2013 study commissioned by the National Court Reporters Association, known as the *Ducker Report*, emphasizes that the median age of court reporters is trending upward while fewer schools are available and fewer court reporters are graduating. Thus, many more reporters will be leaving than entering the profession over the next few years.<sup>10</sup> The median age of working court reporters is 51 years old as compared to other occupations having a median age of 42.<sup>11</sup> The district courts in Oklahoma have 180 positions designated for official court reporters. Currently, there are approximately 21 vacancies and at least 20 positions where the court reporter is of retirement age.

#### **DIGITAL RECORDING VERSUS LIVE COURT REPORTING**

Another major factor behind the shortage is the perception that court reporting is an archaic or dying profession. A common belief is that technology is going to replace the court reporter, with digital recording and electronic dictation solutions causing uncertainty about the future of the court reporter in the legal system.<sup>12</sup>

However, some states have experimented with recordings





and have encountered problems. Some have returned to the standard practice of stenographic court reporting. Texas experimented with recorders and brought back stenographic reporters citing inherent problems and inaccuracies in transcription, unforeseen costs and additional personnel to perform all the functions of a stenographic reporter. Kentucky also experimented with recorders and reported malfunctions with equipment, costly retrials and lawyers spending too much time reviewing the tapes.<sup>13</sup>

Oklahoma permits the judge to order the use of electronic recording in lieu of a live court reporter, unless there is objection by a party or counsel.<sup>14</sup> However, lawyers and judges must exercise caution when making this decision. With automated technology, there is the risk that something might go wrong that a live reporter could have prevented. Transcripts from a digital recording can come back with chunks missing because something was inaudible. Also, in complex cases or trials where a daily transcript is important, a live court reporter keeping track of the record is crucial. Live court reporters can also read back testimony on the spot and settle real-time disputes about what was said. Experienced judges and attorneys know that a live court reporter can control the courtroom and ask participants to repeat a statement, slow down or

speak one at a time. If a meaningful appeal is somehow impossible because of an incomplete transcript, the result can be a decrease in public trust in the system and an increase in costs.

The *Ducker Report* provides an important takeaway, which is that stenographic court reporting continues to be the strong preference of the legal community. The report predicts that increased legal activity and opportunities will result in an increased demand for court reporters and that the demand for court reporters will significantly exceed supply.

### HOPE IS ON THE HORIZON

Several efforts are underway to improve the situation. Oklahoma Supreme Court Chief Justice Noma Gurich has implemented the Preserving the Record Task Force to address some of these issues. Bringing together judges, court reporters and court administrative leadership, the task force is focusing on practical solutions to improve the court reporter shortage. Some vacancies have been alleviated by contracting with retired court reporters to provide services a few days per month. Supreme Court rules have been modified to allow temporary court reporters to practice and develop skills for passing the exam<sup>15</sup> and also to allow candidates to take the three exam parts separately and retain credit for

each successful section.<sup>16</sup> Also, a new district court rule has opened the door for using video remote technology in district court proceedings and permitting the judge to use a live court reporter via videoconference when one is not available locally.<sup>17</sup>

The task force has also encouraged the development of additional training programs for court reporter candidates in Oklahoma. The Oklahoma Court Reporters Association (OCRA) reports that there are now four schools in Oklahoma teaching court reporting theory and speed building and an additional program in the beginning phases of development.<sup>18</sup> Tulsa Community College instituted a part-time program in January 2018 instructed by Allison Hall, president-elect of the OCRA. One year later, Tulsa Community College initiated another program at its northeast campus in Tulsa led by Leslie Ruiz, treasurer and past president of OCRA. The curriculum is based on the theory of Mark Kislingbury, the Guinness World Record holder as the fastest writer in the world.

A new program at Gordon Cooper Technology Center in Shawnee is headed by Melia Melton, a registered merit reporter and OCRA member. This full-time program, launched in January 2018, meets Monday through Friday and also utilizes the Kislingbury Theory. Kiamichi Technology Center in McAlester began a part-time online

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Experienced judges and attorneys know that a live court reporter can control the courtroom and ask participants to repeat a statement, slow down or speak one at a time.

program in February 2018 and is led by Tonya Reynaert, an official court reporter. The program utilizes the Revised Phoenix Theory, endorsed by Stenograph, a leading court reporting company for more than 80 years.

The Oklahoma College of Court Reporting is located in north Oklahoma City and has been training students for more than 25 years. OCCR teaches the Stenowave Theory, which was created by Larry Narvaez, owner/operator and board member of Oklahoma Board of Private Vocational Schools.

Across the state, there are students in each of these programs developing their skills and on track for graduation. As word about these programs continues to spread, other programs may also be in the works.

In addition, after more than 10 years without a change, the statute which sets official court reporters' salary is finally getting some attention. Although most state employees at the same salary level received a \$2,000 raise in 2018,<sup>19</sup> the official court reporters missed out due to the language in their salary statute.<sup>20</sup> This year, Senate Bill 349, by Sen. Thompson and Rep. Wallace, eliminates the decade-old salary cap and allows official court reporters to receive a salary to be set pursuant to the budgeting process. SB349 was signed by the governor on April 8, 2019, and the Supreme Court leadership is giving the \$2,000 state-employee salary increase to Oklahoma's official district court reporters this year.

## HELP SPREAD THE WORD – COURT REPORTERS NEEDED!

Court reporting will remain a viable occupation, and a qualified candidate who successfully completes training is all but guaranteed a job. The challenge for Oklahoma and other states is

getting more young people into the court reporting industry. To this end, the National Court Reporters Association has a program called "A to Z," which offers students free, six-week trial classes to test their interest and abilities in the profession. Students who decide to pursue certification can get tuition assistance and mentorship through Project Steno, which focuses on student outreach and enrollment.

Oklahoma lawyers can help! Do you know someone who might be a good candidate? Please spread the word about this unique profession. More information is available about Oklahoma's court reporting classes at [ocraonline.org](http://ocraonline.org) under the Students tab in Schools. Information about the A to Z program is available under the Students tab in Discover Steno.

There are court reporting opportunities in Oklahoma and elsewhere, especially for a young person looking for a career path or someone wishing to make a career change. Qualified candidates will find this to be a rewarding and interesting career.

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## ABOUT THE AUTHORS

Shelley Phillips has been an official court reporter for the Payne County District Court for more than 30 years. She has served on the State Board of Examiners of Certified Shorthand Reporters for five years and is a member of the Oklahoma Court Reporters Association.

Debra Charles is general counsel for the Administrative Office of the Courts and also directs the Supreme Court's Language Access/Certified Courtroom Interpreter Program. She works closely with the State Boards of Examiners for Oklahoma court reporters and court interpreters. She is a graduate of the OU College of Law.

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# Using Online Dispute Resolution to Expand Access to Justice

## The Online Multidoor Courthouse

By Colin Rule

**I**N 1976, HARVARD LAW PROFESSOR Frank Sander delivered a speech at the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice (now usually referred to as the Pound Conference) titled “Varieties of Dispute Processing.” In his speech, professor Sander envisioned a future justice system that could direct parties into appropriate pathways customized to the particulars of their dispute. Though he didn’t title this concept the “multidoor courthouse” in his remarks, the name (coined later by a journalist) eventually stuck, and it has become central to the theory and practice of dispute resolution. Professor Sander wondered aloud in his speech whether the “courts of the future” (in particular, courts around the year 2000) might help to screen incoming complaints, matching each dispute with its most appropriate form of resolution.

There’s no way professor Sander could have envisioned the coming invention and expansion of the internet as he delivered that speech in St. Paul, Minneapolis, more than 40 years ago, but the rise of the internet over that time period has extended ADR practice into a new discipline, online dispute resolution (ODR), which leverages information and communication technology to help people find resolutions for their disputes. When professor Sander spoke about “courts of the future” in the “year 2000” he was likely envisioning something along the lines of the work currently being done in ODR. Instead of a clerk at a desk routing disputants to one of a dozen doors inside a physical building, ODR aims to make every

mobile phone a point of access to justice, with algorithms dynamically directing cases toward hundreds or thousands of virtual doors available to fit each disagreement to a specifically crafted and appropriate forum for resolution.

ODR’s growth has coincided with the expansion of e-commerce. In the mid-1990s people started asking, “If everyone is going to be buying things online without meeting their transaction partners in person, how will they resolve disputes that arise?” Websites like eBay were growing like wildfire, but they didn’t have a fast and fair way to resolve problems that arose, and the executives quickly determined that it was undermining trust felt by the users. ODR experts helped eBay (and

many other e-commerce companies) create platforms that could identify problems early and get them resolved quickly, which kept users happy and made them more willing to buy things online. Eventually eBay was resolving more than 60 million disputes per year through ODR, more than the entire U.S. civil court system.

That was when offline dispute resolution organizations began to pay attention. They started to think: *hey, if these ODR tools work that well for online disputes, maybe we could use some of them to resolve our disputes as well.* However, applying ODR tools to offline disputes can be more complicated than applying them to online disputes. When disputes arise online (say, within an e-commerce





marketplace) you already know some things about the disputants. First, they're tech savvy enough to log onto a website and make a purchase (so you're already dealing with people who are somewhat comfortable with technology). Second, they probably expect that any resolution will happen in the same environment where the dispute arose in the first place, so ODR seems totally logical. That's not necessarily the case in an offline dispute. Some parties to offline disputes may be comfortable with technology and others may not, and it can be hard to tell who is who.

The clearest example of this is in the judicial system. Courts should invest their resources in a way that maximizes access to justice for as many citizens as possible. Many of the users of courts may not have access to laptop computers or fast internet connections. They may only have access through their smartphones or kiosks in a library, and they may not be comfortable expressing themselves in writing. Also, the types of issues that arise in e-commerce transactions (such as not receiving an item or not being happy with the item received) are usually less complicated than the kinds of issues filed in courts (*e.g.*, workplace, landlord-tenant or family matters). Enforcement of resolutions is also more complicated in offline cases because you can't just click a button to move money from one party to the other. These factors required a re-think of ODR systems to better meet the needs of the wide spectrum of court users and dispute types.

ODR tools and techniques were first applied to courts outside of the United States in places such as Singapore, the Netherlands and Canada, but over the past two years, the U.S. courts have not only caught up but taken the lead. Some estimate that ODR initiatives are

underway in more than 50 county and statewide court systems in the United States, and that number will likely double by the end of 2020.

Utah is one state taking the lead. A panel "Adopting Online Courts in Utah's Legal System" took place at the well-known South by Southwest conference earlier this year. Participants included Utah Supreme Court Justice Constandinos "Deno" Himonas; Kim Allard, director of court services for the Utah Administrative Office of the Courts; Amber Ivey, manager at Pew Charitable Trusts; and Paul Embley, CIO and technology division director at the National Center for State Courts (NCSC). "Justice is a thing," Justice Himonas noted. "Justice is not a place."

British Columbia's ODR system handled almost 14,000 small claims cases in its first seven months of operation, and "[g]overnment money and personnel that used to be devoted to small-claims cases – including judges, sheriffs, clerks and others – are being redirected to reduce the backlog of criminal and family law cases."<sup>1</sup> New Mexico<sup>2</sup> and the judicial districts of Hartford and New Haven, Connecticut,<sup>3</sup> have implemented pilot programs.

The NCSC has a resource page on ODR, defining the term simply as "a public-facing digital space in which parties can convene to resolve their dispute or case."<sup>4</sup> The site includes white papers and news on the subject, seminars, webinars and events related to ODR and the link to an ODR blog where a recent post discussed how tools like chatbots and facial tracking tools can de-escalate emotionally charged conflicts.

ODR is enticing to courts in challenging budgetary times because it offers ways to expand access to justice while at the same time cutting operating costs through more efficient processes.

One important challenge facing the courts is providing solutions for the rising number of pro se, or self-represented, litigants who are trying to navigate the court process themselves because they cannot afford a lawyer or cannot easily go to the courthouse. As a result, many of these people simply give up on their cases, either by not filing or not defending, when they really should be receiving assistance in finding a fair resolution.

The challenges confronting the courts aren't only in the area of expanding access. Society is digitizing left and right, and the courts aren't keeping up. Citizen expectations are now set by daily use of advanced websites like Amazon, Facebook and Google. Millennials in particular express sentiments such as: *if it's not available in an app on my smartphone, then I'm not interested*. If the courts only provide services in person on weekdays between 9 a.m. and 5 p.m., or require paper forms to be mailed or faxed in, large numbers of citizens are going to look elsewhere when they need help with a dispute. ODR can help to keep courts relevant and to meet citizen expectations.

The main reason why ODR is taking off in the courts is convenience. Citizens give higher satisfaction ratings for in-person service than for online service, but the preference numbers are off the charts in favor of online, and that's due to the convenience. For citizens who live in remote areas, ODR can be a tremendous benefit. Users love that they can access the system whenever it fits into their schedule. Online cases can resolve in days or hours, not weeks or months. The majority of ODR agreements are being achieved outside of the hours when the court is open – late in the evenings or over the weekend, because that's when people are free to engage and work out agreements.

The second major advantage of ODR is cost. Faster time to resolution means less time off work, less time away from family – and less administrative paper shuffling and scheduling delays. The third most important factor is accessibility. For citizens who cannot easily afford an attorney or take time away from critical responsibilities (such as childcare, elder care or work), ODR can provide a viable option for pursuing redress.

For some citizens, ODR may present the only viable way to use the justice system as it is intended. Through longitudinal research, ODR outcomes may be eventually shown to be fairer, more equitable and more durable, but in the short term the biggest factors driving rapid adoption are convenience, cost and accessibility.

This will entail a major re-thinking of how the justice system can and should work. For example, in Brazil, when you land in the airport in Rio de Janeiro, there are signs over the baggage claim area that say, “How was your flight? If you had a problem, why not file a lawsuit?” There are little mini-courts right next to the baggage claim where you can file your lawsuit at no cost. When I tell that story to judges and lawyers in the United States, they laugh because it sounds so absurd. However, the truth is this: Brazil has it right. Our justice system must radically expand access through technology, and along with that expansion should come increased efficiency in resolving disputes. Some call it “OnStar Mediation,” like the omnipresent buttons in cars where you can get help any place, any time. Every smartphone should be a point of access to justice – the multidoor courthouse of tomorrow.

At eBay, we found users would rather lose their disputes quickly than win their dispute and have it take a long period of time – and

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For some citizens, ODR may present the only viable way to use the justice system as it is intended.

the “long period of time” at eBay was 12 days. How many court disputes are resolved in 12 days or less? Technology can guide us toward a future where access to the civil justice system is installed on every mobile phone, with most cases closed in two weeks or less. Case volumes may go up 100 or 200 percent, but the efficiency improvements from ODR will enable the courts to handle these increased volumes with no problems.

As the adoption of ODR by courts continues to accelerate, growing from dozens to hundreds to thousands, there is a direct line back to the future envisioned in professor Sander’s 1976 speech. The algorithms ODR relies upon are getting smarter and more powerful every day, which means they are getting more effective at sorting cases into appropriate resolution channels, exactly along the lines professor Sander described in his original speech. It is undeniably true that the power of technology to resolve disputes is dwarfed by the power of technology to generate new disputes, but ODR can expand access to justice, make courts operate more efficiently and encourage citizens to utilize the courts when a problem arises as opposed to looking elsewhere for assistance.

That is why ODR presents the greatest opportunity to expand access to justice in the last hundred years. ODR can deliver on the promise of justice for all in ways professor Sander couldn’t have

conceived of in 1976. It was his original insight that planted the seeds for the ADR field, which led eventually to the creation of ODR. We truly stand on the shoulders of giants like professor Sander. Now the burden is on us to follow through on the promise of his original vision and to get it right.

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#### ABOUT THE AUTHOR

Colin Rule is vice president for Online Dispute Resolution at Tyler Technologies. Tyler acquired Modria.com, an ODR provider Mr. Rule co-founded, in 2017. From 2003 to 2011, Mr. Rule was director of Online Dispute Resolution for eBay and PayPal. He has worked in the dispute resolution field for more than 25 years as a mediator, trainer and consultant. He is currently co-chair of the Advisory Board of the National Center for Technology and Dispute Resolution at UMass-Amherst and a nonresident fellow at the Gould Center for Conflict Resolution at Stanford Law School. Mr. Rule co-founded Online Resolution, one of the first online dispute resolution (ODR) providers, in 1999 and served as its CEO (2000) and president.

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# Tips on Delivering Limited Scope Legal Services

*By Jim Calloway*



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**LIMITED SCOPE REPRESENTATION (LSR) is not only a tool to expand access to justice, these arrangements can also be a viable and profitable business model for lawyers, allowing them to provide their services in what is clearly an expanding marketplace.**

A lawyer limiting the scope of his or her engagement is addressed in Rule 1.2 (c) of the Oklahoma Rules of Professional Conduct provides, “A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.” This provides a rather simple, two-pronged test for determining the appropriateness of delivering LSR to an individual.

Previously, many lawyers were unclear on exactly how to provide these types of services in litigation matters. Some judges had experienced problems with individuals presenting documents poorly drafted by unqualified individuals and had expressed critical views of anonymously “ghostwritten” pleadings and proposed court orders, such as a dissolution of marriage decree. So, there was a conflict between avoiding entering an appearance for full-scope representation and avoiding being inappropriately anonymous.

Rule 33 of the Rules for District Courts of Oklahoma (adopted June 19, 2017) clarified the lawyer’s processes related to these services in Rule 33. Limited Scope Representation:

A lawyer providing limited scope representation under Rule 1.2 (c) of the Oklahoma Rules of Professional Conduct may draft pleadings or other documents for a pro se litigant to file with or present to a district court without the lawyer entering an appearance in the matter. A lawyer shall disclose such assistance by indicating their name, address, bar number, telephone number, other contact information and, optionally, a signature on said pleading or other document with the phrase “No appearance is entered as counsel of record.”

LSR, also called “unbundling” of legal service, means a lawyer providing part, but not all, services required in a client’s legal matter by agreement between the lawyer and the client. Since Rule 33 was adopted, I’ve taught several CLE programs related to this subject and will continue to do so for county bar associations or other Oklahoma lawyer groups.

#### **BEST PRACTICES FOR LSR**

Best practices for delivering LSR can be summarized rather

briefly, even though there will still be development in this area.

First of all, it reduces the lawyer’s risk and provides a better service to the client to always have a written attorney-client agreement, whether that is signed by the client during an in-person visit with the lawyer or agreed to on an online form. The best practice is to include a clear list of what the lawyer will do and not do, along with a list of other tasks that the client has to accomplish on their own. The OBA Access to Justice Committee is working on some sample attorney-client agreements which will be posted to the OBA Practice Management Advice Forum on MyOKBar Communities.<sup>1</sup>

The lawyer should document making the appropriateness determination under the two-pronged test of ORPC Rule 1.2 (c).

LSR will generally mean a lower-cost legal service, but it does not mean less competent or lower-quality legal services. You owe the same duties of competence, diligence, loyalty and confidentiality to limited-scope clients that you owe to full-service clients. Because the lawyer’s time interacting with

the client may be relatively brief, it is very important that the lawyer document everything about the matter in great detail. Frankly, it may be difficult for the lawyer to recall many details about this type of representation if some criticism is raised later without good notes, which may be partially done in a checklist-style format.

modest fee to draft an answer and cross petition for a client and then explaining the next steps not only prevented a default judgment from occurring, but also advanced the matter for everyone's benefit.

