

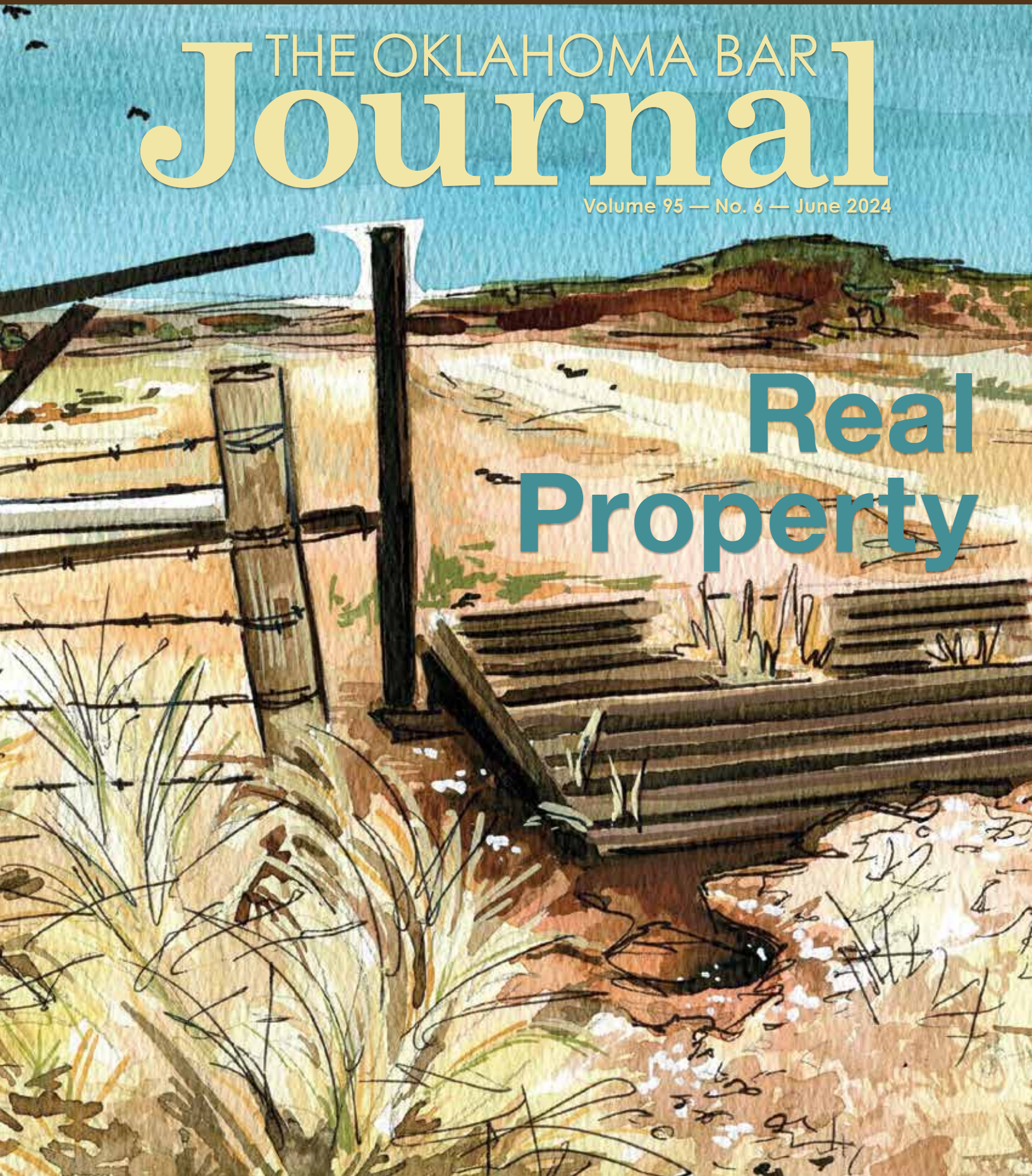


ALSO INSIDE: 2024 Annual Meeting

# THE OKLAHOMA BAR Journal

Volume 95 — No. 6 — June 2024

## Real Property







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**AFTERNOON:  
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## MORNING SESSION:

Call to Order, Opening Remarks and Welcome  
*Karen Callahan, Fellow*

Discussion of Case Analysis,  
Theory of the Case,  
Civility and Professionalism  
*Karen Callahan*

Lecture: Opening Statements  
*Dan Falluo*

Demonstration of Opening Statements  
*Dan Falluo*

Panel Discussion:  
Critique of Opening Statements;  
Questions and Answers  
*Dan Falluo and David Donchin*

Lecture on Direct Examination  
*Ben Butts, Fellow*

Demonstration of Direct Examination  
*Stan Monroe, Fellow*

Panel Discussion: Critique of Direct  
Examination: Questions and Answers  
*Ben Butts and Chris Davis*

## AFTERNOON SESSION:

Panel Discussion:  
What Judges Want from Trial Lawyers  
Moderator: *Karen Callahan*; Speakers: *Honorable Timothy DeGiusti USDC WD; Honorable Claire Eagan, USDC ND Honorable Dawn Moody, Tulsa County District Court*

Lecture on Cross-Examination  
*Pete Marrs, Fellow*

Demonstration of Cross-Examination  
*John Wiggins, Fellow*

Panel Discussion: Critique of Cross-Examination;  
Questions and Answers  
*Pete Marrs and Kayce Gisinger, Fellow*

Lecture on Closing Arguments  
*Jennifer Annis, Fellow*

Panel Discussion: Critique of Closing Arguments:  
Questions and Answers  
*Jennifer Annis and Derrick Teague, Fellow*

Concluding Lecture: Twelve Secrets of  
Persuasive Argument  
*Paul Mark Sandler*

Closing Remarks  
*Karen Callahan*

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# THE OKLAHOMA BAR Journal

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Editor: David Youngblood

ON THE COVER: "Cattle Guard" by Amanda Lilley

Amanda Lilley is an OBA member and watercolor artist whose artwork has been shown in exhibitions across Oklahoma, Kansas and Texas. Based in Enid, she practices in the area of criminal defense law. Her online gallery may be viewed at [www.simplylilley.com](http://www.simplylilley.com).

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PAGE 76 – Law Day Highlights

# Let's Meet Up at the Annual Meeting

By Miles Pringle

**IT IS IMPORTANT FOR ATTORNEYS TO MEET** in person. Spending time with our colleagues will improve our careers, health and professional civility. Despite our move to a digital world, interpersonal relationships are as important as ever. According to the *Journal of Management*, "Networking can significantly impact one's ability to establish contacts, get interviews for jobs, and identify and cultivate mentors."<sup>1</sup> Moreover, building relationships improves our ability to influence and be an advocate for our clients.

Relationships are fundamental for mental and physical well-being. There is a body of evidence that demonstrates that well-maintained social relationships significantly reduce the risk of early mortality. Some researchers go so far as to argue that lacking meaningful relationships exceeds the risks of "obesity, air pollution, smoking, and physical inactivity."<sup>2</sup> Attorney wellness not only optimizes performance but sustains us for long and fulfilling careers.

We also need to work on our civility. Conversing with emails and through social media comment sections has, in my humble opinion, been a detriment to professional conduct. Firing off an angry email strains (if not destroys) a professional relationship. Taking aim at individuals on social media is 1) not as anonymous as you may think and 2) does not create a productive dialogue. Coming together in person can

help us better understand each other. We may not always agree, but hopefully, we can find mutual respect.

With all this in mind, I am excited about the OBA Annual Meeting this July 10-12 at the Embassy Suites in Norman. Since we have moved to the summer this year, the theme is "Summer School." It will be a more relaxed setting for us all to get together

Coming together in person can help us better understand each other.

with even more CLE activities and events to enjoy. Read more about this year's Annual Meeting later in this issue, and be sure to visit [www.okbar.org/annualmeeting](http://www.okbar.org/annualmeeting) for more information and to register.

For the first time in more than a decade, the Annual Meeting will be held in conjunction with the Oklahoma Judicial Conference. In addition to fewer conflicts, we hope this provides an opportunity for attorneys and judges to learn and network in a fun atmosphere. I think both conferences will benefit from the increased participation.

I sincerely hope to see you in Norman. Let's build a friendship.

#### ENDNOTES

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# THE OKLAHOMA BAR Journal

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SARDIS



# Water Unity in Oklahoma: A History of the 2016 Water Settlement Agreement

By Christine Pappas

**“WHILE WE HAVE BEEN SOVEREIGN SINCE TIME IMMEMORIAL, sovereignty is something we should never take for granted. As tribal leaders we have a duty to engage in this process and exercise our rights as sovereign nations to protect the interests of our people.” – Gov. Bill Anoatubby, Chickasaw Nation<sup>1</sup>**

The story of the 2016 Water Settlement Agreement begins with the Treaty of Dancing Rabbit Creek of 1830. The Choctaw Nation agreed to trade their homelands in Mississippi for land west of the Mississippi River that would be held in fee simple and exclusive of any state government.<sup>2</sup> Choctaw scouts surveyed available lands and chose what is now water-rich southeast Oklahoma. The Chickasaw Nation joined their cousin tribe in 1837 and became a retroactive party to the Treaty of Dancing Rabbit Creek.<sup>3</sup> The Chickasaw Nation signed a new treaty with the U.S. federal government in 1855. After the Civil War, both the Choctaw and Chickasaw nations signed the Treaty of 1866, which ceded lands west of the 98th meridian to the U.S. government.<sup>4</sup> This treaty also allowed railroads to cross tribal land, enabling increased nontribal settlement.<sup>5</sup>

The Choctaw and Chickasaw nations thrived in their new lands, establishing schools, infrastructure, a legal code and communities.<sup>6</sup> They lived near ample water and constructed ferries and toll bridges over the Red, Blue and Kiamichi rivers. Most tribes in Oklahoma began to lose land base under the 1887 Dawes Act, but it did not apply to the Five Tribes. In 1897, however, the Choctaw and Chickasaw nations agreed to accept the allotment policy and abolish communal ownership of land.<sup>7</sup> In 1907, Oklahoma became a state, but as *McGirt v. Oklahoma* demonstrated, Congress failed to disestablish tribal reservations.<sup>8</sup> Water rights based on treaty obligations were unaffected by statehood.

Tribal governments' influence was reduced under assimilation and termination policies, but federal policies that strengthened

tribal self-determination were passed starting in the 1960s.<sup>9</sup> As tribes were growing in power, Oklahoma was engaging in an ambitious agenda of dam and reservoir building. Most of Oklahoma's 200 lakes were constructed by damming a creek or river and inundating the surrounding area.<sup>10</sup> Many tribal towns, cultural sites and burial grounds were flooded. Tribes were nominally consulted during this process. The state of Oklahoma contracted with the U.S. Army Corps of Engineers on April 9, 1974, to construct the dam on the Kiamichi River to create Sardis Lake for flood control purposes.<sup>11</sup>

In the 1980s, the state of Texas unsuccessfully investigated purchasing water rights from Oklahoma and acknowledged the rights the Choctaw and Chickasaw nations had on water

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based on the Treaty of Dancing Rabbit Creek.<sup>12</sup>

In 1998, the state of Oklahoma refused to pay for the construction of Sardis Lake because it would not control the water in the lake. They were sued by the Army Corps of Engineers. In 2009, Oklahoma was ordered to pay its debt. Seeing an opportunity to secure needed water rights, the city of Oklahoma City agreed to assume the state of Oklahoma's debt and pay for the construction of Sardis Lake if it could be granted a permit for the totality of water in Sardis Lake. Oklahoma City applied to the Oklahoma Water Resources Board (OWRB) for such a permit, and it was granted in 2010.<sup>13</sup>

Although the treaty rights to water under the Treaty of Dancing Rabbit Creek had not been defined, the Choctaw and Chickasaw nations knew it was not zero.<sup>14</sup> Susan Work notes, "Tribes in Oklahoma, at a minimum, possess reserved water rights."<sup>15</sup> In 2011, these tribes filed suit in federal court against the state of Oklahoma, Oklahoma City and the Oklahoma City Water Utilities Trust, asserting treaty rights to the water. In 2012, the suit was stayed to allow for settlement negotiations.<sup>16</sup>

Intensive negotiations continued until the settlement agreement was reached by the parties on Aug. 17, 2016.<sup>17</sup> The terms of the agreement were passed by the U.S. Congress in the Water Infrastructure Improvements for the Nation Act in 2016.<sup>18</sup>

Starting in 2016, the parties worked vigorously to meet the preconditions of the agreement as outlined in Section 4 of the settlement agreement. To prepare for the technical demands of the agreement, the Chickasaw



Settlement area map. Courtesy Water Unity Oklahoma, [www.waterunityok.com](http://www.waterunityok.com).

Nation invested in its Natural Resources Office, and the Choctaw Nation invested in its Office of Water Resource Management.<sup>19</sup> The Oka' Institute was created at East Central University as a clearinghouse for water policy, and it assisted with providing scientific information.<sup>20</sup> East Central University created a Master of Science degree in water resource policy and management that has graduated 60 students, many of whom work on issues relating to the settlement agreement.<sup>21</sup> Additionally, documentation of the Kiamichi Basin Hydrologic Model was filed at the OWRB's Oklahoma City offices, and the Atoka and Sardis Conservation Projects Fund was created. The cases *Chickasaw Nation and Choctaw Nation v. Fallin et al.* and *OWRB v. United States et al.* were dismissed.<sup>22</sup>

In 2017, Oklahoma City applied for a water permit pursuant to the settlement agreement to divert

stream water from the Kiamichi River. Despite 85 protests filed during the hearing, the OWRB granted the permit. A petition for judicial review – *Leo v. OWRB* – was filed in the District Court of Pushmataha County on Nov. 8, 2017. The local residents believed the settlement agreement did not protect the Kiamichi Basin adequately and filed suit against the OWRB but did not include Oklahoma City in the suit.<sup>23</sup>

The case effectively delayed the implementation of the settlement agreement for over five years, but the Oklahoma Supreme Court's decision in *Leo v. OWRB* hinges on procedure and not water law. The Oklahoma Supreme Court held that the OWRB clearly has the authority to appropriate water, and the district courts have the authority to adjudicate water rights.<sup>24</sup>

The city of Oklahoma City was not named as a respondent and entered a special entry of

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appearance in the case. The district court denied the city's and the OWRB's motions to dismiss on May 7, 2018, concluding that no prejudice was suffered by either entity by not listing the city as a party. On June 1, 2020, the district court affirmed the OWRB's order granting the city's stream water permit. Petitioners appealed. The city filed a cross-appeal of the May 7, 2018, order denying the motion to dismiss.<sup>25</sup>

Before taking final action on a stream water permit application, the OWRB must determine from the evidence presented, pursuant to O.A.C. §785:20-405(a), whether:

- (1) Unappropriated water is available in the amount applied for;
- (2) The applicant has a present or future need for the water and the use to which applicant intends to put the water is a beneficial use;
- (3) The proposed use does not interfere with domestic or existing appropriate uses;
- (4) If the application is for the transportation of water for use outside the stream system wherein the water originates, the provisions of Section 785:20-5-6 are met.<sup>26</sup>

When these four conditions are met, the OWRB *shall* approve the permit.<sup>27</sup> Taking each point in turn, the Oklahoma Supreme Court confirmed the OWRB's order. Notably, point two requires consideration of "beneficial use" before a permit can be issued. Petitioners alleged that "environmental issues" should be considered such that a nonconsumptive instream flow requirement might be established.<sup>28</sup> However, the

court concluded, "General protection of environmental flows is not one of the statutory elements to be determined by the Board."<sup>29</sup>

The Oklahoma Supreme Court decided *Leo v. OWRB* on Oct. 2, 2023, removing the final barrier to Oklahoma City's application for a water permit. After all the preconditions were met, publication of certification by the U.S. Department of the Interior was published in the *Federal Register* on Feb. 28, 2024, making the settlement act effective.<sup>30</sup>

The settlement agreement is unique in the state of Oklahoma for several reasons. It brings state, city and tribal entities to the negotiating table to create an agreement that will mutually benefit rural and urban water interests in Oklahoma. The settlement agreement calls on Oklahoma City to engage in conservation measures before it may utilize water from Sardis Lake or the Kiamichi River. Additionally, the amount of water that can be taken by Oklahoma City will be based on the Oklahoma Department of Wildlife Conservation's lake level management plan so that environmental and recreational needs in southeast Oklahoma are not diminished. The settlement agreement may be the one area of water law in Oklahoma that legally protects the sustainability of water resources.

#### ABOUT THE AUTHOR



Christine Pappas is chair of the Department of Politics, Law and Society at East Central University in Ada, home of Oklahoma's only four-year Bachelor of Science degree in legal studies. She is also the policy and

education coordinator for the Oka' Institute as well as the director of ECU's Master of Science in water resource policy and management. She has been a member of the OBA since 2010.

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16. *OWRB v. Leo*, 2023 OK 96.
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18. Public Law 114-322.
19. "Tribal Sovereignty at Forefront; Water Settlement Secures Tribes' Historic Standing," Tony Choate, *Chickasaw Times*, Dated: September 2016, updated 2024.
20. Oka' The Water Institute at East Central University, [www.okainstitute.org](http://www.okainstitute.org).
21. "ECU Water Master's Program Graduates 50th Student," <https://bit.ly/4bknsk7>.
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24. 82 O.S., §105.1.
25. *OWRB v. Leo*, 2023 OK 96.
26. *Id.*
27. 82 O.S. §105.12(A)(5).
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29. *Id.*
30. *Federal Register*, Vol. 89, No. 40. Feb. 28, 2024, p. 14700.

# To Lien or Not To Lien (and How To Lien): A Summary of Oklahoma's Mechanic's and Materialmen's Lien Laws

*By Brett Agee*



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**A PERSON WHO FURNISHES LABOR OR MATERIALS** for the construction or repair of an improvement on real property may obtain a mechanic's lien<sup>1</sup> on the real property to secure payment for the labor or materials.<sup>2</sup> Oklahoma lien laws also generally require a "pre-lien notice" to be sent (but not filed) before a lien is filed.<sup>3</sup> The time for filing a lien (or, more correctly, a "lien statement") depends upon whether the lien claimant is a contractor or a subcontractor. The difference between a contractor and a subcontractor is that a contractor deals directly with the owner of the property, while a subcontractor deals with the contractor or another subcontractor.<sup>4</sup>

#### WHAT LABOR IS LIENABLE?

Persons present and working on the subject property and/or providing materials for the improvement of the property are entitled to a lien.<sup>5</sup> Thus, masons, concrete workers, framers, HVAC contractors and all the other workers who are typically considered part of the construction crew are entitled to liens.