Your clients may appreciate helpful instructions and good coaching more than your finely drafted legal documents. Information like where

can answer and the types that must be referred to the lawyer.

For those wishing to do a higher volume of this type of work, automated document assembly is an important component.

Internet-based advertising with a social media component will likely be required for those attempting to make this type of service delivery a substantial part of the practice. Social media promotion cannot be ignored. Even though lawyers have not traditionally done this, when goods or services are sold via the internet, consumers expect to see pricing information. Most LSR representation will be done on a flat-fee basis so many lawyers will conclude it is important to post pricing information online, with clear caveats about what is not included in that price, such as court costs.

LSR services are likely here to stay. Some lawyers will not provide these services, but, unlike many outreaches for a lawyer's time and money for pro bono work or charitable donations to help those less fortunate, these services provide an opportunity to help provide low-cost legal services that assist people who can pay some fee while also providing revenue to the law firm.

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## Limited scope representation services are likely here to stay.

A lawyer has an affirmative duty to advise the client on related matters, even if not asked. For example, a small claims plaintiff who has retained a lawyer under an LSR arrangement to help organize exhibits and give pretrial coaching before small claims matter is heard should also be told something about judgments and how one goes about collecting them even if the client is focused more on the hearing than the aftermath.

Do not forget that if you are preparing documents for a pro se party to file with a court, you not only need to comply with Rule 33 to include your information on the document, but you must also include a pro se signature block for the client indicating a mailing address where responsive pleadings can be served if things do not proceed as expected.

Some lawyers may provide LSR only occasionally. In fact, one northeastern Oklahoma lawyer told me that she anticipated she would never deliver these kinds of services but had already encountered several circumstances where charging a

to park for free, the hours of the court clerk's office and when certain types of hearings are routinely held will be greatly appreciated by those unfamiliar with the courthouse. Embedding photographs of court offices within the documents may be very helpful. For matters that are anticipated to be uncontested, a script of what statements should be made and appropriate responses to questions the court may have will streamline the process for everyone and reduce your client's tension.

These localized instructions highlight the fact that the lawyer understands the local processes within this particular courthouse as opposed to an online service provider located in another state who is advertising that they provides similar services.

Lawyers who plan to do numerous LSR matters may record instructional videos and post them online on a website only available to their clients. If others in your office deal with these clients, they will need to document any interactions as well and the lawyer should instruct them about the types of questions they

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### ABOUT THE AUTHOR

Jim Calloway is the director of the OBA Management Assistance Program. He served as chair of the 2005 ABA TECHSHOW board. His *Law Practice Tips* blog and *Digital Edge* podcast cover technology and management issues. He speaks frequently on law office management, legal technology, ethics and business operations.

### ENDNOTE

1. To access MyOKBar Communities, go to [community.okbar.org](http://community.okbar.org) (to log in, use your bar number and MyOKBar password), then click the tab Communities > All Communities then select PRACTICE MANAGEMENT ADVICE FORUM.



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# The Crushing Reality of Why We Need Plain Language Pro Se Court Forms

By Elizabeth Govig

**WHEN ASKED HOW TO ADDRESS the ever-growing access to civil justice crisis, most of you, Oklahoma’s lawyers, will say something to the effect of “more lawyers,” “more legal aid” or “more pro bono.” To be clear, I am a proponent of those solutions too – more engaged, active lawyers and lawyering is critical to the success of the profession. However, lawyers alone cannot solve the crushing problems facing our civil justice system.**

Every year, Americans face 232.4 million civil legal problems.<sup>1</sup> A civil legal problem emerges “at the intersection of civil law and everyday adversity” and routinely affects the most intimate aspects of a person’s life: their family, home, employment, finances, safety and health.<sup>2</sup> Of these 232.4 million legal problems, roughly 80 percent (approximately 185.9 million problems) of them go unaddressed.<sup>3</sup>

The nation’s leading expert on civil access to justice is Dr. Rebecca Sandefur, an empiricist and MacArthur “Genius Grant” Fellow and native Oklahoman.<sup>4</sup> Dr. Sandefur’s research surfaces an astounding reality – while there is the perception that lawyers are too expensive, that is not the reason why people do not seek out legal help.<sup>5</sup> Instead, people do not seek legal advice because they do not identify their problems as being legal.<sup>6</sup> People describe these situations (*e.g.*, being evicted, losing their job, being denied benefits)

as “bad luck/part of life” or as “part of God’s plan,” not as a legal problem with potential remedies through the justice system or a lawyer.<sup>7</sup> Instead, people turn to community networks and various forms of self-help rather than seeking legal representation or using the courts.<sup>8</sup>

In a perfect world, a lawyer would treat and address every single one of these unaddressed or self-helped legal problems. However, the reality is there are too many problems, not enough lawyers and some of these problems do not need full representation. In some situations, limited scope representation is the answer, but for those with extremely limited resources, we have to provide a way for them to help themselves.

In response, states all across the country have turned to plain language pro se court forms as part of the solution.<sup>9</sup> There are several widely recognized and accepted best practices for the creation of pro

se court forms (*e.g.*, plain language, use of white space, checklists, easy access), but they all build on one core principle: the average person must be able to read them.

At a basic level, literacy is the ability to read, process and understand the written word.<sup>10</sup> Functional literacy is the ability to read, understand and operationalize that information.<sup>11</sup> A person is computer literate if they are both literate and functionally literate, plus able to use a computer.<sup>12</sup>

Looking at national adult literacy studies, we know that 50 percent of the population cannot read a book that is on an 8<sup>th</sup>-grade level; 34 percent of the population is considered marginally literate (5<sup>th</sup> through 8<sup>th</sup>-grade level); and 20 percent of the population is considered functionally illiterate (below a 4<sup>th</sup>-grade level).<sup>13</sup> Therefore, if we want to be able to communicate effectively with the entire community, we need to tailor our writing at a 5<sup>th</sup>-grade level.



Being computer literate is something individuals like you and I take for granted. The data show that for roughly 43 percent of the population, the most complicated computer task they can complete is drafting and sending an email on a familiar platform.<sup>14</sup> Another 26 percent cannot even turn on a computer.<sup>15</sup> This means for roughly 70 percent of the population, online forms and tutorials are not the answer. We must maintain a current set of paper court forms. In fact, all across the country paper court forms, written using plain language, are the norm.

Court forms must account for individuals who have low levels of literacy. Rather than saying, “The Plaintiff prays that this Court grant them the relief requested herein...” a plain language form would say, “The Plaintiff asks the Court to...” The “legalese” must go.

Court forms are not just for self-represented individuals. By simplifying the process, we are easing the burden of the legal system as a whole. At least one party is unrepresented in 76 percent of cases.<sup>16</sup> When such a “lopsided litigation” situation arises, a burden falls on the judge, clerk, opposing counsel and others to explain our complex and lawyer-made system



to the self-represented individual. However, many, if not most, of the people with the ability to help explain the system to the pro se individual are afraid to do so because they do not want to inadvertently provide legal advice and do not understand they can give legal information without providing advice. In response, many states offer various resources to help explain the distinction between legal information and advice.<sup>17</sup>

Legal information is defining the process; legal advice is telling someone what they can do based on the facts of their case.<sup>18</sup> Using filing for divorce as an example, informing an individual that in order to get divorced they need to file a petition and an Application for Temporary Orders is legal information; telling the person what to plead based on their specific facts is legal advice.

This distinction is critical. If we continue to hide behind the shield of legal advice, we are only furthering the historical practice of excluding people from the legal process. This is not acceptable. We can do better.

Lawyers are called to protect the less fortunate and to uphold the constitution of both our great country and our state. Echoing the United States Constitution, the Oklahoma Constitution proclaims that “The courts of justice of the State shall be open to every person, and speedy and certain remedy afforded for every wrong and for every injury to person, property, or reputation; and right and justice shall be administered without sale, denial, delay, or prejudice.”<sup>19</sup>

Today, the courthouse doors are not equally open. It is our ethical, moral and legal duty and obligation to open them. Court forms are just the beginning of that process but also the foundation.

## ABOUT THE AUTHOR

Elizabeth Govig graduated from the TU College of Law with her J.D. in May 2019. While in law school, she was involved with the Community Advocacy Clinic where she focused on addressing civil access to justice issues. She can be reached at [eegovig@gmail.com](mailto:eegovig@gmail.com).

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19. Okla. Const. Art. II, §6.

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# 2019 Oklahoma Tax Legislation

By Sheppard F. Miers Jr.

The following is a summary of some of the changes in Oklahoma law on state taxation enacted by the Oklahoma Legislature in the 2019 session of the Legislature.

## INCOME TAX

### *Pass-Through Entity Tax Equity Act of 2019*

The Oklahoma income tax was amended by enactment of the Pass-Through Entity Tax Equity Act of 2019 to provide for computation and payment of pass-through entity tax. A pass-through entity eligible to elect to pay the tax at the entity level is defined as an entity required to file an Oklahoma partnership income tax return or file an Oklahoma S corporation income tax return. A pass-through entity may elect to pay pass-through entity income tax on the entity's Oklahoma net entity income at the entity level, and Oklahoma income of an electing pass-through entity will not be passed through to members of the entity for Oklahoma income tax purposes. An election for tax year 2019 must be filed by the entity within 60 days of the April 29, 2019, date of enactment. Elections for subsequent years must be made during the preceding tax year or two months and 15 days after the beginning of the tax year. Elections and revocations of elections shall be made on forms and pursuant to procedures prescribed by the Oklahoma Tax Commission.<sup>1</sup>

### *Clean-Burning Motor Vehicle Fuel Credits*

The tax credits for investment in certain qualified clean-burning motor vehicles and related fueling assets were modified and extended. The amount of the credit for investment in or conversion into a qualified clean-burning motor vehicle was modified and shall be based upon the weight of the vehicle. The rate of the credit for assets and equipment for fueling and recharging motor vehicles (e.g. fueling station equipment) was modified to be 45 percent of cost (previously 75 percent). A statewide annual limit of credits allowed of \$20 million was enacted.<sup>2</sup>

### *Zero-Emission (Wind) Electricity Generation Facility Credit*

The Oklahoma income tax credit for electricity generated from certain zero-emission facilities was amended to provide for a taxpayer to elect to carry forward credits for up to 10 years instead of receiving an 85 percent refundable credit upon claiming the credit for the tax year in which the credit is earned.<sup>3</sup> The credit was also amended to provide that it shall be allowed against Oklahoma income tax for tax years ending not later than Dec. 31, 2021.<sup>4</sup>

### *Qualified Cybersecurity Employee Credit*

An Oklahoma income tax credit was enacted for qualified software

and cybersecurity employees who are employed by specified employers in qualifying industries. The credit is allowed for taxable years beginning on or after Jan. 1, 2020, and before Jan. 1, 2030. The credit may be claimed for a maximum of seven years in annual amounts of \$2,200 for qualified employees with a bachelor's or higher degree and \$1,800 for qualified employees with an associate's degree in an accredited program in cybersecurity, computer science and engineering or software engineering and related programs. Beginning Jan. 1, 2022, the credits allowed statewide are to be limited to \$5 million annually.<sup>5</sup>

### *Oklahoma First-Time Home Buyer Saving Accounts*

The Oklahoma First-Time Home Buyer Saving Account Act was enacted providing for individuals who reside in Oklahoma and have never purchased a single-family residence in Oklahoma to create a home buyer savings account. Contributions to the account shall be deductible for Oklahoma income tax purposes, not to exceed \$5,000 for an individual and \$10,000 for joint account holders who file a joint tax return. The earnings from the account shall be excluded from income. The deductions and exclusion allowed may be claimed for an aggregate amount not to exceed \$50,000. The withdrawals from the account are not taxable





# TAX

if expended for eligible costs for the purchase of a single-family residence. Withdrawals for other purposes shall be included in the account holder's taxable income and subject to a 10 percent penalty. Funds held in an account that are not expended on eligible costs within 15 years shall be included in the account holder's taxable income.<sup>6</sup>

### *Affordable Housing Tax Credits*

The Oklahoma affordable housing tax credit was modified by eliminating a restriction on availability of tax credits based upon a certain population limit and modifying the time period that a credit may be carried forward. Any credit claimed but not used in a taxable year may be carried forward two subsequent taxable years.<sup>7</sup>

### *Vehicle Manufacturing Credit*

The Oklahoma income tax credit allowed for employers and employees of vehicle manufacturing companies was amended to make the credit also apply to automotive parts manufacturing.<sup>8</sup>

### *Income Tax Checkoff Refund Charitable Contributions*

The Oklahoma income tax checkoff refund charitable contribution provisions were amended. The provision for donations to the Oklahoma Silver Haired Legislature-Excellence in State Government Revolving Fund was amended to provide it need not meet a minimum threshold of refund contributions to be continued. The checkoff refund provision for contributions to regional food banks in the state was reauthorized effective Jan. 1, 2019.<sup>9</sup>

### *Foster Child Care Deduction*

The Oklahoma \$5,000 income tax deduction for expenses related to fostering children was amended. A minimum six-month time period under contract was established as a qualification requirement. A pro rata monthly share of the annual deduction amount was added for periods under contract of six months or less.<sup>10</sup>

### *Tax Credit Related Property Lease Restrictions*

Oklahoma landlord and tenant law was amended to provide that for dwelling units, acquired or improved in connection with an allocation of income tax credits under Section 42 of the Internal Revenue Code, or 68 O.S. 2011, §2357.403, the owner shall have the right to impose conditions or decline to lease to a person based upon prior felony convictions.<sup>11</sup>

### *Professional Licensing*

The Oklahoma Psychologists Licensing Act was amended to provide that the Oklahoma Tax Commission shall notify any psychologist who is not in compliance with the income tax laws of the state, and the notification shall include a statement that the Tax Commission shall proceed by garnishment to collect any delinquent tax and to collect penalty and interest due as a result of delinquency until the psychologist is deemed to be in compliance by the Tax Commission, the reasons for noncompliance, the amount of tax, penalties and interest due or years tax returns have not been filed, an explanation of rights of the psychologist and procedures to follow to come into compliance and other information deemed necessary by the Tax Commission.<sup>12</sup>

## SALES AND USE TAX

### *Remote Internet Seller Sales Tax Collection Requirements Amendment*

The Oklahoma Sales Tax Act provisions requiring a remote seller register and collect Oklahoma sales tax on sales of tangible personal property to customers in Oklahoma was amended. A remote seller

over the Internet will be required to collect Oklahoma sales tax if its sales in Oklahoma are at least \$100,000 annually. That threshold is consistent with another state's sales tax law requiring remote sellers to collect the state's sales tax, which was held to be constitutional under the Commerce Clause of the U.S. Constitution in the landmark decision of *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018).<sup>13</sup>

### *Sale Tax Exemption for Sales to Community Providers of Manufacturing and Fabrication Tools*

The Oklahoma Sales Tax Code was amended to provide exemption for sales to section 501(c)(3) nonprofits that provide community access to advanced manufacturing and digital fabrication tools for purposes of science, technology, engineering, art and math (STEAM) learning skills, developing inventions, creating and sustaining businesses and producing personalized products.<sup>14</sup>

### *Sales Tax Exemption for Medical Devices*

The sales tax exemption for sales of prosthetic devices, durable medical equipment and mobility enhancing equipment was

amended to apply to sales when administered, distributed or prescribed by a practitioner authorized by law to do so. The definition of "practitioner" was amended to include an allopathic physician and a clinical nurse specialist.<sup>15</sup>

### *Rolling Stock Sales Tax Exemption*

The Oklahoma Sales Tax Code was amended by modifying the sales tax exemption for sale or lease of rolling stock as to the time period during which the exemption may be claimed.<sup>16</sup>

### *Sales Tax Exemption; Sales to American Legion*

The Oklahoma Sales Tax Code was amended authorizing sales tax exemption for sales of tangible personal property and services to certain entities related to the American Legion.<sup>17</sup>

### *Unattended Food Establishments*

Legislation was enacted providing rules governing the operation of unattended food establishments. An unattended food establishment shall obtain an Oklahoma sales tax permit prior to conducting any sales and shall collect and remit state sales tax as provided in the Oklahoma Sales Tax Code.<sup>18</sup>

### *Apportionment of Revenue*

The Oklahoma Sales Tax Code was amended with respect apportionment of revenues derived pursuant to the provisions of thereof and to restore funds appropriated from the State Highway Construction and Maintenance Fund and the Oklahoma Railroad Maintenance Revolving Fund.<sup>19</sup>

## AD VALOREM TAX

### *Protests, Informal Appeal Decisions and Appeals to Board of Equalization*

The Oklahoma Ad Valorem Tax Code was amended with respect to valuation increase notices and



appeals procedure by modifying computation of certain time periods. A taxpayer shall have 30 calendar days to file a protest of increased valuation by the county assessor. The county assessor must issue a written decision on an informal hearing within seven calendar days. The taxpayer may file an appeal from the county assessor decision with the county board of equalization within 15 calendar days. A taxpayer may file a protest of valuation that has not increased or decreased from the prior year if the protest is filed on or before the first Monday in April.<sup>20</sup>

#### *Appeals From Board of*

#### *Equalization to District Court*

The Oklahoma *Ad Valorem* Tax Code was amended to modify the period of time for filing appeals from the county board of equalization to district court to within 30 calendar days from the date the board of equalization order was mailed, or in event the order was delivered, from the date of delivery.<sup>21</sup>

#### *Confidentiality of Law Enforcement*

#### *Officer Personal Information*

The *Ad Valorem* Tax Code was amended to provide that law enforcement organizations shall be permitted to request that county assessors keep certain information about undercover or covert law enforcement officers confidential, including home address and telephone number pursuant to a court order issued pursuant to an affidavit of the officer seeking confidentiality of personal information be maintained by the county assessor.<sup>22</sup>

#### *Five-Year New Manufacturing Facility Exemption Amendment*

The five-year *ad valorem* tax exemption for new manufacturing facilities was amended to provide for an exemption of an establishment primarily

engaged in distribution as defined under Industry Number 49311 of the North American Industry Classification System for which the initial capital investment was at least \$180 million, if qualifying job creation and depreciable property investment occurred prior to calendar year 2017 but not earlier than calendar year 2013.<sup>23</sup>

### GROSS PRODUCTION TAX

#### *Apportionment of Gross Production Tax*

The Oklahoma Gross Production Tax Code was amended to modify apportionment of tax collected.<sup>24</sup>

#### *Clerical Amendments;*

#### *Amendment of Statute Text*

The Oklahoma Gross Production Tax Code was modified with respect to certain references and dates stated in the law.<sup>25</sup>

### MOTOR FUEL TAX

#### *Remittance of Tax*

The motor fuel tax was amended with respect to provisions that relate to remittance of tax and modifying the day of the month when tax is due and updating statutory references.<sup>26</sup>

### MOTOR VEHICLE TAX

A statute was enacted providing for vintage vehicle registration and making such a vehicle subject to both the motor vehicle excise and sales taxes. A "vintage vehicle" is defined by the law based on it being a passenger automobile or truck, having no more than two axles and the history of the vehicle's registration.<sup>27</sup>

### FIREWORKS TAX

#### *Licensing of Retail Sales*

The Oklahoma tax which relates to sale of fireworks was amended extending the time for licensed retailers' sales.<sup>28</sup>

### ALCOHOLIC BEVERAGES

The Oklahoma Alcoholic Beverages Control Act was amended as to licensee record keeping to provide that if licensee has been previously audited by the Tax Commission with an audit finding that the licensee correctly reported and kept sufficient records for audit purposes, the next subsequent audit shall be limited to records kept for one year prior to the date of such audit, subject to changes in the limitation for incorrect or insufficient records.<sup>29</sup>

### TAX PROCEDURE AND ADMINISTRATION

#### *Notice to Tax Commission of Settlements*

The Uniform Tax Procedure Code was amended to provide for notice to the Oklahoma Tax Commission in any action affecting ownership or right to possession of intangible personal property, such as a settlement of a court judgment, for the purpose of determining the Tax Commission's lien upon the property involved therein in cases where notice of the lien of the state has been filed and indexed.<sup>30</sup>

#### *Limit on Participation in Voluntary Compliance Initiatives*

The Uniform Tax Procedure Code was amended to provide that no taxpayer shall be allowed to participate in a statutory voluntary compliance initiative, enacted after the effective date of the act, entitling taxpayers to a waiver of penalty, interest and/or other collection fees due on unpaid taxes if the taxpayer has previously participated in a similar initiative except that such limitation shall not preclude a taxpayer from seeking relief under the provisions of 68 O. S. §§219.1 or 220 or when the Tax Commission, in its judgment, authorizes a waiver from the limitation.<sup>31</sup>



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## An Empower Independent Contractors Act of 2019 was enacted to amend provisions of the Employment Security Act of 1980 with respect to the definition of the term “employment.”