The services of an architect, a surveyor and an engineer are lienable provided that the services are used in the work done on the land.<sup>6</sup> In *Stern v. Great Plains Federal Savings & Loan Association*, the Oklahoma Court of Civil Appeals held:

The nature of the work done by an architect, *e.g.*, plans and specifications which are drawn prior to the first work done on the land, is work which is not seen on the land itself. However, it leads to the work which is done on the land. These services are necessary before the actual physical construction upon the land can take place, and without which such construction would not occur. We hold that the services of an architect in the preparation of plans and specifications which are used in the work done on the land are

improvements of land and are thus lienable claims under 42 O.S.1981 § 141.<sup>7</sup>

However, if such services do *not* result in actual construction (such as when an owner decides not to build the project), the services are not lienable.<sup>8</sup> Such "labor ... is lienable only when it results in some actual 'erection, alteration or repair of any building, improvement or structure thereon.'"<sup>9</sup> The court held: "The lien statute contemplates that the *land* is improved through some 'erection, alteration or repair' of a

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Although Oklahoma’s lien statutes don’t specifically define ‘sub-subcontractor,’ Oklahoma’s Fair Pay for Construction Act defines a sub-subcontractor as ‘any entity that has a direct contract with another subcontractor to perform a portion of the work under a construction contract.’<sup>20</sup> A sub-subcontractor is generally treated as a subcontractor.

building, improvement or structure on the land. An architect’s work need not be the actual work done on the land; however, to be lienable, it must be services which results in work being done on the land.”<sup>10</sup> The court further held: “Phases II and IV of a construction project were never funded or constructed. Thus, Appellant’s architectural services for Phases II and IV, as shown on the statement attached to his lien, were not used to improve this property and were not lienable claims under 42 O.S.1981 § 141.”<sup>11</sup>

When 1) a temporary staffing company enters into a contract with its client to provide temporary laborers for use on its various commercial construction projects, 2) the contract does not refer to a particular project and 3) the temporary staffing company provides the client with laborers on an open account, the staffing company is

not a “subcontractor” in a commercial construction project. Thus, is not a proper lien claimant under statutes on materialmen’s liens.<sup>12</sup>

#### **PRE-LIEN NOTICES**

Effective Nov. 1, 2011, Okla. Stat. 42 §142.6(B)(1) has been amended to provide (with new language italicized):

Prior to the filing of a lien statement pursuant to Section 143.1 of this title, but no later than seventy-five (75) days after the *last* date of supply of material, services, labor, or equipment in which the claimant is entitled or may be entitled to lien rights, the claimant shall send to the last-known address of the original contractor and owner of the property a pre-lien notice pursuant to the provisions of this section. *Provided further, no lien*

*affecting property then occupied as a dwelling by an owner shall be valid unless the pre-lien notice provided by this section was sent within seventy-five (75) days of the last furnishing of materials, services, labor or equipment by the claimant.*

Liens excluded from these requirements are discussed below. Section 143.1 (referenced in the above-quoted language) pertains to “the filing of the lien statement provided for in Sections 142 and 143.” Sections 142 and 143 govern liens by contractors and subcontractors, respectively. The required contents of a pre-lien notice are set forth in Section 142.6(B)(2).<sup>13</sup>

One problematic aspect of this section is that, despite the foregoing reference to Sections 142 and 143 (covering liens by contractors and subcontractors, respectively), the term “claimant” is defined in

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Section 142.6(A)(1) as “a person, other than an original contractor, that is entitled or may be entitled to a lien pursuant to Section 141 of Title 42 of the Oklahoma Statutes.” As noted, Section 141 pertains only to contractors, so this definition *seems* to limit (contrary to the previously mentioned portions of the section) to liens filed by contractors (*i.e.*, this definition seems to exclude liens by subcontractors from the scope of §142.6). Also, the term “original contractor” is not defined in the statutes, so it is not clear what is excepted from the definition of “claimant.” *To be safe, a pre-lien notice should be filed regardless of whether a lien is filed by a contractor or a subcontractor.*

The quoted amendments to §142.6(B)(1) now clarify that the 75 days begin with the date of the *last* supply of material, services, labor or equipment. Before this amendment, it was not clear when the 75 days began.

Two other changes are effected by the amendments. The first increases the number of instances for which pre-lien notices are required by providing that the *pre-lien notice requirements now apply to all owner-occupied dwellings, regardless of the amount of the claim* for material, services, labor or equipment. However, the second decreases the number of instances for which pre-lien notices are required by providing that pre-lien notices are *not* required for claims of less than \$10,000 against all *other* properties (*i.e.*, for all claims against properties *other than* owner-occupied dwellings).

#### *Liens Excluded From Pre-Lien Notice Requirements*

Section 142.6(B)(3) provides:

The pre-lien notice requirements shall not apply to a claimant:

- a. whose claim relates to the supply of material, services, labor, or equipment furnished in connection with a residential project. For the purposes of this subparagraph, the term “residential” shall mean a single family or multifamily project of four or fewer dwelling units, none of which are occupied by an owner, or
- b. whose aggregate claim is less than Ten Thousand Dollars (\$10,000.00).

A claimant who fails to send a pre-lien notice is not prohibited from asserting any lien at all; such a claimant can still file and (assuming the lien is timely filed) enforce a lien for \$9,999 and seek foreclosure of that lien along with a judgment for the full amount claimed.<sup>14</sup>

## **LIEN STATEMENTS**

### *Contractors*

A contractor may claim a mechanic’s lien on real property by filing a lien statement with the county clerk within “*four months after the date upon which material or equipment used on said land was last furnished or labor last performed under contract.*”<sup>15</sup> The lien statement must set forth: 1) the amount of the contractor’s claim, 2) an itemized statement of the claim, 3) the names of the property owner and the contractor claiming the mechanic’s lien and 4) a legal description of the property. The contractor lien

claimant must verify the statement by affidavit and file it with the county clerk for the county where the property is located.<sup>16</sup>

### *Subcontractors*

A subcontractor may claim a mechanic’s lien on real property by filing a lien statement within *90 days after the subcontractor last furnishes labor or materials under the subcontract.*<sup>17</sup> The lien statement must set forth: 1) the amount of the subcontractor’s claim, 2) an itemized statement of the claim, 3) the names of the property owner, contractor and subcontractor who are claiming the mechanic’s lien and 4) a legal description of the property.<sup>18</sup> The subcontractor lien claimant must verify the statement by affidavit and file it with the county clerk for the county where the property is located.<sup>19</sup>

### *Sub-Subcontractors*

Although Oklahoma’s lien statutes don’t specifically define “sub-subcontractor,” Oklahoma’s Fair Pay for Construction Act defines a sub-subcontractor as “any entity that has a direct contract with another subcontractor to perform a portion of the work under a construction contract.”<sup>20</sup> A sub-subcontractor is generally treated as a subcontractor.

### *Amendments*

A party may file (without a court’s permission) multiple mechanic’s lien statements in an effort to perfect a proper lien as long as the time for filing the lien has not expired. Such timely amendments may, among other things, increase the amount claimed.<sup>21</sup> After a foreclosure action is filed, a lien statement is treated just as any other pleading that may be amended “in

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furtherance of justice as pleadings may be in any matter.”<sup>22</sup>

### TIME REQUIRED BETWEEN A PRE-LIEN NOTICE AND A LIEN STATEMENT

When a pre-lien notice is required, it must be sent “prior to the filing of a lien statement.”<sup>23</sup> Technically, the lien statement can be filed the same day as the pre-lien notice was sent as long as the pre-lien notice is sent first. However, to avoid having to prove that a pre-lien notice that is postmarked one day was sent before a lien statement was filed that same day, the lien statement should be filed at least one day after the pre-lien notice is sent (assuming that still leaves enough time to timely file the lien).

### PROBLEMS IN DEALINGS WITH TENANTS AND VENDEES

Title 42 Okla. Stat. §141 provides, among other things, “If the title to the land is not in the person with whom such contract is made, the lien shall be allowed on the buildings and improvements on such land separately from the real estate.” This quoted language has been a part of Oklahoma’s lien law since 1923, but it has caused substantial confusion, especially when a contractor deals with a tenant or a person purchasing the property under a contract not yet fully executed (rather than the owner of a property).

However, cases provide some guidance. In *Deka Development Co. v. Fox*, the court quoted from an earlier opinion:

The right of a materialman to a lien depends upon contract. Such contract may be either oral or written. If a lien is asserted against real estate, the contract must be made by the owner

or his duly authorized agent. Where a materialman seeks to assert a lien for material furnished to a lessee who holds under a written contract with the lessor, and it fails to appear that the lessee was constituted by the landowner as his agent to purchase the material, the lien of the materialman can extend no further than the improvements constructed out of the material furnished.<sup>24</sup>

However, the court in *Deka* stated that a lien would attach to *all of the real property*, where – under a lease – “the owner is obligated to reimburse the tenant for the cost of the improvements or where such improvements are made for the *primary* benefit of the owner.”<sup>25</sup> But, as is clear from the following quote, mere reversion of the improvements to the owner at the termination of the lease does *not* mean the improvements “are made for the primary benefit of the owner.”

Regarding when a lien attaches to *improvements*, the court said:

Where the owner leases lands under a written contract which provides that the tenant shall at his own expense make such improvements thereon as are necessary to make the premises adaptable for the purposes for which they are leased, and the lease further provides that the improvements shall revert to the owner at the termination thereof, a materialman furnishing material for making the improvements under contract with lessee is not entitled to a lien against the land, but he may be entitled to a lien *against the improvements in certain circumstances*.<sup>26</sup>

Furthermore, for a lien to attach to the *improvements*, the improvements resulting from the labor and/or materials provided by the claimant must be such that they are “removable without damage to the original structure”:

Had the claimants merely repaired or made minor alterations to existing structures on the premises, they would *not* have acquired liens on the



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improvements separate from the real estate. [citations omitted]

The basic reason for concluding that *mere repairs and alterations to an existing structure will not support a lien against such structure* is that such improvements are not removable without damage to the original structure and the Legislature obviously did not intend that the lien in such case should extend to the entire existing structure without a contract with the owner of same. This would be in direct conflict with the spirit of the statute. We must, therefore, determine whether the labor performed and material furnished in the instant case resulted in the erection of a new building, or mere repairs to or alterations of an existing building.<sup>27</sup>

#### *Recommendations*

Various arguments have been advanced to hold an owner liable for improvements made under contract with a vendee or tenant. Arguments have been made that the owner ratified the contract between the tenant/vendee and the contractor, the owner should be estopped from denying the lien or its attachment to the property and the property should be subject to the lien (and the owner should be liable for the improvements) to prevent unjust enrichment. However, these arguments have been largely rejected. *Therefore, contractors and subcontractors should, before providing any labor or materials, verify from a check of the county records that the contractor is dealing with the record owner of the property.*

## **NOTICE OF FILING LIEN STATEMENT**

Both a contractor lien claimant and a subcontractor lien claimant must provide the county clerk with the last known address of the property owner.<sup>28</sup> The county clerk is responsible for mailing a notice of filing the lien statement by certified mail return receipt requested to the property owner within one business day after filing the lien statement.

## **PRIORITY OF LIENS**

Mechanic's liens are an exception to the general rule in 42 Okla. Stat. §15 that liens are ranked according to the time of their creation. The priority of a mechanic's lien regarding all other liens and encumbrances on the property dates from the commencement of construction.<sup>29</sup>

## **HOMEOWNER NOTICE**

Effective Nov. 1, 2011, lien claimants are no longer required, as a prerequisite to enforcement of a lien, to furnish a statement warning the homeowner of the possible consequences of the mechanic's lien law before the construction begins.<sup>30</sup>

## **WHAT PROPERTY IS LIENABLE?**

It may seem logical that a homestead is exempt from materialmen's liens, but such is often not the case. Generally, "When the provisions of the materialman's lien statute are complied with, the lien attaches to the homestead."<sup>31</sup> However, there is one statutory exception: "The provisions of this act as relating to leased or rented equipment shall not apply to real property qualified for homestead exemption or real property used for agricultural purposes or real property used for the production of or growing of agricultural products."<sup>32</sup>

However, there is a class of property that is exempt from materialmen's liens: property owned by a governmental entity. There can be no mechanic's lien on public property unless the statute creating such lien expressly so provides, since such a lien would be contrary to public policy and would be incapable of enforcement – public property not being subject to forced sale.<sup>33</sup>

Typically, a contractor hired by a governmental entity has little concern about not being paid by the governmental entity (assuming the contractor properly performs its work). However, subcontractors of a contractor hired by a governmental entity may be left unpaid if the contractor accepts payment from the governmental entity but fails to pay subcontractors. Fortunately, the subcontractors are usually protected by the performance bond that contractors are generally required to post when undertaking work on governmental property.<sup>34</sup> But like materialmen's liens, there is a deadline that must be met to recover on the bond.<sup>35</sup>

## **WAIVER OF LIEN RIGHTS**

Oklahoma has a statute that prohibits a contract provision that generally 1) makes the contract subject to the laws of another state or requires any litigation, arbitration or other dispute resolution proceeding arising from the contract to be conducted in another state or 2) disallows or alters the rights of any contractor or subcontractor to receive and enforce rights.<sup>36</sup> However, this statute was held inapplicable to mechanic's liens by *H2K Techs v. WSP USA*.<sup>37</sup> Nevertheless, *H2K* does provide some protection for a sub-subcontractor lien claimant by holding that when a sub-subcontractor has not waived its

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right to file a lien, it is not prohibited from filing its lien solely based upon the fact that an original subcontractor had waived its right in its subcontract with the original contractor.<sup>38</sup>

### **ACTION TO FORECLOSE A MECHANIC'S LIEN**

An action to foreclose a mechanic's lien must be filed within one year of filing the lien statement.<sup>39</sup> A reasonable attorney fee is recoverable by the prevailing party.<sup>40</sup>

### **DISCHARGE OF A MECHANIC'S LIEN**

A mechanic's lien is discharged by operation of law "one year after the lapse of one (1) year from the filing of the lien if no action to foreclose or adjudicate the lien has been instituted."<sup>41</sup> Thus, after one year following the filing of the lien, title examiners will simply disregard the filing of the lien when no foreclosure action has been filed, even without a filed release of the lien and even without a judicial determination that the lien is no longer valid. Because of the one-year filing deadline for a lien and the lack of a need for a lien release after one year, waiting and hoping that a lien claimant will fail to file a lien foreclosure action is a common tactic of landowners, especially when the landowner feels the lien claimant has filed the lien without justification and the lien claimant is merely trying to strong-arm the landowner into paying money that is not owed.

Title Standard 24.10 provides this caveat: "If suit to foreclose or adjudicate the lien is timely instituted and the case is dismissed other than on the merits, or if a judgment in favor of plaintiff is reversed, the plaintiff shall have

one (1) year from the date of dismissal or reversal to institute a new action."<sup>42</sup> A property owner may discharge a mechanic's lien by posting a bond or cash for 125% of the lien claim.<sup>43</sup> If a bond is used, it must be a corporate surety bond. In addition to the bond, the property owner must provide the county clerk with a \$5 filing fee and a notice containing the number of the lien claim, the name of the lien claimant, the name of the property owner, the name of the debtor (if other than the property owner), a property description and the amount of cash deposited or, if a bond is filed, the names of the principal and surety and the amount of the bond.

The county clerk is required to mail the notice to the lien claimant within three days. The lien claimant has 10 days after the mailing to file written objections limited only to its formal aspects, the amount of the bond and the sufficiency or authority of the surety. If any objections are filed, the county clerk conducts a hearing to rule on them. If no objections are filed or the objections are overruled, the mechanic's lien is released of record, and the cash deposit or bond will stand in lieu of the extinguished mechanic's lien.

### **PROBLEMS WITH BONDS**

The obvious purpose of the requirement that the bond be for 125% of the lien amount is to provide an extra 25% to cover the lien claimant's attorney fees and costs. This extra 25% may be sufficient for liens of significant amounts, but for liens of lesser amounts, the extra 25% is usually insufficient. For example, a lien for \$1,000,000 will require a bond of \$1,250,000, which provides an extra \$250,000

to cover the claimant's attorney fees and costs (which will be more than sufficient in all but the most complex cases). However, a lien for \$10,000 will require a bond of \$12,500, which provides only \$2,500 for attorney fees and costs (which will be insufficient in almost every case).<sup>44</sup>

Because of this, including a claim for attorney fees and interest in the lien amount is helpful to secure a higher bond. For example, in *H2K*, "The [lien] statement claims a lien in the amount of \$120,780.00 plus interest after March 6, 2019, at a monthly rate of 1.5%, plus attorney fees and filing costs."<sup>45</sup> The defendant originally posted a bond of only \$150,975 (125% of \$120,780), but "after [the lien claimant] objected to the bond amount, an additional \$14,535.00 was placed into a trust account" to serve as an additional bond.<sup>46</sup>

### **OKLAHOMA'S TRUST FUND STATUTES**

Oklahoma has adopted two statutes (42 Okla. Stat. §§152-153, commonly known as Oklahoma's Trust Fund Statutes) that declare that certain payments are held in trust for the payment of all "lien-able claims due and owing or to become due and owing."<sup>47</sup> These statutes are in addition to lien rights, and they create personal liability for officers/managers of an entity that fails to ensure that trust funds are used to pay lien-able claims. For more information on this topic, see Kevin F. Frates's article in the *Oklahoma Bar Journal* article referenced.<sup>48</sup>

### **CONCLUSION**

Leveraging rights in Oklahoma's construction landscape requires a comprehensive understanding of

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the intricacies involved in securing payment for labor and materials in construction projects. Key aspects, such as the definition of lienable labor, pre-lien notices, lien statement filing requirements and considerations regarding tenants and vendees add layers of complexity to the process. Statutory amendments underscore the importance of staying updated with legislative changes. Conducting due diligence to ensure dealings with a property's record owner is critical to ensuring a means of collecting for labor and materials provided. Procedures for filing and enforcing liens along with nuances – such as priority of liens, homeowner notices and exemptions for certain types of property – further underscore the multifaceted nature of Oklahoma's lien laws. Additionally, mechanisms for the discharge of liens, including bond requirements and the potential for disputes, necessitate careful navigation.