### MEDICAL MARIJUANA

The Legislature enacted legislation creating the Oklahoma Medical Marijuana and Patient Protection Act (MPPA) and enacting statutory provisions governing medical marijuana licenses subject to requirements with respect filing and payment of taxes related to a medical marijuana business.<sup>32</sup>

### OKLAHOMA UNEMPLOYMENT INSURANCE TAX

#### *Independent Contractors*

An Empower Independent Contractors Act of 2019 was enacted to amend provisions of the Employment Security Act of 1980 with respect to the definition of the term “employment.” Services performed by an individual for wages shall be deemed to be employment subject to the Employment Security Act of 1980 if the services are performed by the individual in an employer-employee relationship with the employer using the 20-factor test used by the Internal Revenue Service in Revenue Ruling 87-41, 1987-1 C.B. 296. The Oklahoma Employment Security Commission shall have the exclusive authority to make a determination of whether an individual is an independent contractor or employee.<sup>33</sup>

#### *Wages*

The Employment Security Act of 1980 was amended with respect to the definition of the term “wages,” to provide that if the Internal Revenue Code provides that a payment made by an employer to an employee is considered to be wages, that payment shall also be considered wages by the Oklahoma Employment Security Commission for the purposes of the act.<sup>34</sup>

### ECONOMIC DEVELOPMENT

#### *Oklahoma Quick Action Closing Fund; High Impact Film Productions*

The Legislature enacted changes to the Oklahoma Quick Action Closing Fund and enacted changes with respect to payments for high impact film productions; exempting specified production from certain limits on payments; establishing a mechanism for payments under specified circumstances; and extending termination date for specified funding.<sup>35</sup>

#### *Small Employer Quality Jobs Incentive Act*

##### *Requirements for Incentives*

The Small Employer Quality Jobs Incentive Act was modified with respect to qualification requirements for incentives under the act.<sup>36</sup>

#### *Oklahoma Tourism Development Act*

The Oklahoma Tourism Development Act was amended to make provisions of the act define and apply to an entertainment district as a tourism attraction and modify the act with respect to inducements, applications, approvals and agreements.<sup>37</sup>

#### *Incentive Payments Transfer*

The Small Employer Quality Jobs Incentive Act was amended to provide that for any contract executed by an establishment on or after Aug. 2, 2018, 5 percent of the quarterly incentive payment amount shall be transferred by the Oklahoma Tax Commission to the Oklahoma Quick Action Closing Fund.<sup>38</sup>

#### *Repeal of Multiple Versions*

The Small Employer Quality Jobs Incentive Act, 68 O. S. 2011, §3904, as last amended by Sec. 3, C. 144, O. S. L. 2018, (68 O. S. Supp. 2018, §3904), was repealed to eliminate multiple versions of the law.<sup>39</sup>

#### *Small Business Incubators Incentive Act Amendment*

The provisions of the Small Business Incubators Incentives Act were amended to provide that the Oklahoma income tax exemption for a sponsor is allowed for tax years ending before Jan.1, 2020. The exemption allowed for tenants of an incubator was modified.<sup>40</sup>

## ENDNOTES

1. HB 2665; adding 68 O.S. Supp. 2019, §§2355.1P-1 through 2355.1P-4; amending 68 O.S. Supp. 2018, §2358, 68 O.S. 2011, §2365, 68 O.S. Supp. 2018, §2368, 68 O.S. 2011, §§2370.2, and 2372; effective April 29, 2019.

2. HB 2095; amending 68 O.S. Supp. 2018, §2357.22; effective Jan. 1, 2020.

3. HB 1263; amending 68 O.S. Supp. 2018, §2357.32A; effective July 1, 2019.

4. SB 475; amending 68 O.S. Supp. 2018, §2357.32A; effective Nov. 1, 2019.

5. HB 2759; adding 68 O.S. Supp. 2019, §2357.405; effective Nov. 1, 2019.

6. SB 961; adding 46 O.S. Supp. 2019, §§311-318, effective Jan. 1, 2020.

7. HB 1411; amending 68 O.S. Supp. 2018, §2357.403; effective Nov. 1, 2019.

8. HB 1884; amending 68 O.S. Supp. 2018, §2357.404; effective Nov. 1, 2019.

9. HB 2671; amending 68 O.S. Supp. 2018, §2368.2, 68 O.S. 2011, §2368.4, and 68 O.S. Supp. 2018, §2368.16; effective Nov. 1, 2019.

10. SB 893; amending 68 O.S. Supp. 2018, Section 2358.5-1; effective Nov. 1, 2019.

11. HB 2399; adding 41 O.S. Supp. 2019, §201; effective April 29, 2019.

12. HB 2195; amending 59 O.S. 2011, §1368; effective Nov. 1, 2019.

13. SB 513; amending 68 O.S. Supp. 2018, §§1392-1396; effective Nov. 1, 2019.

14. HB 2530; amending 68 O.S. Supp. 2018, §1356; effective Nov. 1, 2019.

15. HB 1262; amending 68 O.S. 2011, §1357.6; effective July 1, 2019.

16. SB 18; amending 68 O.S. Supp. 2018, §1357, effective July 1, 2019.

17. HB 1003; amending 68 O.S. Supp. 2018, §1356; effective July 1, 2019.

18. HB 1055; adding 63 O.S. Supp. 2019, §1-1118.1; effective April 25, 2019.

19. HB 2766; amending 68 O.S. Supp. 2018, §1353; effective May 24, 2019.

20. HB 1962; amending 68 O.S. Supp. 2018, §2876; effective Nov. 1, 2019.

21. HB 1962; amending 68 O.S. Supp. 2018, §2880.1; effective Nov. 1, 2019.

22. SB 679; adding 68 O.S. Supp. 2019, §2899.1; effective April 29, 2019.

23. SB 695; amending 68 O.S. Supp. 2018, §2902; effective Nov. 1, 2019.

24. HB 1852; amending 68 O.S. Supp. 2018, §1004; effective July 1, 2019.

25. SB 427; amending 68 O.S. Supp. 2018, §§1001.1 and 1004; effective Nov. 1, 2019.

26. SB 429; amending 68 O.S. 2011, §§500.18 and 500.20; effective Nov. 1, 2019.

27. HB 2664; adding 47 O.S. Supp. 2019, §1112.1A; effective Nov. 1, 2019.

28. SB 635; amending 68 O.S. Supp. 2018, §1623; effective July 1, 2019.

29. HB 1315; amending 37A O.S. Supp. 2018, §5-126; effective May 23, 2019.

30. HB 2734; amending 68 O.S. 2011, §234; effective July 1, 2019.

31. SB 402; adding 68 O.S. Supp. 2019, 216.5; effective Nov. 1, 2019.

32. HB 2612; adding 63 O.S. Supp. 2018, §§427.1-427.23, amending 40 O.S. Supp. 2018, §552, effective May 24, 2019; SB 1030; amending 63 O.S. Supp. 2018, 420, 425; adding 63 O.S. Supp. 2019, §427, amending sections 7 and 14 of HB 2612; effective Aug. 27, 2019.

33. HB 1095; amending 40 O.S. Supp. 2018, §1-210; effective Jan. 1, 2020.

34. SB 335; amending 40 O.S. Supp. 2018, §1-218, effective July 1, 2019.

35. SB 200; amending 62 O.S. Supp. 2018, §48.2, 68 O.S. 2011, §3623, 68 O.S. Supp. 2018, §§3624, 3625, 3626; effective July 1, 2019.

36. HB 2536; amending 68 O.S. 2011, §3904; effective July 1, 2019.

37. HB 2748; amending 68 O.S. Supp. 2018, §§2393-2397; effective Nov. 1, 2019.

38. SB 1041; amending 68 O.S. Supp. 2018, §3904, as last amended by Sec. 1, C. 191 O. S. L. 2018; effective April 4, 2019.

39. SB 1041; repealing multiple versions of 68 O.S. Supp. 2018, §3904; effective April 4, 2019.

40. SB 485; amending 74 O. S. 2011, §§5072, 5075, 5078, and 68 O.S. 2011, §2359; repealing 74 O.S. 2011, §5062.8a; effective Aug. 5, 2019.

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# 2020 OBA Board of Governors Vacancies

## Nominating Petition

**Deadline: 5 p.m.**

**Friday, Sept. 6, 2019**

### OFFICERS

#### President-Elect

Current: Susan B. Shields, Oklahoma City

Ms. Shields automatically becomes OBA president Jan. 1, 2020 (One-year term: 2020)

Nominee: **Vacant**

#### Vice President

Current: Lane R. Neal, Oklahoma City

(One-year term: 2020)

Nominee: **Vacant**

### BOARD OF GOVERNORS

#### Supreme Court Judicial District Two

Current: Mark E. Fields, McAlester Atoka, Bryan, Choctaw, Haskell, Johnston, Latimer, LeFlore, McCurtain, McIntosh, Marshall, Pittsburg, Pushmataha and Sequoyah counties

(Three-year term: 2020-2022)

Nominee: **Vacant**

#### Supreme Court Judicial District Eight

Current: Jimmy D. Oliver, Stillwater Coal, Hughes, Lincoln, Logan, Noble, Okfuskee, Payne, Pontotoc, Pottawatomie and Seminole counties

(Three-year term: 2020-2022)

Nominee: **Vacant**

#### Supreme Court Judicial District Nine

Current: Bryon J. Will, Yukon Caddo, Canadian, Comanche, Cotton, Greer, Harmon, Jackson, Kiowa and Tillman counties

(Three-year term: 2020-2022)

Nominee: **Vacant**

#### Member At Large

Current: James R. Hicks, Tulsa Statewide

(Three-year term: 2020-2022)

Nominee: **Vacant**

### SUMMARY OF NOMINATIONS RULES

Not less than 60 days prior to the annual meeting, 25 or more voting members of the OBA within the Supreme Court Judicial District from which the member of the Board of Governors is to be elected that year, shall file with the executive director, a signed petition (which may be in parts) nominating a candidate for the office of member of the Board of Governors for and from such judicial district, or one or more county bar associations within the judicial district may file a nominating resolution nominating such a candidate.

Not less than 60 days prior to the annual meeting, 50 or more voting members of the OBA from any or all judicial districts shall file with the executive director a signed petition nominating a candidate to the office of member at large on the Board of Governors,

or three or more county bars may file appropriate resolutions nominating a candidate for this office.

Not less than 60 days before the opening of the annual meeting, 50 or more voting members of the association may file with the executive director a signed petition nominating a candidate for the office of president-elect or vice president, or three or more county bar associations may file appropriate resolutions nominating a candidate for the office.

If no one has filed for one of the vacancies, nominations to any of the above offices shall be received from the House of Delegates on a petition signed by not less than 30 delegates certified to and in attendance at the session at which the election is held.

See Article II and Article III of OBA Bylaws for complete information regarding offices, positions, nominations and election procedure

Elections for contested positions will be held at the House of Delegates meeting Nov. 8, during the Nov. 6-8 OBA Annual Meeting.

Terms of the present OBA officers and governors will terminate Dec. 31, 2019.

Nomination and resolution forms can be found at [www.okbar.org/governance/bog/vacancies](http://www.okbar.org/governance/bog/vacancies).



# Sovereignty Symposium XXXII

Oklahoma City | June 5-6, 2019



1. From left, Oklahoma Supreme Court Chief Justice Noma Gurich, Oklahoma Supreme Court Justice Yvonne Kauger, Oklahoma Gov. Kevin Stitt, Oklahoma City Mayor David Holt and Cheyenne Peace Chief Gordon Yellowman

2. Baroness Emma Nicholson of Winterbourne and Oklahoma Supreme Court Vice Chief Justice Richard Darby



3. Robert Henry, former judge of the 10th Circuit Court of Appeals and president of OCU; Kyle Dillingham, musician and composer; and Baroness Emma Nicholson of Winterbourne (seated)

4. From left, members of Chief Justice Gurich's panel "Spiritual Traditions" Robert Joseph, senior lecturer, Research Centre Director MIG (Law), University of Waikato, New Zealand; Dean Bradford Morse, dean of law at the Faculty of Law, Thompson Rivers University, Kamloops, British Columbia, Canada; Lindsay Robertson, professor of law, OU College of Law; Rev. Kris Ladusau, Dharma Center of Oklahoma







9. Jay Scambler, moderator of the “Signs, Symbols and Sounds” panel, presents the flag of his birthplace, the United Kingdom, with Richard Hyde, incoming British Consul General, Houston, and Karen Bell, outgoing British Consul General, Houston.

10. From left, the “Economic Futures” panel, moderator and Director of Economic Development Jim Collard, Citizen Potawatomi Nation, is joined by panel members Terry Neese, Institute for the Economic Empowerment of Women; Oklahoma State Labor Commissioner Leslie Osborn; Gov. Reggie Wassana, Cheyenne and Arapaho Tribes of Oklahoma; Oklahoma Secretary of Native American Affairs Lisa Billy; Consul General of Canada In Dallas Douglas George; Oklahoma Superintendent for Public Instruction Joy Hofmeister; Oklahoma Corporation Commission Chair Dana Murphy; Meloye Blancett, Oklahoma House of Representatives; and State of Oklahoma COO John Budd.

11. Artist Jeri Redcorn with artist, former Oklahoma state senator and tribal leader Kelly Haney and vocalist Bill Davis

12. Lawyer and Muscogee (Creek) Nation Ambassador Jonodev Chaudhuri with Muscogee (Creek) Nation Principal Chief James Floyd

13. Silversmith and jeweler Kenneth Johnson presents his artwork to Baroness Emma Nicholson of Winterbourne

14. Oklahoma Supreme Court Chief Justice Noma Gurich with Oklahoma Court of Civil Appeals Vice Presiding Judge Deborah Barnes

All photos by Stu Ostler.





5. From left, Colony Mayor Lonnie Yearwood and artist of the 2020 Sovereignty Symposium artwork Jim VanDeman

6. From left (standing), Assistant Chief Charles Randall, Delaware Tribe of Indians; Deputy Solicitor Kyle Scherer, Indian Affairs, U.S. Department of the Interior; Oklahoma Supreme Court Justice Yvonne Kauger; Baroness Nicholson of Winterbourne; Robert Henry; (seated) Principal Deputy Assistant Secretary John Tahsuda III, Office of the Assistant Secretary for Indian Affairs; and Chief Chester "Chet" Brooks, Delaware Tribe of Indians, at the Signing Ceremony

7. Oklahoma Supreme Court Justice Yvonne Kauger presents the 2019 Sovereignty Symposium Honored One Medal to Harvey Pratt, designer of the National Native American Veterans Memorial.

8. From left, Oklahoma Supreme Court Justice Douglas Combs moderates the "Concerns of the State, Tribal and Federal Judiciary" panel with Oklahoma County District Judge Richard Ogden, Oklahoma County District Judge Aletia Haynes Timmons, Adair County Associate District Judge Elizabeth Brown and retired Oklahoma Court of Civil Appeals Judge William Hetherington.





# IOLTA – Where You Bank Matters to Access to Justice!

*This month, I'm lending my column to Renee DeMoss, executive director of the Oklahoma Bar Foundation, to highlight an important issue many Oklahoma lawyers may not know regarding their client trust accounts.*

**D**ID YOU KNOW THE BANKS holding your client trust funds can help pay for access to justice legal service grants in Oklahoma? Did you know the money generated by the Interest on Lawyer Trust Accounts Program (IOLTA) accounts to pay these grants is highly dependent on the interest rate *your* bank pays on *your* trust accounts? Do you know what rate *your* bank pays? Do you realize that *you* can personally influence the rate *your* bank pays? It's all true – where you bank does matter!

It's no secret that banks want the business of Oklahoma attorneys. Attorneys are perceived as high-value clients. When an attorney opens an IOLTA account at a particular bank, the bank can earn community reinvestment credits. Also, the distinct possibility exists that the attorney will open other accounts there and refer the bank to other people he or she knows. Banks are very responsive to input and requests from their attorney clients.

Attorneys are held to high standards of conduct in their treatment of client funds under Rule 1.15 of the Oklahoma Rules of Professional Conduct. Safekeeping Property. Attorneys must always



deposit client funds in secure bank accounts, have on-demand access to them for client use and refrain from gaining any personal financial benefit from them.

Any bank that wants to offer IOLTA accounts must first be approved by the OBA Office of the General Counsel under Rule 1.15. If a bank is approved for IOLTA accounts, it must send all interest earned on the accounts to the Oklahoma Bar Foundation – *not*

the Oklahoma Bar Association. The OBF is a separate nonprofit corporation established under section 501(c)(3) of the Internal Revenue Code and uses the funds generated by IOLTA accounts to award legal grants in Oklahoma.

Rule 1.15 does not set a mandatory interest rate that banks must pay on IOLTA accounts. It simply states at 1.15(h) that the rate "shall not be less than the rate paid by the depository institution to regular,

non-lawyer depositors." As a result, the rates different Oklahoma banks choose to pay vary widely. Currently, those rates range from an extreme low of .001 percent to a high of 1.66 percent. The average rate paid by Oklahoma banks is only .247 percent.

Oklahoma attorneys often ask the OBF which banks they should use to open their trust accounts and deposit client funds. The OBF office maintains a list of those specific banks that have chosen to use the discretionary funds at their disposal to pay the highest rates on IOLTA accounts. Those banks are clearly committed to advancing the cause of justice in Oklahoma. They are the preferred banks for IOLTA accounts and can be found on the OBF website at [www.okbarfoundation.org](http://www.okbarfoundation.org).

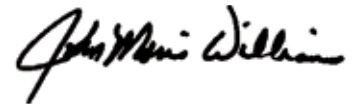
The ultimate goal is to ensure those banks approved to offer IOLTA accounts pay the highest interest rates possible in order to raise the most money possible for legal causes that are close to the hearts of lawyers. Since inception of the program, the OBF has used interest funds earned to award millions of dollars in IOLTA grants – in 2018, more than \$500,000 went to 21 nonprofits across the state.

It is those Oklahoma banks that have chosen to be leaders by paying the highest rates on IOLTA accounts that are true partners with Oklahoma lawyers in the mission to provide access to justice in our state.

Oklahoma attorneys, *your* banks WILL answer questions from *you*, their attorney clients, about the interest rates they pay

on IOLTA accounts. *Your* banks will raise their IOLTA interest rates to benefit access to justice in Oklahoma if they know that *you*, their attorney clients, want this to happen. All you have to do is ask.

*Thank you to Executive Director DeMoss for this and all the OBF's contributions toward access to justice in Oklahoma, and thank you to our members for continued commitment to advancing justice in our state.*



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OBF Executive Director Renee DeMoss can be reached at [reneed@okbar.org](mailto:reneed@okbar.org).

## WHAT IS IOLTA?

The Interest on Lawyer Trust Accounts Program (IOLTA) was created in the early 1980s when a change in federal banking laws provided a way for lawyers to raise charitable funds to provide civil legal services "to people in need."

These banking law changes allowed banks to begin paying interest on new demand deposit accounts to individuals or charitable organizations. So, attorneys who held funds of different individual clients that were incapable of earning interest, because they were too small in amount or to be held only for a short time, could pool the funds together in a single account to earn interest.

All 50 states, the Virgin Islands and Puerto Rico now have IOLTA programs.

# Access to Justice and Productivity Gains for All Lawyers

By Jim Calloway

**A**CCCESS TO JUSTICE IS THE theme of this issue of the *Oklahoma Bar Journal*. I've had the opportunity to review many of the articles in advance and this is a very thought-provoking collection. Its content ranges from issues directly impacting the practicing lawyer like delivering limited scope legal services, the need for more court reporters and the credentials of courtroom interpreters to big picture subjects outside of an individual lawyer's control such as adopting online dispute resolution (ODR) for some matters and the courts providing simplified court forms for use by pro se parties.

Professor William Henderson holds the Stephen F. Burns Chair on the Legal Profession at Indiana University Maurer School of Law, and he has studied and written about the future of the legal profession and the current challenges of improving access to justice. He has opined that there is ample evidence the legal profession is now divided into two segments, one serving individuals (people law) and the other serving businesses (organizational clients), with these two segments having very different economic drivers and evolving in very different ways. He has concluded the primary market problem for legal is one of lagging productivity that, over time, increases the price of traditional

consultative legal services relative to other goods and services.

From my perch as a state bar practice management advisor, I interpret "lagging productivity" as referring, at least in part, to the impact of technology advances in other fields and businesses compared to the legal profession.

Whether you are practicing people law or business law, the challenge for the future is to improve productivity.

As the volunteers from Lawyers Helping Lawyers and others involved with our profession will tell you, these productivity gains should not, and likely cannot, be accomplished by attempting to persuade or force lawyers – at whatever their career level – to work even longer hours. Many members of our profession are already at an unhealthy level of professional time commitment.

So, productivity gains will largely be a function of time-saving, technology-based tools, automation and supervised delegation to others.

Many Oklahoma lawyers are already utilizing different types of technology/productivity tools. Many more have yet to implement them. Let's check off a few examples.

- **Automated document assembly.** Many tools exist to automate creation of legal documents. Oklahoma

lawyers have a great new tool with Oklahoma Bar Intellidrafts. Oklahoma lawyers can sign up at [oba.intellidrafts.com](http://oba.intellidrafts.com). The cost is \$299 per year and, if you cancel within the first 30 days, your credit card will not be charged. Automating creation of routine legal documents frees up lawyer and staff time for other tasks, notably higher-value, higher-level legal complex work. Even where a document requires heavy customization and a significant investment of the lawyer's drafting skill, the quick creation of the first draft with an automation tool may benefit both lawyer and client.

- **Speech recognition.** I've written many times in these pages about my use of Dragon NaturallySpeaking. (I use DNS Individual Professional Edition V15 which sells for \$300. The Legal Edition V15 is \$392.26 from Amazon and \$500 from Nuance.com.) *However, Office 365 includes speech recognition at no charge.* You need to log in to the online version of Word rather than the desktop version. In that version, when you have a document open, you



will see a microphone icon and the word “dictate” in the Ribbon. If you have a microphone attached to your computer and turned on, you will be able to dictate into documents. This works well, but it is not as fully featured as Dragon.

- **Text messaging.** My dentist’s office sends me a reminder text message the day before an appointment. Appointment show rates improve by 50 percent on average for businesses when this is done, according to Chelsey Lambert, CEO of the Lex Tech Review, who spoke on text messaging for lawyers at the 2019 OBA Solo & Small Firm Conference. There are some great tools to manage enterprise texting for businesses. One self-described “country lawyer” told me her simple solution for clients who want to text the lawyer was to buy the office a cheap mobile phone with an inexpensive data plan. That phone “lives” at the reception desk always plugged into the charger and the receptionist handles texts just like she answers phone calls. How simple would it be to have the

receptionist use that phone to send out appointment reminders every day?

- **Practice management software tools.** Efficient law office operations begin with digital client files powered by practice management software tools. Smaller firms and solo practitioners will prefer cloud-based tools where the tech support is included in the monthly fee and there is easy access to client files working from home or on the road. Don’t forget OBA

members can get member discount information on six of these tools. That information is available in MYOKBar.

- **Dual monitors.** Multitasking is largely a myth. To do quality work, do one thing at a time. However, having multiple workspaces by using multiple monitors is a huge help. Your legal research can be located on one monitor while the brief you are writing is on another. I know most readers have already done this, but it is a simple,



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Whether planning to make the delivery of limited scope representation as efficient as possible or being better prepared to deal with a large corporate client's legal bill review auditors, productivity improvements are good for both lawyer and client.

easy and relatively inexpensive productivity boost. I use three monitors in my office. Just saying.

- **Documenting processes.** More automation is coming to many different types of businesses in the future. You cannot automate what you have not fully documented. Even if your firm never intends to automate certain processes, checklists allow individuals working on projects to proceed more confidently and quickly through a series of tasks.
- **Automation tools.** Many law offices have long used macros to automate some document creation tasks in word processing. Now Microsoft Flow allows one to automate many tasks within all the tools of Office 365. It's probably best to explain how these work by citing examples. When I log into Flow, two of the featured flows that one could add were "Save Office 365 email attachments to OneDrive

for Business" and "Get a push notification every time you receive an email from your boss." There are many other flows available from Microsoft or you can design your own. It should also be noted that Zapier is another popular automation tool that is not limited to working just within the Office 365 environment. The annual Big Ideas issue of ABA's *Law Practice Magazine* (July/August 2019)<sup>1</sup> is available to read online and its theme is "Saying Hello to Automation." It contains many interesting articles covering topics from artificial intelligence-powered contract review to automating client intake to other lawyer workflow automation.

- **Automating scheduling.** Scheduling via email when more than two individuals are involved can be a frustrating time sink. Tools like Doodle or TimeBridge allow you

to create "polls" where all participants can indicate their availability. Office 365 has an add-on called FindTime that uses Outlook to do this by comparing calendars. Some lawyers use tools like Calendly to let clients choose between times the lawyer has designated as being available. Calendly integrates with Zapier to trigger responsive actions.

Improving productivity is a challenge, but hopefully the above examples can be instructive and the *Law Practice Magazine* issue I've cited contains many more ideas. Whether planning to make the delivery of limited scope representation as efficient as possible or being better prepared to deal with a large corporate client's legal bill review auditors, productivity improvements are good for both lawyer and client.

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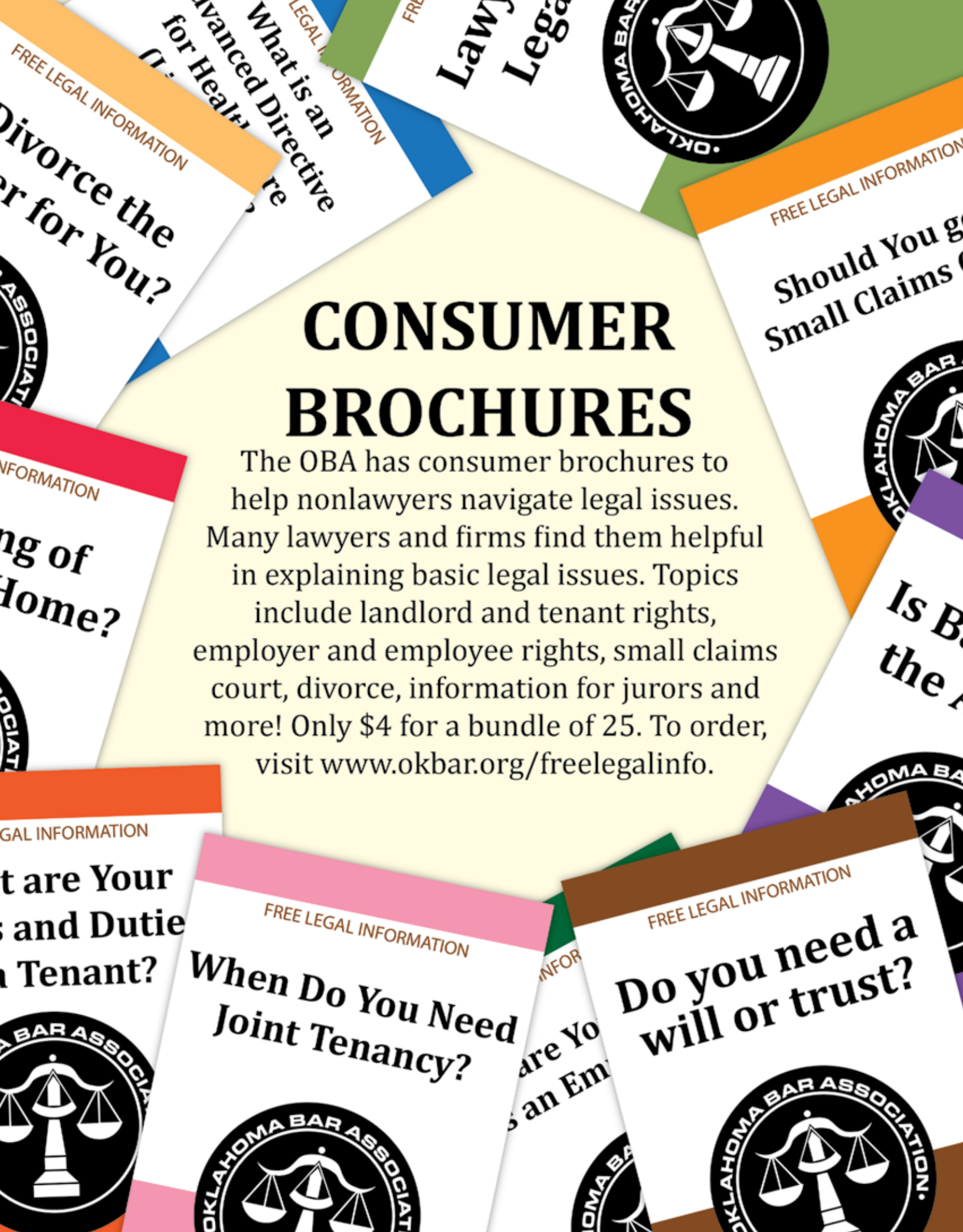
Mr. Calloway is OBA Management Assistance Program director. Need a quick answer to a tech problem or help solving a management dilemma? Contact him at 405-416-7008, 800-522-8060, jimc@okbar.org. It's a free member benefit!

#### ENDNOTES

1. [www.americanbar.org/groups/law\\_practice/publications/law\\_practice\\_magazine/2019/JA2019/](http://www.americanbar.org/groups/law_practice/publications/law_practice_magazine/2019/JA2019/).

# CONSUMER BROCHURES

The OBA has consumer brochures to help nonlawyers navigate legal issues. Many lawyers and firms find them helpful in explaining basic legal issues. Topics include landlord and tenant rights, employer and employee rights, small claims court, divorce, information for jurors and more! Only \$4 for a bundle of 25. To order, visit [www.okbar.org/freelegalinfo](http://www.okbar.org/freelegalinfo).





# CONQUER YOUR MOUNTAIN



**FREE 24-HOUR CONFIDENTIAL ASSISTANCE**  
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Get help addressing stress, depression, anxiety, substance abuse, relationships, burnout, health and other personal issues through counseling, monthly support groups and mentoring or peer support.



Oklahoma Bar Association  
Lawyers Helping Lawyers  
Assistance Committee

# Another Tragedy

## If You See Something, Say Something

By Joe Balkenbush

**A**NOTHER OKLAHOMA lawyer has died by suicide, leaving behind a spouse and two children. No one suspected he had any issues. He was very successful, had just been honored with membership in a prestigious legal association and had an idyllic family, home and work life. Those left behind likely have so many unanswered questions and wonder “How could I not have known? Is there something I missed?” The second tragedy of suicide is the life-long impact to those left behind. Your family, friends and colleagues are all affected.

There have been three Oklahoma lawyer suicides in the last 2 ½ months. As we all know, lawyer suicide is much more frequent than in the general population. “If you see something, say something” is a popular phrase we lawyers need to adopt and practice. The phrase can be directly applied to lawyer suicide and the associated mental health and addiction issues. Many times, close friends and/or colleagues recognize another lawyer is not doing well. It could be the unreturned phone calls, missed court hearings, the attorney isolating themselves or any number of other symptoms, but sometimes, the signs are not always as dramatic or clear. It may be unusual impatience, or anger, at minor things.

Unfortunately, in some cases there are no signs at all. Rather than saying something, the friend or colleague decides not to “poke their nose into someone else’s business.” It is hard to insert yourself into the issues you perceive someone else is having, but we have to do something. The legal profession is literally in crisis.

As lawyers, we are trained to observe and ascertain the facts, use our powers of lawyerly deduction and arrive at a conclusion. That is exactly what we should do with our friends and colleagues who we think might be

experiencing difficulties. Please – *if you see something, say something.*

In 2016, the American Bar Association in conjunction with the Hazelden Betty Ford Foundation, conducted an in-depth study in which 12,500 lawyers were surveyed. Approximately one-third of lawyers surveyed admitted to having mental health or addiction issues.

After the ABA/Hazelden study was published, the National Task Force on Attorney Well-Being performed a more in-depth examination of the results of the study and found that 50 percent of the approximately 12,500 lawyers who responded to the study did not answer the questions regarding their prescription drug use/abuse. Using our “powers of the lawyerly deduction,” it logically follows that the actual incidence of mental health or addiction issues among lawyers is higher than one-third.<sup>1</sup>

The ABA recently stated that health and wellness are every lawyer’s ethical and professional responsibility. So, what does that mean? It means that we *must* make time to ensure we are physically, mentally, emotionally and spiritually healthy. These characteristics are basic to our health and well-being. The ABA has published an excellent article regarding lawyer suicide.<sup>2</sup> The topics covered in the article are:

The following LHL Committee members are available if you have any questions or need help.

- **Peggy Stockwell**  
405-321-9414 or  
peggy1964@me.com
- **Clif Gooding**  
405-627-7772 or  
cgooding@goodingfirm.com
- **Hugh Hood**  
918-747-4357 or hugh@  
familylawoklahoma.com
- **Travis Pickens**  
405-266-2033 or  
Travis@TravisPPC.com

- What is Suicide?
- Warning Signs of Suicide
- Suicide Prevention
- How Suicide Affects Lawyers
- How to Help a Colleague Who Exhibits Warning Signs

## PERSONAL WELL-BEING

In that regard, how are you? Have you stopped and taken the time to assess your own personal well-being? Are you taking care of yourself? Are you taking time to ensure you are physically, mentally, emotionally and spiritually healthy? You have got to take care of yourself! No one else is going to do it for you. Your personal well-being *must* be one of *your* priorities. Awareness is the first step. Pay attention to how you're feeling, what you are thinking and how you react to stressful situations. Are you stressed out or overwhelmed? Are you depressed, anxious, irritable, lethargic, don't have your usual spark? Are you suffering from an addiction? Are your personal relationships suffering?

If you think it is your problem alone and no one ought to care, you are wrong. Your colleagues, family, friends and clients all care. If you are hurting yourself, you are hurting them too! If you cannot help yourself for your own sake, please help yourself for theirs. Your illness and premature death will devastate those close to you.

If you are in need of help in any way, the OBA Lawyers Helping Lawyers Assistance Program (LHL) is available to help you.

## LAWYERS HELPING LAWYERS

The OBA LHL Committee was created decades ago. There are numerous OBA members who volunteer their time to help other lawyers in need. LHL is not just for alcoholics or drug addicts. The committee provides services to any OBA member who is experiencing physical, mental, emotional,

psychological and/or financial issues. As an OBA member benefit, the services provided are free and confidential per Rule 8.3 of the Oklahoma Rules of Professional Conduct.<sup>3</sup>

The contact number for LHL is 800-364-7886. Additional information regarding LHL can be found on the LHL website,<sup>4</sup> by contacting the OBA Office of Ethics Counsel at 405-416-7055 or an LHL Committee member.

The incidence of mental health and addiction issues, along with the simple fact that so many lawyers are overwhelmed by the combination of personal and career responsibilities, have reached levels of grave concern. We must not only take care of ourselves, but must as a profession, take care of each other. If you see a friend or colleague who you think may be having problems, have the courage to talk to them about it. Check in with those close to you occasionally even if they seem fine. So often the simple act of reaching out to someone can actually save a life.

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Mr. Balkenbush is OBA ethics counsel. Have an ethics question? It's a member benefit and all inquiries are confidential. Contact him at [joeb@okbar.org](mailto:joeb@okbar.org) or 405-416-7055; 800-522-8065.

### ENDNOTES

1. Report from the National Task Force Report, [www.americanbar.org/groups/lawyer\\_assistance/task\\_force\\_report.html](http://www.americanbar.org/groups/lawyer_assistance/task_force_report.html).
2. [www.americanbar.org/groups/lawyer\\_assistance/resources/suicide/](http://www.americanbar.org/groups/lawyer_assistance/resources/suicide/).
3. Oklahoma Rules of Professional Conduct, [www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=448827](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=448827).
4. OBA Lawyers Helping Lawyers, 800-364-7886 or [www.okbar.org/lhl](http://www.okbar.org/lhl).





# LOOKING FOR SOMETHING?

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## CHECK YOUR BLUE BOOK!

*It's all  
in here!*

The Oklahoma Legal Directory is the official OBA directory of member addresses and phone numbers, plus it includes a guide to government offices and a complete digest of courts, professional associations including OBA committees and sections. To order a print copy, call 800-447-5375 ext. 2 or visit [www.legaldirectories.com](http://www.legaldirectories.com). A free digital version is available at [tinyurl.com/2018oklegaldirectory](http://tinyurl.com/2018oklegaldirectory).

## Meeting Summaries

*The Oklahoma Bar Association Board of Governors met Friday, April 19, at Lydie's Cottage on the grounds of the Marland Mansion in Ponca City.*

### APPRECIATION EXPRESSED

Board members thanked Governor Hermanson and the Kay County Bar Association for the reception and dinner in the Marland Mansion the previous evening. The board voted to issue a resolution of appreciation to the Kay County Bar Association for its hospitality.

### REPORT OF THE PRESIDENT

President Chesnut reported he wrote his message for the May bar journal, made appointments to the Professional Responsibility Tribunal and spoke to the Cleveland County Bar Association and to new bar admittees at the swearing-in ceremony. He attended OBA Day at the Capitol, OBA Investment Committee meeting, meetings following the special board meeting and the Kay County Bar Association reception and dinner.

### REPORT OF THE VICE PRESIDENT

Vice President Neal reported he attended OBA Day at the Capitol, Law Day contest winner ceremony, OBA Investment Committee meeting and Kay County Bar Association reception and dinner.