## ABOUT THE AUTHOR



Brett Agee has practiced law in his hometown of Pauls Valley since graduating from the OU College of Law in 1988.

He practices general civil litigation, including construction law litigation and has tried cases in Colorado, Texas and Oklahoma. Mr. Agee is also a member and former director of the Oklahoma Association for Justice, which presented him with the Member of the Year Award in 2005.

## ENDNOTES

1. In this article, references to mechanic's liens and references to materialmen's liens are references to both mechanic's and materialmen's liens, which are treated in the same manner under Oklahoma law.
2. 42 Okla. Stat. §§141, 143.
3. 42 Okla. Stat. §§142.6.
4. See *Welling v. American Roofing & Sheet Metal Co.*, 1980 OK 208 ¶4, 617 P.2d 206, 208.
5. 42 Okla. Stat. §143.
6. *Stern v. Great Plains Fed. Sav. & Loan Ass'n*, 1989 OK CIV APP 46, ¶5, 778 P.2d 933, 935.
7. *Id.*, citing *Midland Mortgage Company v. Sanders England Investments*, 1984 OK 10, 682 P.2d 748; *Green v. Reese*, 1953 OK 198, 261 P.2d 596, citing *Peaceable Creek Coal Co. v. Jackson*, 1910 OK 85, 26 Okla. 1, 108 P. 409.
8. 1989 OK CIV APP 46, ¶7.
9. *Id.*
10. *Id.*
11. *Id.*
12. *Advanced Res. Sols., LLC v. Stava Bldg. Corp.*, 2019 OK CIV APP 28, 441 P.3d 551.
13. As is noted above, the pre-lien notice requirements now apply to all owner-occupied dwellings of any kind, regardless of the amount of the claim.
14. *Id.*
15. 42 Okla. Stat. §142.
16. *Id.*
17. 42 Okla. Stat. §143.
18. *Id.*
19. 42 Okla. Stat. §142.
20. 61 Okla. Stat. §222.
21. *Biantrav Contractor, LLC v. Condren*, 2020 OK 73, ¶7 and 9, 489 P.3d 522, 523.
22. *Id.* at ¶8, citing 42 Okla. Stat. §172.
23. 42 Okla. Stat. §142.6B.
24. *Deka Development Co. v. Fox*, 1934 OK 698 at ¶0, 39 P.2d 143.
25. *Id.*, at ¶10 (Syllabus 4) (emphasis added).
26. *Id.*, at ¶10 (Syllabus 2) (emphasis added).
27. *Statser v. Chickasaw Lumber Co.*, 1958 OK 177 at ¶¶24-26, 327 P.2d 686, 691 (emphasis added).
28. 42 Okla. Stat. §143.1.
29. 42 Okla. Stat. §141.
30. Prior to Nov. 1, 2011, 42 Okla. Stat. §§142.1, 142.3 and 142.5 required a party claiming a mechanic's lien on owner-occupied property to have furnished a statement warning the homeowner of the possible consequences of the mechanic's lien law before the construction began in order for the lien claimant to enforce the lien. Although those sections are repealed effective Nov. 1, 2011, homeowners are provided different protections beginning Nov. 1, 2011, as is discussed above in "Pre-Lien Notices."
31. *Kleindorfer v. Dascomb-Daniels Lumber Co.*, 1924 OK 443, 102 Okla. 60, 226 P. 354, 354-55. See also 31 Okla. Stat. §5 ("The exemption of the homestead provided for in this chapter shall not apply where the debt is due: ... 3. For work and material used in constructing improvements thereon").

32. 42 Okla. Stat. §143.3.
33. *Hutchinson v. Krueger*, 1912 OK 368, 34 Okla. 23, 124 P. 591, 592.
34. See 61 Okla. Stat. §§1 *et seq.*
35. 61 Okla. Stat. §2 (subcontractors must give "written notice to the contractor and surety on the payment bond within ninety (90) days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or parts for which the claim is made").
36. 15 Okla. Stat. §821.
37. *H2K Techs., Inc. v. WSP USA, Inc.*, 2021 OK 59, ¶17, 503 P.3d 1177, 1185.
38. *Id.*, at ¶15.
39. 42 Okla. Stat. §172.
40. 42 Okla. Stat. §176.
41. Oklahoma Title Examination Standards Section 24.10, 16 Okla. Stat. App.
42. Citing 12 Okla. Stat. §100 and *Newman v. Kirk*, 1933 OK 405, 164 Okla. 147, 23 P.2d 163 (1933).
43. 42 Okla. Stat. §147.1.
44. Of course, when a bond is posted, the bond does not legally limit the defendant's liability to the amount of the bond, but if the defendant is not financially sound, the bond may, as a practical matter, provide the only means of recovery.
45. *H2K Techs., Inc. v. WSP USA, Inc.*, 2021 OK 59, ¶2, 503 P.3d 1177, 1179.
46. *Id.*
47. 42 Okla. Stat. §152(1).
48. See Kent F. Frates, "Mechanics' and Materialmen's Lien Claims: Recovery under Oklahoma's Trustee Statutes," 47 *OBJ Q*-125 (1976), which can be accessed by using the search instructions at [www.okbar.org/barjournal/archive](http://www.okbar.org/barjournal/archive).

# Oklahoma Senate Bill 212

This Statutory Bar Against Aliens Acquiring ‘Land’ May Be Less Generous Than the Constitution, and the Attorney General Opined That This Bar Does Not Cover ‘Oil and Gas’ or ‘Minerals’

By *Kraettli Q. Epperson*

**T**HIS ARTICLE EXPLORES THE CONSTITUTIONALITY of Oklahoma Senate Bill 212 (SB 212), effective as of Nov. 1, 2023, which bars aliens from acquiring and owning Oklahoma “land” and provides comments on whether – according to Oklahoma Attorney General Opinion 2024-2 (dated Feb. 6, 2024) – such statutory bar covers “oil and gas” and “minerals.”

## BACKGROUND AND PURPOSE

SB 212 was enacted by the 2023 Oklahoma Legislature and became effective Nov. 1, 2023. Such legislation amended an existing statute (60 O.S. Section 121) and, for the first time, directed all county clerks in the state of Oklahoma to refuse to accept and record any “deed” conveying “land” that fails to have an affidavit “included as an exhibit to the deed” “attesting” that the grantee is either a citizen of the United States or a noncitizen (an alien) who is or shall become a bona fide resident of Oklahoma.

It appears that this statutory amendment was intended to aid in implementing the Oklahoma Constitutional prohibition that provides:

No alien or person who is not a citizen of the United States, shall acquire title to or own land in this state, and the Legislature shall enact laws whereby all persons not citizens of the United States, and their heirs, who may hereafter acquire real estate in this state by devise, descent, or otherwise, shall dispose of the same within five years upon condition of escheat or forfeiture to the State: Provided, This shall not apply to Indians born within the United States, nor to aliens or persons not citizens of the United States who may become bona fide residents of this State; And Further, That this section shall not apply to lands now owned by aliens in this State.<sup>1</sup>

In 1910, the state Legislature enacted 60 O.S. Sections 121-127, titled “Alien Ownership of Land: Ownership of Personal and Real Property by Aliens” (herein the “statutory bar”), to implement this constitutional prohibition. Such legislation was amended in 2023 by SB 212; thereafter, Section 121 provided that no “person who is not a citizen of the United States shall acquire title to or own land in the State of Oklahoma, except as hereafter provided,” with limited specified exceptions found in Sections 121-127.

Under the statutory bar, 1) such alien can acquire and hold rights to personal property (Section 121) (see the discussion on personal property below); 2) current owners of land (as of 1910) who are aliens can continue to own such land

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(Section 122); 3) any alien who is or shall become a bona fide resident of Oklahoma can acquire and hold land in Oklahoma so long as they are a resident, but such resident alien must dispose of such land within five years of ceasing to be a resident (Section 122); 4) any nonresident alien acquiring land by “devise, descent or by purchase, where such purchase is made under any legal proceeding foreclosing liens in favor of such alien, may hold the same for five (5) years from the date of so acquiring such title” (Section 123) (but see the discussion of the constitutionality of this Section 123 below); 5) any alien holding title to land contrary to these statutes can convey “fee simple title” if done before escheat proceedings are begun, so long as not conveying to an alien or to a citizen of the U.S. in trust to evade these prohibitions (Section 124); 6) upon receiving information of land being held contrary to these provisions, the Oklahoma attorney general or the district attorney for the county where the

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land is located shall undertake escheat proceedings but must give a 30-day notice before initiating such proceedings (Section 125); 7) if the alien owner of land is a minor or of unsound mind, extra steps are required during the escheat proceedings (Section 126); and 8) upon completion of the escheat proceedings, the land shall be sold with the proceeds held for the owner for one year before the funds are paid to the state school fund (Section 127).

The Oklahoma Legislature enacted this SB 212 apparently due to a perceived dramatic increase in the acquisition of land around the nation and in Oklahoma by aliens, including alien-owned entities, which have been allegedly carrying out illegal activities. The language in SB 212 directs the local county clerks – who are responsible for recording all land instruments

in order to give to the public notice of their contents (*e.g.*, deeds, mortgages, releases, liens, easements, plats, restrictions, decrees, judgments, etc.) – to refuse to accept and record any “deed” conveying “land” without an affidavit being attached to it.<sup>2</sup> The affidavit (herein the “non-alien affidavit”) is to be signed by each grantee, swearing they are either a citizen of the United States or a noncitizen (an alien) who is or shall become a bona fide resident of Oklahoma.

In a brochure published in response to SB 212, the Oklahoma Association of Realtors (OAR) explained the reason for this legislative amendment:

Summary: Foreign land ownership has become a salient political issue across the nation for a variety of reasons. In Oklahoma, an

increasing number of foreign actors have used loopholes and taken advantage of the State’s marijuana industry to engage in illegal black market operations. The Oklahoma Legislature passed SB212 in 2023 to provide a prosecutorial framework which law enforcement can use to regulate and punish these illegal, foreign actors.

Confirmation of this assertion by the OAR, that curtailing illegal marijuana business activities was the reason for this legislative action, is found on the face of one of the three affidavit forms promulgated by the Oklahoma attorney general (herein “AG”). The AG is directed by the terms of the SB 212 amendment to Section 121 to “promulgate a separate affidavit form for individuals and

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for business entities or trusts.” The AG has promulgated three separate affidavit forms (*i.e.*, individual, nonexempt business/trust and business/trust exemption). The affidavit for business/trust exemption has language that echoes the concerns of the OAR. To be eligible to use this business/trust exemption affidavit, the grantee must be (per Section 121) “a business entity that is engaged in regulated interstate commerce in accordance with federal law.” The entity must swear, on the “business/trust exemption” affidavit, “4. ... I further acknowledge and understand that an entity engaged in or supporting the cultivation of marijuana in Oklahoma is not ‘engaged in regulated interstate commerce in accordance with federal law.’”

### NEW ENFORCEMENT TOOLS

This new approach shifts part of the burden of enforcement from the AG and the local district attorneys to the local county clerks, who will act as “gatekeepers.” If the “deed” fails to have the appropriate affidavit attached to it – swearing that the grantee is a U.S. citizen or is (or intends to be) a bona fide Oklahoma resident – it will not be accepted for recording.

The three affidavit forms, listed above, contain positive assertions that 1) the affiant is at least 18 years old and has personal knowledge of the statements being made, 2) the affiant is the grantee of the land or the authorized agent of the entity/trust grantee, 3) the individual grantee is a U.S. citizen or bona fide resident alien (or intends to be) of Oklahoma, or the trustees and all direct and contingent beneficiaries and a business’s direct and indirect owners are U.S. citizens or bona

fide resident aliens (or intend to be) of Oklahoma, 4) generally, this acquisition is in accordance with the terms of Section 121 *et seq.*, 5) no funding sources were used in violation of this law and 6) acknowledging that U.S. citizens or resident aliens can acquire and hold title to land in Oklahoma. The pre-SB 212 process for initiating an escheat process continues to be described under this amended Section 121 and the remaining unamended Sections 122-127.

### QUESTIONABLE PARTS OF THIS STATUTORY BAR – BOTH PRE-SB 212 AND POST-SB 212

*The SB 212 Statutory Bar Against Aliens ‘Indirectly’ Owning ‘Land’ by ‘Business Entities and Trusts’ Appears to Be at Least Partially Unenforceable in the Face of the Cartwright Decision*

*Recognizing Domesticated Alien Corporations as Bona Fide Residents*

The constitutional bar and the implementing statutory bar, both of which were adopted in 1910, remained unchanged until the passage of SB 212 in 2023, which amended one of the sections (Section 121) of the statutory bar.

In the interim, Enrolled Senate Bill No. 11 was adopted in 1979, and it provided, in pertinent part:

Section 1. The Oklahoma Senate calls upon every citizen with knowledge of non-resident alien land purchases to report to their local District Attorney or to the Attorney General. The Attorney General is directed to conduct an investigation into foreign land investment in Oklahoma and to report to the Oklahoma Senate by May 1, 1979. No action shall be taken

against any non-resident land purchaser who has rights by treaty to purchase and own land within the United States.

In response to this senate bill, on May 1, 1979, the AG published the “Non-Resident Alien Ownership of Land in Oklahoma: Report of the Oklahoma Attorney General” (herein the “AG Alien Report”)

In 1979, following the issuance of its “AG Alien Report,” then-current AG Jan Eric Cartwright issued a formal opinion announcing its position against alien ownership of Oklahoma land:

1. *An alien may not directly or indirectly acquire title to or own land in the State of Oklahoma.*
2. An alien who can be shown to have taken up bona fide residence in this State may acquire and hold lands during the continuance of such bona fide residence; provided, that if such resident alien shall cease to be a bona fide inhabitant of this State, the said alien shall within five years from the cessation of such bona fide residency alienate the lands so held.
3. A nonresident alien may hold land in Oklahoma only if the said nonresident alien acquired it by devise, descent or by purchase, where such purchase was made under a legal proceeding foreclosing a lien in favor of such alien, and land acquired by such means may be held for only five years.
4. *Title to land which has been conveyed in violation of Article XXII, Section 1 of the Oklahoma Constitution, and 60*

O.S. 121 (1971), *has escheated to the State of Oklahoma.*

5. The word “person” as used in the Oklahoma Constitution, Article XXII, Section 1, and 60 O.S. 121 (1971), *includes bodies corporate, and such bodies do not avoid the provisions thereof by obtaining articles of domestication to transact business in the State of Oklahoma.*<sup>3</sup>

In 1979, a scholarly article was published in the *Oklahoma Bar Journal*<sup>4</sup> that outlined the history behind the adoption of the constitutional bar and the statutory bar and discussed the 1979 AG opinion (1979 OK AG 286).

In 1981, the Oklahoma Supreme Court issued an opinion that overruled the AG’s position that a foreign corporation, which became domesticated, was barred from acquiring and owning land in Oklahoma.<sup>5</sup>

In this *Cartwright* case, the AG initiated a state court proceeding to cause the escheat of Oklahoma land held by a corporation formed in Canada but properly domesticated in Oklahoma. After discussing the terms of the constitutional bar, the court held, “We conclude that the drafters of the Oklahoma Constitution did intend to include corporations within the terms ‘person’ and ‘alien’, as they are used in Section 1 of Article 22 of the Oklahoma Constitution.”<sup>6</sup> And further, “For the above stated reasons, we hold that the drafters of the Oklahoma Constitution meant to include corporations within the restrictions on alien ownership provided for at Section 1 of Article 22.”<sup>7</sup>

However, thereafter, the court held, “After examining the Constitutional and statutory

provisions dealing with the treatment of domesticated corporations, we conclude that a foreign corporation, once it has complied with the domestication procedures established under Oklahoma law, is, for the purposes of restrictions on alien land ownership, a resident of the State – and thus no longer subject to the restrictions of Article 22, Section 1, of the Oklahoma Constitution.”<sup>8</sup> The court also stated its ruling another way: “For this reason, we believe it was the intent of the drafters of the Constitution that domesticated corporations be considered ‘bona fide residents’, as that term is used in Article 22, Section 1. In short, we hold that although alien corporations are subject to the restrictions on land ownership, such restrictions are no longer applicable once the alien corporation becomes a ‘bona fide resident of the State’, and that such residency is accomplished when the alien corporation becomes a domesticated corporation in Oklahoma.”<sup>9</sup>

Therefore, the *Cartwright* decision appears to reject the restriction as stated in the 1979 AG opinion and as stated in 2023 through SB 212 (amending Section 121), which restrictions prohibit an alien from acquiring or holding title to “land in this State either directly or indirectly through a business entity or trust.” The *Cartwright* decision clearly holds that a domesticated foreign corporation is not subject to such constitutional bar.

In addition, shares in a corporation or units in a limited liability company are personal property, not real property, and arguably, such interests do not constitute ownership in real property or land.<sup>10</sup> Consequently, it appears

an argument can be made that the language in the constitutional bar applying a bar to acquiring and owning “land” but not to acquiring and owning personal property would not bar such stock/unit ownership. In addition, the language of Section 121 in both the pre-SB 212 and post-SB 212 versions does not expressly bar such ownership of personal property. To the contrary, both versions of Section 121 provide, “He or she shall have and enjoy in this state such rights as to personal property as are, or shall be accorded a citizen of the United States under the laws of the nation to which such alien belongs, or by the treaties of such nation with the United States.” Absent evidence that a particular country fails to provide reciprocity to allow U.S. citizens to own personal property in such other country, the Section 121 restriction on an alien owning land “indirectly through a business entity or trust” appears to be problematic when considered alongside the holding in *Cartwright*.