### REPORT OF THE PRESIDENT-ELECT

President-Elect Shields reported she attended the funeral for Judge Lisa Davis, OBA Day at the Capitol,

ABA Bar Leadership Conference in Chicago, OAMIC board meeting, Investment Committee meeting, planning meeting following the special board meeting and various meetings regarding 2020 planning.

### REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he attended the YLD meeting, funeral of Judge Davis, meeting with the OAMIC president regarding Lawyers Helping Lawyers Assistance Program funding, Investment Committee meeting, Legislative Monitoring Committee meeting, ECU lawyers dinner, new member swearing-in ceremony, meeting with Legal Aid Services of Oklahoma to discuss potential assistance with a grant, CLE Task Force meeting, monthly staff celebration and dinner with the Kay County Bar Association.

### REPORT OF THE PAST PRESIDENT

Past President Hays reported she attended the OBA CLE Task Force meeting, OBA Family Law Section monthly meeting, OBA Professionalism Committee meeting and Kay County Bar Association reception and dinner. She received a report of the OBA Women in Law Committee meeting.

### BOARD MEMBER REPORTS

**Governor Beese** reported he attended the OBA CLE Task Force meeting, OBA Day at the Capitol and Muskogee County Bar Association meeting.

**Governor DeClerck** reported he attended the Garfield County Bar Association meeting and OBA Day at the Capitol. **Governor Fields** reported he attended the OBA Investment Committee meeting and Kay County Bar Association reception and dinner. **Governor Hermanson**, unable to attend the meeting, reported via email he attended OBA Day at the Capitol, Oklahoma Uniform Jury Instruction Committee – Criminal meeting, multiple meetings at the Capitol on legislation and budget issues, Victim Resource Fair in Ponca City and Perry, Law Enforcement Day at the Capitol and Kay County Bar Association's reception and dinner at the Marland Mansion. He chaired two District Attorneys Council board meetings, two DAC Executive Committee meetings and two Oklahoma District Attorneys Association meetings. He was also a presenter at the Oklahoma Crime Victim's Rights Day ceremony at the Oklahoma Judicial Center. **Governor Hicks** reported he attended the Tulsa County Bar Association past presidents luncheon. **Governor Hutter** reported he attended the Bench and Bar Committee meeting. **Governor McKenzie** reported he attended the Oklahoma County Bar Association Board of Directors meeting. **Governor Morton**, unable to attend the meeting, reported via email he attended OBA Day at the Capitol, Cleveland County Bar Association meeting and Kay County Bar Association

dinner. **Governor Oliver** reported he attended the Lawyers Helping Lawyers Assistance Program Committee meeting, OBA CLE Task Force meeting and Kay County Bar Association reception and dinner. **Governor Pringle** reported he attended OBA Day at the Capitol, OBA Legislative Monitoring Committee meeting and chaired the quarterly meeting of the Financial Institution and Commercial Law Section. **Governor Will**, unable to attend the meeting, reported via email he spoke to the Yukon Public Schools American government class on the U.S. Constitution and on a career as an attorney. **Governor Williams** reported he chaired the Council Oak Johnson Sontag Inn of Court Pupilage Group VI presentation of "Woodshedding Witnesses," served as presiding master for an OBA PRT reinstatement hearing, presented the Blake Champlin Environmental Law Student Award on behalf of the OBA Environmental Law Section at the TU College of Law annual awards ceremony and presented a draft resolution for the amendment of CLE requirements at the OBA CLE Task Force meeting. He attended meetings of the Tulsa County Bar Association, Tulsa County Bar Foundation and OBA Diversity Committee. He also attended the TCBA/TCBF past presidents luncheon, memorial service for Dennis F. Seacat and Kay County Bar Association reception and dinner.

### REPORT OF THE YOUNG LAWYERS DIVISION

Governor Nowakowski reviewed plans for the upcoming YLD Midyear Meeting. She attended OBA Day at the Capitol, OBA CLE Task Force meeting and chaired the YLD board meeting.

### REPORT OF THE SUPREME COURT LIAISON

Justice Edmondson said he appreciated the hospitality of the Kay County Bar Association in hosting the reception and dinner. He reported Vice Chief Justice Patrick Wyrick resigned from the Supreme Court to accept a federal position with the Western District of Oklahoma, the new vice chief elected was Justice Richard Darby. With the recent retirement announcement of Justice John Reif, he noted there are now two vacancies on the court.

### BOARD LIAISON REPORTS

Governor Hicks said the **Clients' Security Fund Committee** met recently, and he shared one claim discussed was for about \$500,000. On behalf of the **Awards Committee**, Governor Nowakowski encouraged board members to submit nominations for the OBA Awards. Governor Hutter said the **Bench and Bar Committee** is interested in looking at social media and judges. He said its VPO project is complete and is looking for future projects. Governor Williams said the **Diversity Committee** has set a day for its awards banquet and has a tentative date for its LSAT

boot camp for which it is soliciting sponsors. The committee continues to work on reframing its mission statement. Vice President Neal said the **Investment Committee** discussed recommendations to give Administrative Director Combs more flexibility in investing in short-term certificates of deposit and will propose changes to the investment policy at the committee's next meeting. He said the **Law Schools Committee** had productive meetings at TU and OCU. The committee will do work to revise its charter to strengthen the relationship between the OBA and the law schools. As staff liaison for the **Law Day Committee**, Communications Director Manning said the committee's *Ask A Lawyer* TV show and statewide free legal advice events are set to take place May 2. Event promotion is the top priority of everyone's efforts with several TV and radio interviews planned. She said volunteers to staff the Oklahoma City and Tulsa legal advice hotlines are being recruited, and she hoped all governors will be supporting their local hotlines. Governor Oliver said the **Lawyers Helping Lawyers Assistance Program Committee** is excited about incorporating the ABA recommendations into Oklahoma's program. Committee members are conducting phone interviews with other bar associations that have adopted changes. He said major revamping of the program will require additional funding. On behalf of the **Legislative**



**Monitoring Committee**, Governor Pringle thanked board members for attending Day at the Capitol. He said communications with legislators was good, and there is interaction with the Office of the Governor. Past President Hays said the **Professionalism Committee** is working on CLE planning. She reported the **Women in Law Committee** set up tables at the swearing-in ceremony reception to boost new lawyer interaction with the committee and has social events planned for May. She said planning for the fall conference is almost complete.

### REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reviewed the written report of PRC actions and OBA disciplinary matters from Feb.15 to March 29, were submitted to the board for its review. She said she is monitoring the litigation in which Executive Director Williams is named as a defendant.

### PERSONNEL POLICY AMENDMENT

President Chesnut said an amendment to Section M on pay periods and procedures in the OBA Personnel Policy is needed to remove obsolete language. The board voted to amend the sentence, "If an employee is working off site or unable to log in, the employee's supervisor shall input time keeping information for the employee" to "If an employee is working off site

or unable to log in, the employee's supervisor shall ensure the time-keeping information is input for the employee." The board voted to amend the policy.

### OKLAHOMA DOMESTIC VIOLENCE FATALITY REVIEW BOARD

The board approved President Chesnut's proposal to submit the names and resumès of Karen Pepper Mueller, Oklahoma City; Gail Stricklin, Oklahoma City; and Cindy Goble, Oklahoma City, to the attorney general for consideration and appointment of one person to the review board. The term expires 6/30/21.

### PROFESSIONAL RESPONSIBILITY TRIBUNAL

The board approved President Chesnut's reappointment of Ted Roberts, Norman; Linda Pizzini, Yukon; Rod Ring, Norman; and appointment of Linda Scoggins, Oklahoma City, and William J. Baker, Stillwater, to the PRT. Their terms expire 6/30/2022.

### LEGAL AID PARTNERSHIP

Executive Director Williams said Legal Aid Services of Oklahoma is applying for a \$1 million grant for disaster preparedness. He met with a Legal Aid representative and several other persons to discuss the grant proposal. He suggested producing a series of training videos that could be used in other states, not just Oklahoma. MAP Director Calloway has served as a resource

when other states have experienced disasters. Executive Director Williams said the OBA could provide the studio, and video production services might be contracted out if the OBA does not have the expertise. The board approved the concept of the OBA moving into a partnership with Legal Aid Services.

### EXECUTIVE SESSION

The board voted to go into executive session, met in executive session and voted to go back into regular session.

### APPROVAL OF RETAINING COUNSEL

The board voted to retain counsel to represent Executive Director Williams.

### COUNCIL ON JUDICIAL COMPLAINTS

President Chesnut announced he has reappointed Cathy Christensen, Oklahoma City, to the Council on Judicial Complaints with a term that will expire 6/30/2024.

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*The Oklahoma Bar Association Board of Governors met Friday, May 17, at the Oklahoma Bar Center in Oklahoma City.*

### REPORT OF THE PRESIDENT

President Chesnut reported he spoke at the Law Day luncheon and event in Wewoka, appointed a three-person special commission for the hearing on a bar complaint against a PRC member, drafted a

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Executive Director Williams said Legal Aid Services of Oklahoma is applying for a \$1 million grant for disaster preparedness.

welcome letter for the Sovereignty Symposium, submitted candidate names for the Oklahoma Domestic Violence Fatality Review Board and made appointments of OBA members to various requested committees and sections. He attended the Pittsburg County Law Day banquet, Tulsa County Law Day luncheon, Ottawa County Bar Association monthly meeting and Tri-County [Choctaw, McCurtain and Pushmataha] Law Day banquet in Idabel at which he presented 50-year membership certificates and pins.

#### REPORT OF THE VICE PRESIDENT

Vice President Neal reported he attended meetings of the United Way of Central Oklahoma Executive Committee, United Way of Central Oklahoma board meeting and United Way of Central Oklahoma Community Investment Committee.

#### REPORT OF THE PRESIDENT-ELECT

President-Elect Shields reported she attended the Seminole County Bar Association Law Day luncheon, CLE Task Force meeting, meetings regarding pending OBA matters and worked on committee appointments.

#### REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he attended the CLE Task Force meeting, staff meeting on security, monthly staff celebration, Legislative Monitoring Committee meeting and Law Day events in Payne, Oklahoma, Pittsburg and Tulsa counties in addition to the Tri-County event.

#### REPORT OF THE PAST PRESIDENT

Past President Hays reported she attended the OBA CLE Task Force meeting, OBA Family Law Section monthly meeting/CLE,

OBA Professionalism Committee and Tulsa County Law Day luncheon. She participated in a Tulsa County selection committee for two special judge positions.

#### BOARD MEMBER REPORTS

**Governor Beese** reported he attended the Muskogee County Bar Association meeting. **Governor DeClerck** reported he attended the Garfield County Bar Association meeting. **Governor Fields** reported he attended the Pittsburg County Law Day banquet and the Tri-County Law Day banquet. **Governor Hermanson** reported he served on the faculty at the Prosecutor's Boot Camp Trial Advocacy Training and recruited volunteers from the Kay County Bar Association (including himself) to staff the week-long Kay County Drug Store to educate middle school children on the dangers of drug use. He presided at the Justice Assistance Grant Board meeting to hear presentations of proposals, Justice Assistance Grant Board subcommittee meeting to make recommendations to the full board, Justice Assistance Grant Board committee meeting to award funding for successful applicants for the next two years, executive session of the District Attorneys Council, District Attorneys Council May meeting and Oklahoma District Attorneys Association's May meeting. **Governor Hicks** reported he attended the Tulsa County Bar Association YLD Trivia Night fundraiser, reception for Law Day luncheon speaker Ziva Branstetter of the *Washington Post*, Tulsa County Law Day luncheon and Tulsa County Bar Foundation Annual Charity Golf Tournament. He also presented a check from TCBF to Junior Achievement's "BizTown" project. **Governor McKenzie** reported he attended the Oklahoma County Bar Association Law Day luncheon.

**Governor Morton** reported he attended the Cleveland County Bar Association monthly meeting and helped staff the Law Day Ask A Lawyer hotline. **Governor Oliver** reported he attended the Payne County Law Day banquet, Oklahoma County Law Day banquet, Payne County honor docket, Payne County courthouse appreciation luncheon and CLE Task Force meeting. He also helped staff Payne County's Ask A Lawyer hotline. **Governor Pringle** reported he presented at the Seminole County Bar Association Law Day event, helped staff the Ask A Lawyer hotline and attended the Oklahoma County Bar Association *Briefcase* meeting. **Governor Will** reported he attended the Canadian County Law Day event at which Judge Patrick Wyrick was the speaker. **Governor Williams** reported he attended the OBA CLE Task Force meeting, Tulsa County Law Day luncheon, reception for the luncheon keynote speaker and OBA Diversity Committee meeting. He also served as presiding master for an OBA Professional Responsibility Tribunal show cause suspension hearing, presented basic intestacy and estate planning information for a Senior Symposium community seminar for senior citizens, helped staff the Tulsa County Ask A Lawyer hotline and both sponsored a team and played in the TCBF Annual Charitable Golf Tournament.

#### REPORT OF THE YOUNG LAWYERS DIVISION

Governor Nowakowski, unable to attend the meeting, reported via email she attended the ABA YLD Spring Conference in Washington, D.C. with Executive Committee members Jordan Haygood and April Moaning. They attended CLE and also had a private panel discussion with Rep. Joe Kennedy and Sen. Lindsey Graham, along

with congressional staff lawyers. They also attended a private lecture in the U.S. Supreme Court with Clerk Scott Harris.

### EXECUTIVE SESSION

The board voted to go into executive session, met in executive session and voted to come out of executive session.

### BOARD LIAISON REPORTS

Governor Hutter said the **Solo & Small Firm Conference Planning Committee's** event is coming up with a black and white party as the kickoff social event, training has been added and the hotel deadline is a week before the registration deadline. Governor Williams said the **Diversity Committee** is helping Legal Aid Services of Oklahoma promote the Second Annual Sonya L. Patterson Memorial Elder Abuse Symposium to be held at the Oklahoma Bar Center June 12. They are also working on planning an implicit bias CLE seminar for July. Governor Hermanson said the **Law Day Committee** is reviewing results from this year's events and will begin planning for 2020. Early reports are the number of people taking advantage of this year's Ask A Lawyer free legal advice is about the same as last year. The TV show was outstanding. Committee Chair Kara Pratt will give a detailed report at the June board meeting at the Solo & Small Firm Conference. Governor Oliver said **Lawyers Helping Lawyers Assistance Program Committee** members are interviewing executives at other state bars that have implemented changes recommended by the ABA. The committee will present recommendations to make Oklahoma's program more effective to the board soon. Past President Hays said the **Professionalism Committee** continues its planning for a CLE

seminar. She also reported the **Women in Law Committee** has essentially finished planning for its fall conference, social mixers are being held and they have organized a drive to collect supplies for Domestic Violence Intervention Services.

### REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported Executive Director Williams and Administration Director Combs are looking at building security. Threats seem to be increasing. Executive Director Williams shared details. A written report of PRC actions and OBA disciplinary matters from March 29 to April 26 were submitted to the board for its review.

### APPLICATION TO SUSPEND FOR FAILURE TO PAY 2019 DUES

Executive Director Williams explained the process for suspending and striking bar members. The board authorized Executive Director Williams to file the application to suspend for failure to pay 2019 dues. It was noted applying to the Kick It Forward program and applying for associate status are still options.

### APPLICATION TO SUSPEND FOR FAILURE TO COMPLY WITH 2018 MCLE REQUIREMENTS

The board authorized Executive Director Williams to file the application to suspend for failure to comply with 2018 MCLE requirements.

### APPLICATION TO STRIKE FOR FAILURE TO REINSTATE AFTER SUSPENSION FOR NONPAYMENT OF 2018 DUES

The board authorized Executive Director Williams to file the application to strike for failure to reinstate after suspension for nonpayment of 2018 dues.

### APPLICATION TO STRIKE FOR FAILURE TO REINSTATE AFTER SUSPENSION FOR NONCOMPLIANCE WITH 2017 MCLE REQUIREMENTS

The board authorized Executive Director Williams to file the application to strike for failure to reinstate after suspension for noncompliance with 2017 MCLE requirements.

### APPOINTMENT OF COMMISSION TO ACT UPON A GRIEVANCE AGAINST A PRC MEMBER

The board approved President Chesnut's appointment of Deborah A. Reheard, Eufaula; William R. Grimm, Tulsa; and Stephen D. Beam, Weatherford, to a three-member commission to act upon a grievance against a PRC member.

### BUDGET COMMITTEE APPOINTMENTS

The board voted to appoint to the OBA Budget Committee:

Members of House of Delegates: Brandi Nowakowski, Shawnee; James R. Hicks, Tulsa; Michael W. Brewer, Oklahoma City; Peggy Stockwell, Norman; James C. Milton, Tulsa

Board of Governors: Jimmy D. Oliver, Stillwater; D. Kenyon Williams Jr., Tulsa; Miles T. Pringle, Oklahoma City; Tim E. DeClerck, Enid

Attorney members: Jordan L. Haygood, Oklahoma City; Mike Mordy, Ardmore; Kimberly Hays, Tulsa; Lauren Barghols Hanna, Oklahoma City; Deborah A. Reheard, Eufaula; Charles W. Chesnut, Miami.

### REDISTRICTING OF SUPREME COURT JUDICIAL DISTRICTS TO ALIGN WITH CONGRESSIONAL DISTRICTS

Executive Director Williams said the bill redistricting Supreme Court judicial districts has been signed by the governor and will be



effective Jan. 1, 2020. The bill will reduce the court's nine districts to five districts, the same as congressional districts. The remaining four seats will be designated as at-large. Implementation will not begin until July 1, 2020. Options for transitioning OBA boards and appointments that mirror the nine Supreme Court districts were discussed.

## LEGISLATIVE SESSION REPORT

Executive Director Williams briefed board members on several pieces of pending legislation.

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*The Oklahoma Bar Association Board of Governors met Thursday, June 20, at the Osage Casino Hotel in Tulsa in conjunction with the Solo & Small Firm Conference.*

## REPORT OF THE PRESIDENT

President Chesnut reported he attended two CLE Task Force meetings, gave the welcome at the Sovereignty Symposium, made appointments to the Board of Editors and Oklahoma Bar Foundation and worked on Annual Meeting details.

## REPORT OF THE VICE PRESIDENT

Vice President Neal reported he attended the Oklahoma County Bar Association YLD happy hour event.

## REPORT OF THE PRESIDENT-ELECT

President-Elect Shields reported she attended two CLE Task Force meetings and Oklahoma Attorneys Mutual Insurance Co. board meeting. She also served as a panelist at Oklahoma Girls State and did planning for committee appointments and other matters for next year.

## REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he attended two CLE

Task Force meetings, YLD board meeting, meetings on legal matters, Legislative Monitoring Committee meeting and monthly staff celebration. He served as a panelist at a Hugh O'Brian Youth Leadership Conference, conducted staff evaluations and worked on disaster relief activation.

attended a luncheon in Ponca City with Gov. Stitt, a drug court graduation, Noble County Public Safety Dinner and OBA Legislative Monitoring Committee meeting. He gave a presentation at the Tonkawa Legislative Breakfast, attended attorney Fred Boettcher's funeral and spoke at the celebration

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Governor DeClerck talked to the Garfield County Bar Association president about putting together a program about domestic assault, partnering with the YWCA or other related organizations.

## REPORT OF THE PAST PRESIDENT

Past President Hays reported she attended two OBA CLE Task Force meetings, OBA Family Law Section meeting and received the report from the OBA Women in Law Committee.

## BOARD MEMBER REPORTS

**Governor Beese** reported he attended two CLE Task Force meetings and the Legal Internship Committee meeting. **Governor DeClerck** reported he talked to the Garfield County Bar Association president about putting together a program about domestic assault, partnering with the YWCA or other related organizations. **Governor Hermanson**, unable to attend the meeting, reported via email he chaired the District Attorneys Council special meeting, District Attorneys Council executive meeting, District Attorneys board meeting and Oklahoma District Attorneys Association board meeting. He

event. **Governor Hicks** reported he attended the Tulsa County Bar Foundation meeting, OBA Access to Justice meeting and Ethics in 18 Holes CLE seminar. **Governor McKenzie** reported he attended the Oklahoma County Bar Association board meeting and a Pottawatomie County Bar Association meeting. **Governor Morton** reported he attended the Legislative Monitoring Committee meeting. **Governor Oliver** reported he attended a CLE Task Force meeting, Lawyers Helping Lawyers Committee meeting and Payne County Bar Association monthly meeting. **Governor Pringle** reported he chaired the quarterly meeting for the OBA Financial Institution and Commercial Law Section and gave a legislative update presentation at the OKC Rotary breakfast meeting. He attended the Oklahoma County Bar Association *Briefcase* Committee meeting and OCBA Young Lawyers Committee happy hour. **Governor Will**

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President Chesnut said the OBA had money budgeted for landscaping; however, security has become a higher priority, and funding may be reallocated.

reported he put together a team for the Oklahoma Bar Foundation “Rock the Foundation” lip sync battle. **Governor Williams** reported he attended two OBA CLE Task Force meetings, Tulsa County Bar Foundation meeting and Second Annual Sonya L. Patterson Memorial Elder Abuse Symposium. He was interviewed by Channel 23 TV news regarding the capture of the TCBF building graffiti vandals.

#### REPORT OF THE YOUNG LAWYERS DIVISION

Governor Nowakowski reported she attended the June CLE Task Force meeting and conducted the May YLD meeting via BlueJeans. She said at the Solo & Small Firm Conference/YLD Midyear Meeting, the division will host its hospitality suite Friday and Saturday nights next to the pool with a limbo contest Friday night in addition to hosting a cabana.

#### BOARD LIAISON REPORTS

Governor Hicks said he could not attend the **Access to Justice Committee** meeting, but the meeting notes are available online in Communities. Governor Nowakowski said the **Awards Committee** encouraged board

members to submit nominations. The deadline is July 1. Governor Will said the **Bar Center Facilities Committee** will meet soon. President Chesnut said the OBA had money budgeted for landscaping; however, security has become a higher priority, and funding may be reallocated. Governor Beese said the **Legal Internship Committee** prepared proposed rules to streamline the application process for interns working in law school clinics, removing requirements for background reporting and legal intern exam requirements. The proposed changes will be sent to the Supreme Court for its consideration. Vice President Neal said the **Law Schools Committee** is discussing revisions to their charter. Governor Oliver said **Lawyers Helping Lawyers Assistance Program Committee** is continuing to research different options for restructuring. A presentation to the board will be made in the next month or two. Governor Pringle said the **Legislative Monitoring Committee** will hold its Legislative Debrief on Aug. 22 and is working on confirming speakers.

#### REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported the Professional Responsibility Tribunal will have its annual meeting next week at the bar center, and its membership will change at this meeting. Chief Justice Gurich will speak at the meeting. General Counsel Hendryx reviewed the tribunal’s composition. Governor Williams described his experience on the PRT. Also, a written report of PRC actions and OBA disciplinary matters from April 26 to May 31 were submitted to the board for its review.

#### BUSINESS AND CORPORATE LAW SECTION AMENDMENT OF BYLAWS

Administration Director Combs reported the section wants to raise dues from \$15 to \$20 annually. The board approved the section dues increase.

#### BOARD OF EDITORS APPOINTMENT

The board approved President Chesnut’s appointment of Cassandra L. Coats, Vinita, to complete the unexpired term of Clayton Baker who has moved from District 1. The term will expire 12/31/2020.

## OKLAHOMA BAR FOUNDATION TRUSTEE

The board approved President Chesnut's appointment of Rachel Pappy, Oklahoma City, for a one-year term expiring 12/31/2020.

## CLE ANNUAL REPORT

Educational Programs Director Damron noted Jan. 1, 2019, the MCLE rule changed to allow members to obtain all their 12 CLE hours online. In July 2018, the switch was made from Freestone back to InReach as the online provider for the learning management system, which allows members access to a variety of programming from other state providers. She said competition continues to be difficult with the number of providers and free CLE opportunities increasing. In-person and online registration numbers for 2018 increased slightly. She described their marketing efforts and explained they are now offering packages for discount prices. Quality is a main selling point. The OBA is still the number one provider, but every year the market share decreases. On average there are only about five sections that routinely co-sponsor seminars with the CLE Department. Despite the challenges, net revenue increased. She also noted the department has a federal grant to do judicial training.

## LAW DAY REPORT

Law Day Committee Chairperson Kara Pratt and Vice Chairperson Ed Wunch used a PowerPoint presentation to review the results and impact of the contests, free legal advice and TV show. Final results were more than 3.44 million total impressions across the state at a cost of \$17 per 1,000. Total results were down from 2018, attributed to a decrease in online news coverage and readership of major print publications; however, increases were seen in billboards, TV and radio audiences and news release publication. A board member suggested including mock trial schools in contest outreach. The committee, assisted by the Communications Department, was complimented for its efforts.

## STATE COUNCIL FOR INTERSTATE JUVENILE SUPERVISION

Executive Director Williams said he has appointed Blake E. Lynch, McAlester, to the state council with a term to expire 6/30/2022.

## JUDICIAL NOMINATING COMMISSION ELECTION

Executive Director Williams reported ballots were mailed June 7 to bar members in District 4 to select from three candidates.

Ballots will be counted June 24. He said James Bland, McAlester, ran unopposed for the District 3 position and is deemed elected.

## UPCOMING EVENTS

President Chesnut reviewed upcoming events and noted visiting lawyers from Macedonia will be coming to tour the bar center and learn more about the association. Governor Will mentioned the OBF fundraising lip sync contest will take place next week.

## SOLO & SMALL FIRM CONFERENCE

President Chesnut congratulated Educational Programs Director Damron and the rest of the OBA staff for their work in moving the conference location only weeks before the event.

## NEXT MEETING

The Board of Governors met via telephone conference in July. A summary of those actions will be published in the *Oklahoma Bar Journal* once the minutes are approved. The next board meeting will be at 10 a.m. Friday, Aug. 23, at the Oklahoma Bar Center in Oklahoma City.



# OBF Raises \$26,094 at Lip Sync Fundraiser

By Candice Pace

**T**HE OKLAHOMA BAR Foundation held its first ever Rock the Foundation – Lip Sync for Justice fundraiser on June 27 at 21c Museum Hotel in Oklahoma City. The event raised \$26,094 for access to justice programs funded by the foundation. Dean Jim Roth from the OCU School of Law was master of ceremonies and the competition consisted of

nine lip sync teams of law firms, law schools and the YLD. Two lip sync trophies were awarded. One went to the fundraising champions team and the other to the lip sync champions team. All teams raised money prior to the event and audience members were able to text to donate to their favorite teams during the show. Team The Esq.Choir from Polston Tax took

home the trophy for fundraising champions by raising \$6,000. They performed “Don’t Stop Believin’” by Journey.

To determine the lip sync champions title, a panel of celebrity judges scored each act based on creativity, lip sync style, team enthusiasm and use of props. The celebrity judges were Justice Douglas Combs of the Oklahoma



OBF President Jennifer Castillo and lip sync teams during encore performance



*Fundraising champions from Polston Tax with emcee Dean Jim Roth and competition judges Oklahoma Supreme Court Justice Douglas Combs and Oklahoma Court of Criminal Appeals Judge Dana Kuehn*

Supreme Court, Judge Dana Kuehn of the Oklahoma Court of Criminal Appeals and OBA member and founder of *Brides of Oklahoma* magazine Ashley Bowen Murphy. Team Brief This! from The Rudnicki Firm took home this trophy. The group performed to a mix of sassy pop music consisting of five different songs, and the judges commented that all team members knew the words to all of the songs in the mix very well. Also, audio problems during their performance interrupted the team, with their music stopping completely in the final song. A quick-thinking team member grabbed the emcee’s mic and confidently sang the words to “All I Do Is Win” by DJ Khaled so the team could finish their performance.

## ROCK THE FOUNDATION SPONSORS

### Participating Sponsors

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*Pierce Couch*  
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 Hartley Kelso PC  
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*Lip sync champions from The Rudnicki Firm and OBF President Jennifer Castillo*

To end the night, OBF President Jennifer Castillo performed “I Love Rock ‘n’ Roll” as all the participating teams joined in with her for an encore.

Congratulations to our winners Polston Tax and The Rudnicki Firm, and a special thank you to our President Jennifer Castillo for coming up with this idea for a creative and fun fundraiser! On behalf of the OBF board and staff, thank you to all of our lip sync participants, sponsors, emcee, judges and event attendees who helped make this event a success!

Event photos can be found in the Rock the Foundation 2019 photo album on the OBF Facebook page, [www.facebook.com/okbarfoundation](http://www.facebook.com/okbarfoundation). Plans for Rock the Foundation 2020 will begin soon!

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Ms. Pace is director of development and communications for the Oklahoma Bar Foundation.



6

## WAYS TO SUPPORT THE OKLAHOMA BAR FOUNDATION



### Fellows Program

*An annual giving program for individuals*



### Community Fellows Program

*An annual giving program for law firms, businesses and organizations*



### Memorials & Tributes

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



### Unclaimed Trust Funds

*Direct funds to the OBF by mailing a check with the following information on company letterhead: client name, case number and any other important information*



### Cy Pres Awards

*Leftover monies from class action cases and other proceedings can be designated to the OBF's Court Grant Fund or General Fund as specified*



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# Things Are Heating Up This Summer

By Brandi Nowakowski

**I**T'S HARD TO BELIEVE WE are already more than halfway through the year! Despite the slower pace that accompanies the summer

months, the YLD has been heating up along with the weather! June brought the much-anticipated Solo & Small Firm Conference along with

the YLD Midyear Meeting. Despite the challenges presented by unexpected Oklahoma weather which brought flooding to the original venue, the event was able to go on as scheduled at Osage Casino Hotel in Tulsa. Thanks to the excellent staff at Osage Casino Hotel, Solo & Small Firm Conference and the accompanying YLD festivities went off without a hitch! As usual, the YLD board conducted its meeting in conjunction with the conference on Friday afternoon at a poolside cabana. Attendees were able to relax, conduct business and socialize with other young lawyers. Immediately following the meeting was an awesome pool party hosted by the General Practice/ Solo and Small Firm Section. Following tradition, the YLD also hosted its hospitality suite Thursday and Friday nights, co-sponsored by the Family Law Section, Labor and Employment Law Section and OAMIC. Special thanks to those partners that made the suite a splash! The tropical-themed suite was very well attended, providing an excellent opportunity for lawyers of every vintage to gather, network and socialize. Friday night even included a limbo contest! We had a blast and are thankful to everyone for coming out to enjoy the fun!

In July, the YLD conducted its regular monthly meeting on July 20 at the Oklahoma Bar Center. At this



*YLD board members mixing business with fun at the annual Midyear Meeting, held poolside at Osage Casino Hotel in Tulsa during the 2019 Solo & Small Firm Conference.*





YLD members show off their hard work. They assembled more than 300 bar exam survival kits, one for each person taking the July exam.

meeting, the YLD board members assembled 319 bar exam survival kits for all those applicants taking the July bar exam. These kits contain pencils, pens, erasers, gum, candy, pain reliever, antacids and other goodies to help make the exam just a tad bit easier for the exam takers. Thereafter, board members met early on the first day of the exam to distribute the kits

and offer an encouraging smile and good luck to everyone sitting for the exam! This favorite tradition of the YLD wouldn't be possible without the commitment and team work of its board members.

Looking forward, the YLD will be having its next meeting 10 a.m. Saturday, Aug. 24, at the bar center. We are also currently planning at least one upcoming Wills for Heroes

event and a potential outdoor fall service project. Stay tuned for details; we'd love to have you join us!

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Ms. Nowakowski practices in Shawnee and serves as the YLD chairperson. She may be contacted at [brandi@stuartclover.com](mailto:brandi@stuartclover.com). Keep up with the YLD at [www.facebook.com/yld](http://www.facebook.com/yld).



YLD District 6 Director Tessa Hager and YLD Secretary Dylan Erwin keep an eye on the limbo contest at the YLD hospitality suite during the Solo & Small Firm Conference.



YLD members assemble bar exam survival kits.





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# FOR YOUR INFORMATION

## JUDICIAL NOMINATING COMMISSION ELECTION RESULTS ANNOUNCED



James D. Bland



David L. Butler

Attorneys James D. Bland of McAlester and David L. Butler of Lawton have been elected by the Oklahoma Bar Association members to six-year terms on the state Judicial Nominating Commission.

Mr. Bland will represent District 3 of Atoka, Bryan, Carter, Choctaw, Coal, Cotton, Garvin, Haskell,

Hughes, Jefferson, Johnston, Latimer, LeFlore, Marshall, McCurtain, Murray, Pittsburg, Pontotoc, Pushmataha, Seminole and Stephens counties. He ran unopposed.

He retired as district judge for the 18<sup>th</sup> Judicial District in January, after 25 years on the bench. Prior to his judicial career, he was in private practice in McAlester for 12 years. He currently serves as Pittsburg County Bar Association president and as a coach for the McAlester High School mock trial teams.

Mr. Butler will represent District 4, comprised of Caddo, Cleveland, Comanche, Grady, Greer, Harmon, Jackson, Kiowa, McClain, part of Oklahoma (including Choctaw, Harrah, Luther, Midwest City, Newalla, Nicoma Park, Spencer and South of 89<sup>th</sup> Street), Pottawatomie, Tillman and Washita counties.

He is a graduate of the OU College of Law and has been in private practice since 1997 with his primary office in Lawton. He is a partner in Zelbst, Holmes & Butler and his practice primarily focuses on civil litigation and criminal defense.

The Judicial Nominating Commission is charged with selecting candidates for judicial appointments made by the governor.

## CLEVELAND COUNTY COURTHOUSE NAVIGATORS READY TO ASSIST VISITORS

The Cleveland County Courthouse has implemented the Courthouse Navigator Project to provide courthouse guides to those without legal counsel.

Finding one's way around a courthouse can be a daunting experience, especially for low-income Oklahomans who lack the means to obtain legal counsel.

The Courthouse Navigator Project was initiated by the Access to Justice Commission, in collaboration with AmeriCorps, Legal Aid Services of Oklahoma Inc. and the OU College of Law. The project stations volunteer law students within the office of the court clerk to provide basic logistical information and serve as guides for those visitors without representation, many of who are low-income Oklahoma residents.

Since its inception in late February, courthouse navigators have assisted hundreds of visitors to the Cleveland County Courthouse. With continued success, it is anticipated the project could be initiated at other county courthouses across the state.



## IMPORTANT UPCOMING DATES

Don't forget the Oklahoma Bar Center will be closed Monday, Sept. 2, in observance of Labor Day. Be sure to docket the OBA Annual Meeting to be held in Oklahoma City Nov. 6-8.



## ASPIRING WRITERS TAKE NOTE

We want to feature your work on "The Back Page." Submit articles related to the practice of law, or send us something humorous, transforming or intriguing. Poetry is an option too. Send submissions of about 500 words to OBA Communications Director Carol Manning, [carolm@okbar.org](mailto:carolm@okbar.org).

## CONNECT WITH THE OBA THROUGH SOCIAL MEDIA

Have you checked out the OBA Facebook page? It's a great way to get updates and information about upcoming events and the Oklahoma legal community. Like our page at [www.facebook.com/OKBarAssociation](http://www.facebook.com/OKBarAssociation) and be sure to follow @OklahomaBar on Twitter and @OKBarAssociation on Instagram.



## OBA MEMBER RESIGNATIONS

The following members have resigned as members of the association and notice is hereby given of such resignation:

Harvey Martin Allen  
OBA No. 22353  
P.O. Box 1269  
Round Rock, TX 78680

Dana A. Burch  
OBA No. 13069  
22136 Westheimer Parkway #943  
Katy, TX 77450

Patrick Ryan Busby  
OBA No. 21948  
3813 Coliseum St.  
New Orleans, LA 70115

Spencer Marshall Coons  
OBA No. 31520  
1650 E. Dana Avenue  
Mesa, AZ 85204

Robert Michael Cunningham  
OBA No. 11278  
391 Las Colinas Blvd. E  
Suite 301-2006  
Irving, TX 75039

Julie Ann Demastus  
OBA No. 13431  
2733 Steamboat Circle  
Arlington, TX 76006

Cynthia Vanderpool Garcia  
OBA No. 21755  
12810 Maple St.  
Silver Spring, MD 20904

Patrick Reed Greene  
OBA No. 31380  
1007 N. Coolidge  
Wichita, KS 67203

Victoria H. Hales  
OBA No. 12317  
1312 S. Indian Knolls Dr.  
Washington, UT 84780

Jeffrey Russell Hanrahan  
OBA No. 3815  
ConocoPhillips, Sr. Counsel  
P.O. Box 4783  
SP1-16-16-N135  
Houston, TX 77210

Penny L. Hestand  
OBA No. 4158  
4117 Granada Lane  
Edmond, OK 73034-7175

Anthony C. Liolios  
OBA No. 32050  
1300 S.W. Park Avenue, Apt. 210  
Portland, OR 97201

John Oglesby Long  
OBA No. 11131  
9730 S. Park Circle  
Fairfax Station, VA 22039-2939

George H. Lowrey  
OBA No. 10888  
65 South 5th St.  
Columbus, OH 43215-4307

John S. Nalley  
OBA No. 31166  
Gasper Law Group  
128 S. Tejon, Ste. 100  
Colorado Springs, CO 80903

Eric Jondahl Nielsen  
OBA No. 31672  
900 School St. NW  
Elk River, MN 55330-1336

Lauren Anne Peterson  
OBA No. 31929  
4331 S. Virginia Ave.  
Joplin, MO 64801

Randy Lu Cunningham Robinson  
OBA No. 13410  
1472 Madrid Way  
Sandy, UT 84093

Carl Christopher Scherz  
OBA No. 20420  
2200 Ross Ave., Ste. 2800  
Dallas, TX 75201

Conly J. Schulte  
OBA No. 31318  
9451 Mountain Ridge Dr.  
Boulder, CO 80302

Matthew Thomas Sears  
OBA No. 22296  
201 E. 86th St., Apt. 5C  
New York, NY 10028

Phillip Aaron Taylor  
OBA No. 15597  
4949 S. 76th E. Ave., Ste. 16-A  
Tulsa, OK 74145-6623

Katherine W. Winfree  
OBA No. 9769  
14309 Gaines Ave.  
Rockville, MD 20853-2156

Russell Earl Wrigg  
OBA No. 33075  
800 Yauger Way SW, Unit F102  
Olympia, WA 98502

## OBA MEMBER REINSTATEMENTS

The following members suspended for nonpayment of dues or noncompliance with the Rules for Mandatory Continuing Legal Education have complied with the requirements for reinstatement, and notice is hereby given of such reinstatement.