After the *Cartwright* decision was issued, two more scholarly articles were issued to summarize the rules on alien ownership of land in Oklahoma in light of that case.<sup>11</sup>

Taken together, 1) the primary holding of the *Cartwright* decision – which established that any domesticated alien corporation is not subject to the restrictions of Article 22, Section 1 – combined with 2) the constitutional and statutory authority for aliens to acquire and hold personal property (such as corporate shares and LLC units) appear to raise a significant question: How is it possible to reconcile the *Cartwright* holding (based on the Oklahoma Constitution) with the Legislature’s SB 212,

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The public policy against aliens owning Oklahoma land is made clear in Art. 22, Section 1 of the Constitution: ‘No alien or person who is not a citizen of the United States, shall acquire title to or own land in this state.’

which seeks to *statutorily* prohibit an alien from acquiring and owning title to “land in this State either directly or indirectly through a business entity or trust?” In the absence of language in this statutory bar defining a “business entity,” it could be asserted that such targeted entities would include a domesticated alien corporation. This is problematic.

A deeper analysis of the *Cartwright* decision discloses only a very limited instance allowing the state to prevent an “alien” from “indirectly” owning Oklahoma land through a domesticated alien corporation. The *Cartwright* holding provides (para. 40), “Nothing in our holding today, however, should be taken to mean that such rights [for aliens to own land] would be afforded a sham corporation, set up by individual aliens solely to avoid the restrictions of Article XXII, Section 1, when such entities are not in fact operated as legitimate corporations.”

Nevertheless, in the absence of proof that a particular corporation is a “sham” corporation, the holding of *Cartwright* strongly suggests

that the Legislature might not be empowered to bar the “indirect” acquisition or ownership of Oklahoma land by a domesticated alien corporation (or other “domesticated entities”).

However (as discussed in detail in the next section of this article), even if the state is constitutionally empowered to enact legislative procedures to bar aliens from acquiring and owning Oklahoma land, there are express constitutional limits (in Art. 22, Section 1) on this process as to timing and procedures. Such constitutional limits on this process do not appear to be properly reflected in the verbiage used by the Legislature in the language they adopted in 1910 for Section 123. Such timing and procedures, set forth in the Constitution, arguably expressly allow *any* alien to initially acquire Oklahoma land and hold it for at least five years. It is only after the passage of such five-year period that an escheat proceeding can be initiated and then completed to cause an alien to lose the title to their land (after a 30-day advance notice of the intent to file the escheat action). As

discussed later, such constitutional language appears to be contrary to the Legislature’s original (1910) attempt in Section 123 to prohibit the initial acquisition of title by a nonresident alien, except when acquired by probate or foreclosure proceedings.

*Under the Constitution, It Is Arguable That All Aliens, Including Nonresident Aliens, Can Acquire and Own Oklahoma Land, but Such Aliens Must Dispose of It Within Five Years*

In order to enforce a bar against aliens acquiring and owning title to Oklahoma land, there logically appears to be three possible options: 1) making any conveyance to an alien void *ab initio*, leaving the legal and equitable title in the grantor (due to no livery of seisin), 2) making any conveyance to an alien act as an automatic conveyance (escheat) to the state or 3) making the conveyance to the alien valid but allowing the initiation of a court proceeding at a later specified point in time to take the title away from the alien (escheating) and give it to the state or sell it.

The public policy against aliens owning Oklahoma land is made clear in Art. 22, Section 1 of the Constitution: “No alien or person who is not a citizen of the United States, shall acquire title to or own land in this state.”

However, the timing and process to implement this policy is also clearly set forth in this section of the Constitution: “The Legislature shall enact laws whereby all persons not citizens of the United States, and their heirs, *who may hereafter acquire real estate in this state by devise, descent, or otherwise*, shall dispose of the same within five years upon condition of escheat or forfeiture to the State.”



None of the scholarly articles listed above, which discuss many of these matters, mention this particular issue (“otherwise” acquisition), nor does the 1979 AG opinion or the *Cartwright* case deal with this issue.

No language in the constitutional or statutory bars attempts to make the conveyance to an alien void *ab initio*, and the Oklahoma Supreme Court has held that the bar in this constitutional language is not self-executing but is achieved only by the completion of an escheat proceeding in a court.<sup>12</sup> Also, logically, if the conveyance to an alien was automatically void, there would be no need for the constitutional and statutory bars to provide for a subsequent escheat process.

The Legislature is empowered by the Constitution to establish an escheat process, but the same constitutional provisions make it clear that such escheat proceedings cannot begin until after 1) the alien acquires the title to the land and 2) an additional five years have elapsed. In addition, the Legislature itself recognized the title the alien acquired “improperly” is valid enough to be transferred to a third party (non-alien), so long as it occurs before the escheat proceeding begins. Such escheat proceeding is not begun until at least 30 days after the alien is given formal notice of the state’s intent to start such proceeding – giving the alien owner a short period of time to validly convey “fee simple title” to a third party (Section 124).

There appears to be the possibility of confusion about whether *all aliens* can acquire and then hold title to land for at least five years or *only a limited group*. This is due to the Legislature’s choice of

words used in Section 123 (which language is the same in both the original and current versions). This wording fails to repeat the language of the Constitution as to the allowed groups of alien grantees who can acquire and hold land for five years. The Constitution allows any alien to acquire land and to hold title to such land for five years when such alien acquires title “by devise, descent, or otherwise.” The Legislature appears to redefine this third group (or otherwise) to be narrowed to only those aliens who acquire title “by purchase, where such purchase is made under any legal proceeding foreclosing liens in favor of such alien.” (Section 123).

In addition to allowing the acquisition and owning of title to “land” by an alien through probate (*i.e.*, by “devise [granted by terms of a will] or descent [granted by statutory intestate succession]”), the Constitution expressly allows an alien to also acquire title in a means “otherwise” than just through a probate, meaning the ability to acquire title “in a different manner” – not just through a probate.<sup>13</sup> Hence, it is arguable that the Legislature overstepped its authority when it redefined and shrank this third class to only consist of a foreclosing alien lien creditor.

It is reasonable to argue that *any* alien person, whether an individual or a “business entity or trust,” can acquire title to land in Oklahoma and hold it for at least five years and, thereafter, continue to hold valid title until and unless an escheat proceeding is completed. Consequently, it appears that according to the Constitution, any alien – whether a resident or nonresident – can acquire and hold title to Oklahoma land for at least five years.

Assuming this hypothesis is correct that any alien – whether a resident or nonresident – can acquire and hold title to land for five years, then any attempt by the Legislature to “bar” an alien from acquiring and holding title to land is unconstitutional. The Legislature’s new attempt under SB 212 (re: Section 121) to direct a state officer – the local county clerk – to refuse to accept a deed for recording because it fails to include an affidavit stating the grantee is not an alien appears to violate this constitutional provision.

It should be noted that any deed is valid between the parties upon its execution and delivery to the grantee or a third party without any recording with the county clerk being needed for such validity.<sup>14</sup> The lack of recording does prevent third parties from being on constructive notice of this transfer of title. Therefore, if the deed is not recorded, the alien grantee would be unable – in a practical sense – to either 1) secure a mortgage using this land as collateral or 2) get a title opinion or title insurance to sell the land to a third party because it would be impossible to confirm the alien’s *recorded* interest in this land.

*The SB 212 Bar to Aliens  
Owning ‘Land’ Does Not Apply  
to ‘Oil and Gas’ or ‘Minerals’*

As noted above, the limitations against aliens, created by the constitutional and statutory bars, only pertain to “land.”

The purpose of this portion of this article is not to provide a broad discussion of the history and nature of minerals in general or oil and gas in particular in Oklahoma. Instead, it is only to discuss the initial (2023) and then

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revised (2024) position of the AG concerning whether these constitutional and statutory bars cover “oil and gas” and other “minerals” because these interests might arguably constitute “land.”

Initially, in 2023, the AG gave the following informal written answer to a question posed to his office by the Oklahoma Land Title Association (“OLTA” – the Oklahoma title industry association):

Question: The statute says, “acquire title to or own land,” but the affidavit says, “land or minerals.” We want to confirm that the affidavit will also apply to mineral interests since they are real property interests is that correct?

Answer: Yes, the definition of land in 60 O.S. §6 includes soil, rock, other substance, and pore space (including oil or gas).

It is correct that the type of property interest covered by the constitutional and statutory bars is “land.” It is also correct that 60 O.S. §6 (relied on by the AG for its initial position) defines “land.”

However, the AG reconsidered its initial position, which included “oil and gas” in the definition of “land” as used in the statutory bar language of Section 121. In the later formal AG Opinion 2024-2, the AG reversed its earlier position based on a further review of the language of 60 O.S. §6. The new position of the AG is that 1) based on statutory interpretation, “oil and gas” is not included in the statutory definition of “land,” and therefore, no affidavit is required to be attached to a deed or other conveyance of “oil and gas,” and 2) based on statutory discretion (granted in the language of Section

121), deeds to “minerals” are not subject to the requirement to have an affidavit attached to a deed or other conveyance of “minerals” (meaning all minerals, whether solid, liquids or gases).

More specifically, the AG issued its OK AG Opinion 2024-2, dated

Feb. 6, 2024, in response to a formal request for an opinion from Oklahoma Sen. Brent Howard that asked, “What instruments are not subject to the affidavit requirement in title 60 section 121 (Supp.2023) of the Oklahoma Statutes?”