Linda Jo Byford  
OBA No. 19754  
4542 W. McElroy Road  
Stillwater, OK 74075

Norman Kyle McCallum  
OBA No. 19676  
102 W. Jackson Street  
Hugo, OK 74743-3310

Rebecca Ross Seidl  
OBA No. 30425  
Mayer Brown LLP  
700 Louisiana St., Suite 3400  
Houston, TX 77346

Jade Caldwell  
OBA No. 31820  
12316A N. May Ave., Ste. 216  
Oklahoma City, OK 73120

Kirk Allen Moore  
OBA No. 6344  
1703 Meirwoods Drive  
Spring, TX 77379

Daniel Paul Stake  
OBA No. 8538  
P.O. Box 202  
Kingfisher, OK 73750

Nathan Seth Cross  
OBA 22535  
2 West 2<sup>nd</sup> Street, Suite 700  
Tulsa, OK 74103

Barbara Dew Rupert  
OBA No. 2329  
3917 N.W. 70<sup>th</sup> Street  
Oklahoma City, OK 73116

Kim Lien Underwood  
OBA No. 19243  
4508 Baldwin Avenue  
Moore, OK 73160

Carl O. LaMar  
OBA No. 18203  
1107 W. Walnut Avenue  
Duncan, OK 73533

Jessica Justine Scruggs  
OBA No. 30423  
3126 Meadow Lark Ln.  
Oklahoma City, OK 73120

## LAWYERS GIVE FREE LEGAL ADVICE TO OKLAHOMA STORM SURVIVORS

Oklahoma lawyers offered no-cost, disaster-related legal advice to survivors of the recent storms. Through the Oklahoma Bar Association's Disaster Relief program and a partnership with Legal Aid Services of Oklahoma (LASO), Oklahoma Indian Legal Services (OILS) and the American Bar Association Young Lawyers Division, legal help for those impacted by the storms has been provided in Canadian, Cherokee, Creek, Delaware, Kay, LeFlore, Logan, Mayes, Muskogee, Noble, Nowata, Okmulgee, Osage, Ottawa, Payne, Pottawatomie, Rogers, Sequoyah, Tulsa, Wagoner and Washington counties.

"Oklahoma attorneys have a history of volunteering when disasters strike, and with many people working together, we wanted to help in the recovery of Oklahomans who have suffered losses," said OBA President Chuck Chesnut.

Lawyers helped survivors with assistance securing FEMA and other government benefits; life, medical and property insurance claims; home repair contracts and contractors; replacement of wills and other vital legal documents destroyed in the disaster; consumer protection matters, remedies and procedures; mortgage-foreclosure problems and landlord-tenant problems.

Leading the OBA's efforts to help storm survivors was OBA Disaster Relief Committee Chairperson Molly Aspan.

## LHL DISCUSSION GROUP HOSTS SEPTEMBER MEETING



"How Do You Know if You Are an Alcoholic" will be the topic of the Sept. 5 meeting of the Lawyers Helping Lawyers monthly discussion group. Each meeting, always the first Thursday of the month, is facilitated by committee members and a licensed mental health professional. The group meets from 6 to 7:30 p.m. at the office of Tom Cummings, 701 N.W. 13th St., Oklahoma City. There is no cost to attend and snacks will be provided. RSVPs to [oneline@plexisgroupe.com](mailto:oneline@plexisgroupe.com) are encouraged to ensure there is food for all.

## ON THE MOVE

**John K. Williams** joined Fellers Snider. His practice centers on commercial law and business litigation and he received his J.D. from the OCU School of Law.

**Krystle L. Hampton** joined Jennings Teague PC as an associate. Her practice will focus on civil litigation and general insurance defense. She received her J.D. from the OCU School of Law in 2015.

**R. Ben Houston** joined Talley, Turner & Bertman. His practice areas include personal injury, civil litigation, business and family law. He graduated from the TU College of Law in 1991.

**Natalie J. Gilbert** and **Ryan P. Raupe** joined Evans & Davis as associate attorneys. Both will focus on estate planning, business planning, trust administration and probate law. Ms. Gilbert received her J.D. from the OU College of Law in 2017. Mr. Raupe earned his J.D. from the OU College of Law in 2018.

**Tynia A. Watson** was elected as director in Crowe & Dunlevy's Oklahoma City office and **Robert D. Singletary** joined the firm as a director and **Jordan E.M. Sessler** as an associate. Ms. Watson will continue to represent clients as part of the firm's Cannabis Industry, Intellectual Property, Litigation and Trial and Energy, Environment and Natural Resources practice groups. She earned her J.D. from the OCU School of Law. Mr. Singletary's practice will focus on environment regulation and water rights. He received his J.D. from the TU

College of Law. Mr. Sessler's work concentrates on client advocacy, and he has experience with preparing motions at the federal and state level. He received his J.D. from Harvard University in 2017.

**Kim Tran** joined Ogletree Deakin's Oklahoma City office as of counsel. She has experience in employment, civil rights and commercial litigation. She received her J.D. from the OCU School of Law in 2006.

**David R. Jenkins** joined the Hillsborough County Attorney's Office in Manchester, New Hampshire, where he will prosecute felony cases in superior court. He received his J.D. from the OU College of Law in 2014.

Mugg and Winston has changed locations. The new address is 1008 S. Bryant Ave., Suite 100, Edmond, 73034. Firm members include **Christin Mugg**, **Bria Winston**, **Rebekah Burchfiel** and **Jennifer Atkinson**. They can be reached at 405-705-2900.

**James Harvey**, **Bob Howard**, **Debbie Johnstone** and **G. Diane Lee** have been named shareholders of Riggs Abney. Mr. Harvey is a litigator based in the Oklahoma City office. His areas of practice include civil litigation, criminal law and adoption. He received his J.D. from the OCU School of Law in 1996. Mr. Howard practices in the areas of real estate, foreclosure and landlord/tenant law in the firm's Tulsa office. He graduated from the TU College of Law in 1983. Ms. Johnstone practices family and consumer finance law in the

firm's Tulsa office. She earned her J.D. from the OU College of Law in 1996. Ms. Lee is a civil litigator practicing estate planning, insurance, personal injury and auto accident, social security and elder law in Tulsa. She graduated from the TU College of Law in 2001.

**Eric Loggin** has opened Eric Scott Loggin & Associates, where he will be focusing on medical malpractice, personal injury and criminal defense. The office is located at 1811 S. Boston, Tulsa, 74119, and can be reached at 918-576-6192.

**Michael J. Blaschke**, **Rachel Lawrence Mor** and **Dan. M Peters** relocated their individual offices to Landmark Towers West, Suite 1000, 3555 NW 58<sup>th</sup>, Oklahoma City, 73112. Previous telephone numbers and email addresses remain the same.

Boaz & Associates PC has changed its mailing address. The new address is P.O. Box 32154, Edmond, 73003.

**Cindy Hastie Murray** has been named director and shareholder for Phillips Murrah. She is a member of the firm's Real Estate Practice Group and represents individuals as well as privately held and public companies in a wide range of commercial real estate matters. She received her J.D. from the OU College of Law in 1998.

**Philippa Tibbs Ellis** joined The Home Depot as assistant general counsel – general liability. She received her J.D. from the OU College of Law in 1988.



**Kyle D. Freeman** and **Kent A. Gilliland** have been elected as new members of Hall Estill's Executive Committee. Mr. Freeman concentrates his practice in the corporate/commercial area. He received his J.D. from the TU College of Law in 1998. Mr. Gilliland practices primarily in banking and commercial finance with emphasis on energy lending. He received his J.D. from the OCU School of Law in 1987.

**Col. Brent Wright** has been promoted to brigadier general. He serves as the assistant adjutant general for the Oklahoma Air National Guard and graduated from the TU College of Law in 1992.

**Steven L. Holcombe** has changed office locations. His new address is 700 Kihekah Ave., Pawhuska, 74056, and his phone number is 918-287-8762.

**Mike Voorhees**, **Sharon Voorhees** and **Todd R. Wynne** created Voorhees Voorhees & Wynne PA. Offices are located at 1236 SW 89<sup>th</sup> Street, Suite A, Oklahoma City, 73139, and their phone number is 405-682-5800.

**Sandra Benischek Harrison** has been named vice president of legal and regulatory affairs of the Oklahoma Hospital Association. She received her J.D. from the OU College of Law in 2000.

**Ronald R. Tracy** joined Munson & McMillin as the practice leader for the firm's Litigation Section, with a focus on oil and gas, real estate, construction and business litigation. He received his J.D. from the Loyola Marymount School of Law in 1995.

**Carol J. Rolke** joined the Bedlam Law Firm. She practices estate planning and family law and graduated from the OCU School of Law in 2003.

**Jonathan Brewer** joined the Oklahoma Department of Transportation General Counsel's Office as an assistant general counsel. His practice will focus on plaintiff's and defense tort litigation, and he graduated from the OU College of Law in 2015.

## AT THE PODIUM

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**Richard D. James** presented "Automobile Accident Claim Settlement from the Attorney's Point of View" at the annual convention and leveling conference of Mennonite Motorist Aid Inc. in Nashville, Tennessee.

**Chris Paul** presented "NTSB Investigations of Pipeline Accidents" at the annual American Petroleum Institute Conference in Phoenix.

**Sandra Benischek Harrison** presented to White House staff regarding Medicare telemedicine restrictions on behalf of the Center for Telehealth and ELaw, a non-profit based in Washington, D.C.

**Kelli Stump** moderated the Hot Topics Panel at the 2019 National Immigration Lawyers Conference in Orlando, Florida.

**Philip R. Bruce** was named a member of the Employers Counsel Network, an affiliation of leading lawyers and law firms across the U.S. and Canada, dedicated to advising and representing employers in all facets of labor and employment law and workplace disputes.

**Shannon Prescott**, a Muscogee (Creek) Citizen, was sworn in as the first woman to ever hold a district judge position with the Muscogee (Creek) Nation. She serves primarily as a family law practitioner in Okmulgee County.

**Myriah Downs, Christa Alderman** and **Mark Bright** were honored at the 50<sup>th</sup> Annual Oklahoma Department of Public Safety Awards Luncheon. Ms. Downs and Ms. Alderman were the first civilians in Oklahoma Highway Patrol history to receive the Chief's Special Recognition Award for their work reforming the state asset forfeiture system. Mr. Bright received the Commissioner's Award for his service to the Oklahoma Department of Public Safety in implied consent law.

**Hugh M. Robert** was honored by Iron Gate Ministries at their 7<sup>th</sup> Annual Founders Dinner. He was one of the co-founders of Lawyers Fighting Hunger (LFH), a 501(c)(3) whose mission is to feed the hungry. Since being founded, LFH has distributed over 145,000 cans of food, 6,175 turkeys and over 20,000 pounds of ham.

**Tony A. Scott** was honored with a Distinguished Alumni Award at East Central University's Evening of Honors and Recognition.

**Michael C. Turpen** received a Compassionate Citizen of the Year award from the Oklahoma Foundation for the Disabled Inc. He is a longtime supporter and had an instrumental role in advancing the foundation.

**Tricia Everest** was inducted to the Oklahoma Hall of Fame. Since the Oklahoma Hall of Fame's inception in 1927, 698 accomplished individuals have received this commendation.

**Brandon Long** was elected chair of the OCU School of Law Executive Board. He succeeds Emmanuel Edem, who served in the role for more than 10 years.

**Kelli Stump** was elected secretary of the National Executive Committee of the American Immigration Lawyers Association, an associate of over 15,000 immigration lawyers.

**Walters Jenny** was elected president of the Historical Society of Washington County, Virginia. He recently completed a term as president of the Abingdon Rotary Club and continues to serve on the Virginia Democratic Party Central Committee.

**Shane Henry** was selected as a Fellow of the American Academy of Matrimonial Lawyers (AAML). The AAML was founded in 1962 to "promote the highest degree of professionalism and excellence" in family and marital law.

**Samuel Fulkerson** has been elected as Fellow of the College of Labor and Employment Lawyers based on his character, integrity and professional experience.

## IN MEMORIAM

**F**red Boettcher of Ponca City died June 9. He was born March 16, 1939, in Phoenix. After earning his Bachelor of Science from St. Louis University, **he served as a special agent for the USAF Office of Special Investigation. He was honorably discharged three years later and continued his military career as a captain for the USAF Reserve.** In 1967, Mr. Boettcher partnered with David R. Garrison to establish the Ponca City law firm of Boettcher and Garrison. From 1969 to 1974, he served three terms as District 37 representative in the Oklahoma House of Representatives. At the time of his death, he was a partner in Boettcher, Devinney, Ingle and Wicker. Memorial donations may be made to the Ponca City Humane Society, The Mission or a charity of your choice.

**C**ol. Robert A. Fairbanks of Norman died June 4. He was born July 9, 1944, in Oklahoma City. He graduated with a Bachelor of Science in 1967, received his J.D. from the OU College of Law, MBA from OCU, Master of Law from Columbia University, Master of Arts in medical science from Stanford University and a Master of Education from Harvard University. He was a professor of law and political science at several universities. **He served in the U.S. Air Force as a contracting and manufacturing officer, logistics officers and judge advocate.** Mr. Fairbanks enjoyed fishing with his children and grandchildren, coaching softball and serving as a Scout leader.

**P**aul F. Fernald of Oklahoma City died June 11. He was born June 12, 1940, in Bartlesville. He graduated from OSU in 1963 and from the OU College of Law in 1965 **before serving in the U.S. Army** and practicing law. He published the courtroom drama novel *SUCCUBUS* in 1997 and was a member of the Church of the Servant. Memorial donations may be made to Whiz Kids Oklahoma, 1700 NW 17<sup>th</sup> Street, Suite 100, Oklahoma City, 73106.

**D**ouglas G. Fox of Tulsa died June 16. He was born June 13, 1933. He graduated from Classen High School in 1951 and received his J.D. from the OU College of Law. At the time of his death he practiced at GableGotwals. Memorial donations may be made to the Fox Scholarship Fund at Monte Cassino School or St. Joseph Monastery.

**T**odd Maxwell Henshaw of Savannah, Georgia, died June 2. He was born Nov. 19, 1950, in Tulsa. He received his J.D. in 1976 from Washington University in St. Louis, where he served as editor of the *Washington University Law Quarterly*. He practiced bankruptcy law private practice and corporate litigation at James, Potts and Wulfers. He was a member of the Tulsa County Bar Association and was a diligent servant to his clients and partners. He was a talented photographer and videographer and enjoyed making things for his loved ones.

**W**illiam Leiter of Tulsa died May 19. He was born March 3, 1928. He received a B.S. in mathematics from the University of Chicago and a J.D. from Stanford University. He practiced as an attorney in Tulsa for 64 years and was a remarkably intelligent man who will be remembered for his kindness, decency and honesty.

**P**aul B. Lindsey of Oklahoma City died June 20. He was born June 21, 1931. He attended OU where he graduated with a degree in accounting and a minor in law. **After graduation, he enlisted in the Navy as an ensign, where he served on the USS Beale for two years.** He received his J.D. from the OU College of Law in 1957. After practicing law in Tulsa, he returned to Oklahoma City to be assistant commissioner and counsel to Oklahoma Insurance Commissioner Joe B. Hunt. In 1979, he was appointed federal magistrate for the Western District of Oklahoma and subsequently a U.S. bankruptcy judge for the district. He retired in 1996 and continued working as a visiting judge throughout the county for the next decade. Memorial donations may be made to the Nichols Hills United Methodist Church music program, the OKC Philharmonic, the OU College of Law or a charity of your choice.

**J**. Daniel Morgan of Tulsa died May 31. He was born Sept. 9, 1950, in Spartanburg, Kansas. He received his Bachelor of Arts from Vanderbilt University, J.D. from Memphis State University and Master of Law degree from the University of Pennsylvania. In addition to serving as president of



the Tulsa County Bar Association and holding numerous leadership positions within that organization, he served as chairman of the United Way Legal Division and was a member of the Citizens Advisory Board for Persons with Disabilities. In his spare time, he enjoyed playing guitar, practicing yoga, riding his motorcycle and spending time with his daughters and grandson. Memorial donations may be made to the Neuroendocrine Cancer Awareness Network or the Tulsa Rotary Community Fund.

**Sen. Jonathan E. Nichols** of Norman died June 5. He was born Nov. 14, 1965, in Germany. He graduated from Muskogee High School in 1984, Northeastern State University in 1990 with a Bachelor of Arts in English and from the OU College of Law in 1993.

Following graduation, his first job as an attorney was at the Taylor Law Firm until he was hired as an assistant district attorney in 1995. His admiration of the law and politics led him to run for the District 15 seat of the Oklahoma Senate. He was elected to the Senate in November 2000, where he served until the end of his subsequent terms in 2012. Following his time in the Senate, he continued his service as chief advisor and legal counsel for the president pro tempore of the Senate, vice president of Government Relations for OU and senior policy advisor for the Office of the Speaker of the House of Representatives.

**Richard F. Remmers** of Oklahoma City died May 6. He was born Dec. 29, 1922. He graduated from Classen High School in 1941, OU College of

Engineering in 1944 and the OU College of Law in 1952. He was an accomplished attorney and worked for both Phillips Petroleum and Sohio Petroleum until retiring and establishing a private practice in Oklahoma City. He was admitted before the U.S. Supreme Court and the United States Circuit Court of Appeals for the 1<sup>st</sup>, 5<sup>th</sup>, 7<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> circuits. **He was a WWII veteran of the Pacific Theater serving on the USS Saratoga CV-3 and USS Floydsbay AVP-40.** Memorial donations may be made to the OSU Veterinary Health Science Center, American Cancer Society or the Oklahoma Medical Research Foundation.

**James Earl Whitman** of Tulsa died June 25. He was born May 8, 1942. He received his J.D. from the TU College of Law in 1967.

#### 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:

Laura Wolf  
Communications Dept.  
Oklahoma Bar Association  
405-416-7017  
barbriefs@okbar.org

*Articles for the October issue must be received by Sept. 1.*

## 2019 ISSUES

### SEPTEMBER

**Bar Convention**  
Editor: Carol Manning

### OCTOBER

**Appellate Law**  
Editor: Luke Adams  
ladams@tisdalohara.com  
Deadline: May 1, 2019

### NOVEMBER

**Indian Law**  
Editor: Leslie Taylor  
leslietaylorlaw@gmail.com  
Deadline: Aug. 1, 2019

### DECEMBER

**Starting a Law Practice**  
Editor: Patricia Flanagan  
patriciaaflanaganlawoffice@cox.net  
Deadline: Aug. 1, 2019

## 2020 ISSUES

### JANUARY

**Meet Your Bar Association**  
Editor: Carol Manning

### FEBRUARY

**Family Law**  
Editor: Virginia Henson  
virginia@phmlaw.net  
Deadline: Oct. 1, 2019

### MARCH

**Constitutional Law**  
Editors: C. Scott Jones & Melissa DeLacerda  
sjones@piercecouch.com  
Deadline: Oct. 1, 2019

### APRIL

**Law Day**  
Editor: Carol Manning

### MAY

**Diversity and the Law**  
Editor: Melissa DeLacerda  
melissde@aol.com  
Deadline: Jan. 1, 2020

### AUGUST

**Children and the Law**  
Editor: Luke Adams  
ladams@tisdalohara.com  
Deadline: May 1, 2020

### SEPTEMBER

**Bar Convention**  
Editor: Carol Manning

### OCTOBER

**Mental Health**  
Editor: C. Scott Jones  
sjones@piercecouch.com  
Deadline: May 1, 2020

### NOVEMBER

**Alternative Dispute Resolution**  
Editor: Aaron Bundy  
aaron@bundylawoffice.com  
Deadline: Aug. 1, 2020

### DECEMBER

**Ethics & Professional Responsibility**  
Editor: Amanda Grant  
amanda@spiro-law.com  
Deadline: Aug. 1, 2020

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



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## How to Take a Winning Headshot

In the world of the internet and social media, potential clients are going to look you up online before they ever meet you. The headshot on your website and social media speaks volumes about how you present yourself. Check out these tips to decide what you want your headshot to convey and how to get there.

[tinyurl.com/winningheadshot](http://tinyurl.com/winningheadshot)



## Increase Your Job Security in Case of Recession

While we are not currently in a recession, it never hurts to take protective measures now to ensure proper career management. Read this article for 10 ways to increase your job security in case of a recession.

[tinyurl.com/jobsecurity2019](http://tinyurl.com/jobsecurity2019)



## Get More Referrals from LinkedIn

Do you have a LinkedIn profile but aren't quite sure how to use it other than as an online resume?

Here is how you can leverage LinkedIn and make it a great referral source for you.

[tinyurl.com/linkedinreferrals2019](http://tinyurl.com/linkedinreferrals2019)



## Labor Day in Oklahoma

Labor Day is right around the corner, and you don't have to go far to enjoy the celebration. Whether you like getting outside, taking a dip in the pool or staying indoors with the A/C, there's no shortage of ways to celebrate Labor Day weekend in Oklahoma.

[tinyurl.com/OKlaborday](http://tinyurl.com/OKlaborday)





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### HANDWRITING IDENTIFICATION POLYGRAPH EXAMINATIONS

Board Certified	State & Federal Courts
Diplomate - ABFE	Former OSBI Agent
Fellow - ACFEI	FBI National Academy

Arthur Linville 405-736-1925

RESEARCH AND WRITING. Legal issues of all kinds. Trial and appellate briefs. Contact Kyle Persaud 918-336-1124. Email: [kyle@bartlesvillelawyers.com](mailto:kyle@bartlesvillelawyers.com).

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Seasoned trial attorney, with many successful jury trials, court arguments and 1000s of depositions, can handle these matters for you – even at the last minute. Contact me to get your litigation back on track. Licensed in Oklahoma and Texas. 405-850-5843 or [LitigationRescued@gmail.com](mailto:LitigationRescued@gmail.com).

## OFFICE SPACE

LUXURY OFFICE SPACE AVAILABLE - One fully furnished office available for lease in the Esperanza Office Park near NW 150th and May Avenue. The Renegar Building offers a beautiful reception area, conference room, full kitchen, fax, high-speed internet, security, janitorial services, free parking and assistance of our receptionist to greet clients and answer telephone. No deposit required, \$955/month. To view, please contact Gregg Renegar at 405-488-4543 or 405-285-8118.

## POSITIONS AVAILABLE

OKLAHOMA BAR ASSOCIATION HEROES program is looking for several volunteer attorneys. The need for FAMILY LAW ATTORNEYS is critical, but attorneys from all practice areas are needed. All ages, all counties. Gain invaluable experience, or mentor a young attorney, while helping someone in need. For more information or to sign up, contact Margaret Travis, 405-416-7086 or [heroes@okbar.org](mailto:heroes@okbar.org).

SEEKING EXPERIENCED WORKERS' COMPENSATION CLAIMS ADJUSTER for large self-insured employer. Send resume to [mclark@saintfrancis.com](mailto:mclark@saintfrancis.com) or complete application online at [www.saintfrancis.com/careers/](http://www.saintfrancis.com/careers/).

DISTRICT 17 DA'S OFFICE IS LOOKING FOR AN ASSISTANT DISTRICT ATTORNEY for our Choctaw County Office. Requires a J.D. from an accredited law school. Salary range \$55,000 to \$70,000. Must be admitted to the Oklahoma state bar and be in good standing. Submit a resume with supporting documentation to District Attorney Mark Matloff, 108 N Central, Suite 1, Idabel, OK 74745; Office: 580-286-7611, Fax: 580-286-7613; email: [tammy.toten@dac.state.ok.us](mailto:tammy.toten@dac.state.ok.us).

NORMAN BASED FIRM IS SEEKING A SHARP & MOTIVATED ATTORNEY to handle HR-related matters. Attorney will be tasked with handling all aspects of HR-related items. Experience in HR is required. Firm offers health/dental insurance, paid personal/vacation days, 401k matching program and a flexible work schedule. Members of our firm enjoy an energetic and team-oriented environment. Position location can be for any of our Norman, OKC or Tulsa offices. Submit resumes to [justin@polstontax.com](mailto:justin@polstontax.com).

## POSITIONS AVAILABLE

JUDGE ADVOCATE GENERAL'S (JAG) CORPS for Oklahoma Army National Guard is seeking qualified licensed attorneys to commission as judge advocates. Selected candidates will complete a six-week course at Fort Benning, Georgia, followed by a 10 ½-week military law course at the Judge Advocate General's Legal Center on the University of Virginia campus in Charlottesville, Virginia. Judge advocates in the Oklahoma National Guard will ordinarily drill one weekend a month and complete a two-week annual training each year. Benefits include low cost health, dental and life insurance, PX and commissary privileges, 401(k) type savings plan, free CLE and more! For additional information contact 1LT Rebecca Rudisill, email [Rebecca.l.rudisill2.mil@mail.mil](mailto:Rebecca.l.rudisill2.mil@mail.mil).

WATKINS TAX RESOLUTION AND ACCOUNTING FIRM is hiring attorneys for its Oklahoma City and Tulsa offices. The firm is a growing, fast-paced setting with a focus on client service in federal and state tax help (e.g. offers in compromise, penalty abatement, innocent spouse relief). Previous tax experience is not required, but previous work in customer service is preferred. Competitive salary, health insurance and 401K available. Please send a one-page resume with one-page cover letter to [Info@TaxHelpOK.com](mailto:Info@TaxHelpOK.com).

ASSISTANT CITY ATTORNEY. Salary: \$57,601.44-\$94,177.82 annually dependent upon qualifications and experience. This full-time position will defend and prosecute high-profile and complex civil law suits; draft legal documents; advise city officials as to legal rights, obligations, practices and other phases of applicable local, state and federal law; draft resolutions, ordinances and contracts and prepare legal opinions. See job announcement for additional requirements. Applicants for the position must have graduated from an accredited law school, be a member in good standing in the Oklahoma Bar Association and admitted to or eligible for immediate admission to practice in the U.S. District Court for the Western District of Oklahoma and the 10th Circuit Court of Appeals. Applicants must possess a valid Oklahoma driver's license. Interested applicants should submit an application, resume, law school transcript and two samples of legal writing filed in legal proceedings to the City of Lawton, Human Resources Department, 212 SW 9th Street, Lawton, OK 73501, 580-581-3392, Fax 580-581-3530. See job announcement at [www.lawtonok.gov/departments/human-resources/careers](http://www.lawtonok.gov/departments/human-resources/careers) for additional requirements. Open until filled. EOE.

## POSITIONS AVAILABLE

THE UNITED STATES ATTORNEY'S OFFICE FOR THE EASTERN DISTRICT OF OKLAHOMA is seeking an experienced, self-motivated attorney or licensed paralegal to serve as a violent crime paralegal in our Criminal Division. Paralegals are responsible for ensuring that violent crime referral meet agency and office standards for litigation; perform specialized legal research and writing in support of prosecuting federal criminal law violations with the emphasis on violent crimes; receive and analyze incoming pleadings and correspondence; draft responses to motion to suppress, trial briefs, memoranda of law and appellate briefs; support violent crime attorneys in court proceeding by briefing attorneys on pertinent facts, issues and case law; perform detailed, complex legal research into the legislative history, precedent cases, decisions and opinions that may be applicable to criminal cases; assist in creating and maintaining brief bank, topical research files and relevant forms for frequently filed motions and briefs; and research legal periodicals, statutes, regulations and court rules, computerized research including Westlaw, LexisNexis, CourtLink and DOJBook. Federal violent criminal cases cover a wide range of areas including firearms, narcotics, gang prosecutions, terrorism, human trafficking, child pornography and interstate child exploitation. To be an effective federal paralegal, the individual must possess excellent research, writing, communication and organizational skills and the ability to work closely with U.S. attorney staff as well as federal, state, local and tribal law enforcement agencies. It is not necessary for applicants to possess a J.D. degree, be duly licensed or authorized to practice as an attorney under the laws of any state, territory of the United States, or the District of Columbia, but it is preferred. Applicants must have an academic degree from an accredited college or university. Applicants should have superior research, writing and oral advocacy abilities, strong academic credentials and good judgment. United States citizenship is required, as is a successful pre-employment background investigation. Announcement will open on or about Aug. 12, 2019, and closes on or about Aug. 23, 2019. To view and apply for this vacancy announcement visit [www.usajobs.gov](http://www.usajobs.gov). The U.S. Department of Justice is an Equal Employment Opportunity Reasonable Accommodation Employer.



## POSITIONS AVAILABLE

WE ARE A LONG-ESTABLISHED, PREEMINENT INSURANCE FIRM with our primary practice being medical malpractice insurance defense. We are searching for an associate attorney with zero to five years' experience for immediate placement. Our ideal candidate must be highly motivated, possess excellent verbal and written skills, with the ability, experience and confidence to interview witnesses, take depositions and work a case from inception through pretrial with little to no supervision. We are looking for a solid work ethic and someone who can quickly learn our practice management program. We are a team-based environment and offer excellent benefits and a competitive compensation package commensurate with experience. All replies are kept in strict confidence. Applicants should submit resume, cover letter and writing sample to [emcpheeters@johnsonhanan.com](mailto:emcpheeters@johnsonhanan.com).

CATHOLIC CHARITIES OF THE ARCHDIOCESE OF OKC SEEKING STAFF ATTORNEY – IMMIGRATION/LEGAL SERVICES. Staff attorney will provide quality legal services to low-income individuals through assessing their eligibility for family based immigration benefits under the INA and related statutes, rules and regulations and, if such benefits are available, by representing them before applicable federal agencies or court systems. Minimum qualification for consideration includes Juris Doctorate, admittance to Oklahoma state bar or other state bar which must always be maintained in good standing; fluent in the reading, writing and speaking of Spanish; and one - two years of experience in providing family based immigration benefits under the INA and related statutes, rules and regulations. Competitive salary with excellent benefit package offered, job location in Oklahoma City. Submit cover letter with resume to [jtapia@ccaokc.org](mailto:jtapia@ccaokc.org).

## POSITIONS AVAILABLE

ESTABLISHED, AV-RATED TULSA INSURANCE DEFENSE FIRM WHICH REGULARLY TAKES CASES TO TRIAL seeks motivated associate attorney to perform all aspects of litigation including motion practice, discovery and trial. Two to 5 years of experience preferred. Candidate will immediately begin taking depositions and serving as second chair at jury trials and can expect to handle cases as first chair after establishing ability to do so. Great opportunity to gain litigation experience in a firm that delivers consistent, positive results for clients. Submit CV and cover letter to "Box CC," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

OBA HEROES PROGRAM COORDINATOR. The Oklahoma Bar Association has an opening for coordinator of its Oklahoma Lawyers for America's Heroes program. Duties include working with veterans, enlisted service members, guard and reserve members to qualify them for free legal services and then match them with volunteer lawyers from across the state to assist them with their legal issues. The coordinator also provides administrative support for [OklahomaFreeLegalAnswers.org](http://OklahomaFreeLegalAnswers.org). Successful applicant must be proficient in Word and Excel and have familiarity working with databases. Strong organizational skills, good communication skills and the ability to work with minimal supervision are all important. This is a part-time position for approximately 20 hours/week at the bar center in Oklahoma City; working from home is not an option. Preference given to persons with legal training and experience. Send resume to Heroes Coordinator Search, P.O. Box 53036, Oklahoma City, OK 73152 or by email to [nickied@okbar.org](mailto:nickied@okbar.org). Interviews begin in mid-August.

# A Lawyer's Suicide

By R. Steven Haught

We did not see it coming  
He seemed the same  
Came to work every day  
Ate lunch with us  
Drank cocktails with us  
Talked lovingly about  
His wife, his daughters

Nothing seemed awry  
And yet on a Sunday  
When all was quiet  
He decided to leave

His death crept into our office  
On a weekend  
When our guard was down  
Like a burglar with a ski mask  
Death made a sudden  
appearance  
Shattering the glass of our souls

The despair seeps silently  
Beneath our partner's door  
Like odorless gas  
It appears without a warning  
sign

Unexpected death is dark  
and hollow with the absence  
left behind  
a moldy black box  
with no user guide

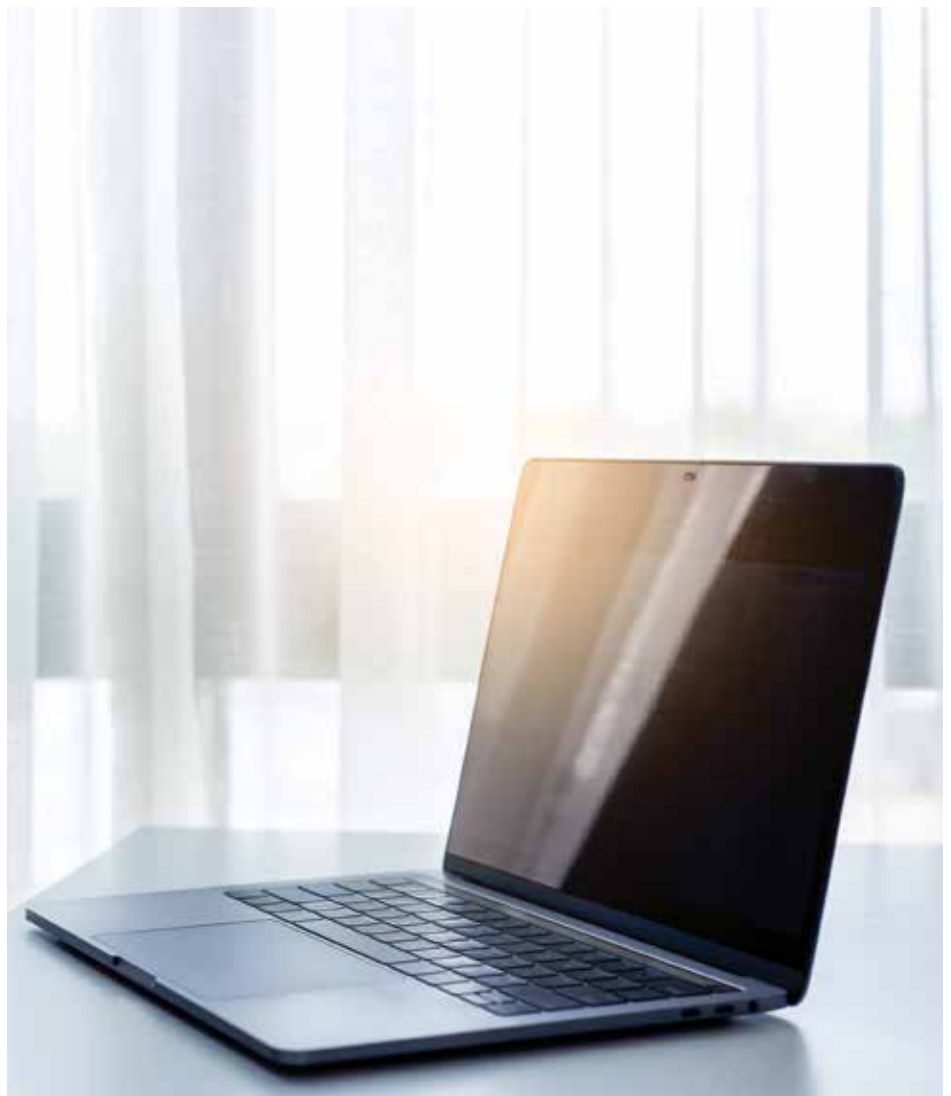
It hides in a corner  
Beneath a smile  
We cannot see the cobwebbed  
cloak  
As it waits for us to blink

A colleague disappears  
The daily routine is broken  
A paralysis of will  
An empty paper bag blowing  
down a highway  
with no control

The computer screen is blank  
A life timed out.

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Mr. Haught practices in Oklahoma City and was inspired to write this poem following the death of a friend. The OBA's Lawyers Helping Lawyers Assistance Program hotline is available 24/7 at 800-364-7886.



**THURSDAY,  
SEPTEMBER 19, 2019  
8:30 A.M. - 12:30 P.M.**

Oklahoma Bar Center  
1901 N. Lincoln Blvd.  
Oklahoma City, OK 73106



**FEATURED INSTRUCTOR:  
Stuart I. Teicher**

Stuart I. Teicher has been a practicing attorney for over two decades. His career is now dedicated to helping fellow attorneys survive the practice of law and thrive in the profession. Stuart helps attorneys get better at what they do (and enjoy the process) through his entertaining and educational CLE Performances.

Stay up-to-date and follow us on



**TO REGISTER GO TO [WWW.OKBAR.ORG/CLE](http://WWW.OKBAR.ORG/CLE)**



# BUSINESS GROWTH COLLABORATIVE CLINIC

**A Workshop about law firm business development:  
The good, the bad, and the dangerous**

**This is a no-credit educational course.**

**It's not about CLE compliance...it's about learning  
ideas that will help lawyers improve their business**

## PROGRAM DESCRIPTION:

Every lawyer wants to hear new ideas for developing and growing their business. This unique, limited attendance program led by Stuart Teicher will not only give you the opportunity to hear new ideas on law firm business development. Besides leading the workshop discussions, Stuart will bring his own law practice experience, as well as his entertaining teaching style, to bear on solutions to common and not-so-common dilemmas in law firm marketing, advertising and business development. You will get concrete ideas to implement in your own practice to improve business, including: using social media and YouTube to grow your practice and developing a business plan that makes a difference. Plus, Stuart will provide powerful insights on the kinds of communications skills that lawyers need to connect with clients. After all, a strong attorney-client relationship based on solid communication is the best referral tool.

So, if you want to grow your business by hearing from and sharing with your peers, the "best practices" that can bring you success, don't miss this opportunity.

**TUITION:** Early registration by September 12, 2019 is \$229 for the program. Registration received after September 12, 2019 will be \$254 and \$279 for walk-ins. Registration includes breakfast.



oba ♦ cle  
continuing legal education

FRIDAY,  
SEPTEMBER 20, 2019  
9 A.M. - 2:50 P.M.

Oklahoma Bar Center  
1901 N. Lincoln Blvd.  
Oklahoma City, OK 73106

MCLE 6/0

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DETAILS COMING SOON

## 2019 WORKERS' COMPENSATION UPDATE

Program Planner: **Bob Burke**, Attorney, Author, Historian

### PROGRAM DESCRIPTION:

A comprehensive review of legislative changes and appellate court decisions in regard to the Administrative Workers' Compensation Act.

**TUITION:** Early-bird registration by September 15, 2019 is \$150.00. Registration received after September 15 date is \$175.00 and walk-ins are \$200.00. Registration includes continental breakfast and lunch. For a \$10 discount, enter coupon code FALL2019 at checkout when registering online for the in-person program. Members licensed 2 years or less may register for \$75 for the in-person program (late fees apply). All programs may be audited (no materials or CLE credit) for \$50 by emailing [ReneeM@okbar.org](mailto:ReneeM@okbar.org) to register.