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In response to such question, the AG gave this response:

As of November 1, 2023, section 121 requires the filing of an affidavit when recording a deed with an Oklahoma county clerk. (S.B. 212, 2023 Leg., 2023 Leg., 59th Sess., 2023 Okla. Sess. Laws ch. 327, §1). *In addition, the amendments mandate this office promulgate template affidavits and vest it with the authority to declare one or more deeds exempt from the affidavit requirement. Pursuant to that authority, this office concludes that the following instruments and entities are exempt from the affidavit requirement in Section 121:*

1. Deeds where the grantee is a domestic governmental body, including, for example, the United States, the State of Oklahoma or a political subdivision thereof, or a Tribe;
2. State or federal court orders and decrees in probate proceedings, divorce actions, quiet title actions to cure a defect in title, or other judicial orders and decrees affecting title to land;
3. Deeds that do not convey or otherwise transfer title or ownership when recording the instrument, including transfer on death deeds and correction deeds; and
4. *Deeds conveying only oil and gas interests.*

In a more detailed discussion in the 2024 opinion, the AG explained that in addition to its ability to provide an answer to this formal question based on statutory interpretation, it was empowered by the

Legislature (Section 121) to exempt any additional deeds where it deemed it was appropriate to do so. In regard to the AG's grant of discretionary authority under Section 121 to exempt additional deeds from the affidavit requirement, the AG explained (in footnote 2):

This declaration does not determine whether these instruments are otherwise exempt from the provisions of section 121 and shall not be construed in such a manner. Instead, this declaration is made only under the express authority in title 60, section 121 (Supp.2023). Such authority provides: "The Attorney General shall promulgate a separate affidavit form for individuals and for business entities or trusts to comply with the requirements of this section, *with the exception of those deeds which the Attorney General deems necessary* when promulgating the affidavit form."<sup>15</sup>

Specifically, in regard to whether deeds conveying title to "oil and gas" required an affidavit, the AG explained (in part D), based on a statutory construction:

As detailed above, Oklahoma has both constitutional and statutory provisions restricting alien ownership of land. However, neither article XXII, section 1, nor title 60, section 121, supply a definition of "land". However, it is settled that land is a subpart of real property, which is a subpart of property. 60 O.S. 2021 §§ 4-5.

Further, until 2011, title 60 of the Oklahoma Statutes defined "land" as "the solid material of the earth, whatever may be

the ingredients of which it is composed, whether soil, rock or other substance." 60 O.S. Supp. 2010, §6. Relying on this definition, the Oklahoma Court of Civil Appeals determined that "[t]he word 'land' includes not only the surface, but also the minerals found below it." *Boswell Energy v Arrowhead Homes*, 1999 OK CIV APP 36, ¶ 8, 976 p.2d 1113, 1116. Notably, however, following *Boswell*, the Legislature amended the definition of land in section 6 to state, as it currently does:

- A. Land is the solid material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock or other substance, and includes any pore space.
- B.
  1. As used in this section, "pore space" means any interstitial space not occupied by soil or rock, within the solid material of the earth, and any cavity, hole, hollow or void space within the solid material of the earth.
  2. As used in this section, pore space is real property and, until title to the pore space or rights, interests or estates in the pore space are separately transferred, pore space is property of the person or persons holding title to the land surface above it.
  3. Notwithstanding the ownership of the pore space, *nothing in this section shall alter or be*

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construed to alter the ownership of, or rights associated with the oil or gas, as those terms are defined in Section 86.1 of Title 52 of the Oklahoma Statutes, that may be within the pore space.<sup>16</sup>

If the meaning of a statute is ever in doubt an amendatory legislative act is presumed to clarify the existing law's ambiguity, *Texas Cnty, Irrigation and Water Res. Ass'n v. Oklahoma Water Res. Bd.*, 1990 OK 121, ¶ 6, 803 P.2d 1119, 1122. The 2011 amendments to section 6 are presumed to clarify whether contents of pore space are within the term "land" and they are unequivocally not included within the term. Currently, land is the solid material of the earth, including the pore space, but excluding the contents of the pore space. 60 O.S.2021, § 6. Logically, contents of pore space means fluids and gases, like oil and gas, and therefore, deeds conveying only oil or gas transactions are declared exempt from the affidavit requirement in title 60, section 121.

In addition to excluding "oil and gas" by the process of statutory construction, the AG used its discretion (granted by the Legislature in Section 121) to conclude (in footnote 3) that deeds to "minerals" would also be excluded from the need to be accompanied by a non-alien affidavit by stating:

Further, this declared exemption [for oil and gas] includes assignments and leases of only oil and gas interests. Furthermore, as

detailed below, the 2023 amendments to section 121 are intended to only affect surface interests where marijuana can be grown. There being no intent to affect any minerals, hard or soft, this office declares, in its discretion, that deeds conveying only subsurface mineral interests are necessarily exempt from the affidavit requirement in title 60, section 121.

## CONCLUSION

Deeds (and similar instruments, such as leases and assignments) that convey any interest in "minerals" or "oil and gas" are not subject to the requirement of SB 212 and, consequently, do not need to have a non-alien affidavit attached to it to be eligible for filing with the county clerk. It is hoped that this article prompts further discussion on these topics.

## ABOUT THE AUTHOR



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## ENDNOTES

1. OK Const., Art. 22, Section 1: Aliens – Ownership of land prohibited – Disposal of land acquired (herein the "constitutional bar").
2. 16 O.S. Sections 15-16.
3. 1979 OK AG 286.
4. Steven L. Barghols, "Alien Ownership of Oklahoma Urban Real Property," 50 *OBJ* 2439 (1979).

5. *Cartwright v. Hillcrest Investments, Ltd.*, 1981 OK 27, 630 P.2d 1253.
6. *Id.*, Para. 8.
7. *Id.*, Para. 14.
8. *Id.*, Para. 26.
9. *Id.*, Para. 31.
10. 60 O.S. Sections 4, 5, 6 and 9; 18 O.S. Sections 1040 and 2032.
11. Michael Kuzow, "Corporate Aliens and Oklahoma's Alien Landownership Restrictions," 16 *Tulsa L. J.* 528 (2013) (presented at the spring 1981 Energy Symposium); Jennifer Scott Morardi, "Alien Ownership of Land in Oklahoma," 79 *OBJ* 233. (2008).
12. *State ex rel Short v. Benevolent Inv. & Relief Assn.*, 1924 OK 1043, para. 9, 232 P. 35, 39: "These sections [Art. 22, Sections 1 and 2] have been held by this court not to be self-executing."
13. *Websters*, "otherwise," adv. "in a different manner, ... in other circumstances, ... in all other respects."
14. 16 O.S. Sections 15-16.
15. 60 O.S. Supp.2023, §121(B)(emphasis added).
16. 60 O.S.2021, §6 (emphasis added).

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# Supporting Your Clients With Charitable Real Property Gifts

By Christa Evans Rogers

**R**EAL PROPERTY INVESTOR LOUIS GLICKMAN QUIPPED, “The best investment on Earth is earth.” In recent years, markets have bolstered his point with prices soaring to historic highs in many locales.<sup>1</sup> We have all heard the adage, “buy low, sell high.” For your clients who are charitably inclined and own appreciated property, it rings equally true “to buy low and donate high,” as this has the double bonus of increasing your clients’ tax savings and maximizing the impact of the clients’ gifts overall. While buyers lament the current accessibility and cost of purchasing property, in the current seller’s market, donors and charitable organizations alike reap substantial rewards from real property donations.

Real property is one of the most commonly owned asset types, which makes donations of real property interests an option for many potential clients, regardless of their net worth. Clients on the higher end of the wealth spectrum are more likely to complete gifts during their lifetime, whereas estates, both large and small, remain excellent candidates for a gift made at death. In the United States, real property comprises a significant portion, if not the bulk, of most portfolios. According to the U.S. Census Bureau in 2021, on average, for individuals not in the top 1% of wealth, equity in one’s own home was the second largest asset they owned at 28%.<sup>2</sup> When combined with rental properties and other real property holdings, the percentage is higher at

a whopping 37% and exceeds retirement accounts as the otherwise leading asset type.<sup>3</sup>

This article will emphasize various factors to consider when clients express a desire to donate real property interests. Additionally, it will provide an introductory overview of giving solutions available for real property that can be tailored to accomplish your client’s specific charitable, income and tax objectives.

## COMMON INCENTIVES FOR DONATING REAL PROPERTY TO CHARITABLE ORGANIZATIONS

Author Margaret Mitchell famously wrote, “Death, taxes and childbirth! There’s never a convenient time for any of them.”<sup>4</sup> Many of your clients likely share this

sentiment and have a strong aversion to paying tax when it could be legally avoided and is otherwise to their advantage. The Internal Revenue Code and underlying regulations state specific requirements for substantiating a charitable contribution income tax deduction for gifts of real property worth more than \$5,000.<sup>5</sup> Under the Oklahoma Rules of Professional Conduct as well as the rules for practicing before the IRS, you have duties as an attorney to counsel your client regarding these requirements so as not to jeopardize the client’s eligibility to claim a charitable contribution income tax deduction.<sup>6</sup>

Gifts of real property are amongst the most impactful and tax-efficient avenues to support charitable organizations. Property owners who have held assets for

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significant periods of time often find themselves facing substantial capital gains tax liabilities at the time of sale.<sup>7</sup> Rather than pay these hefty taxes, many philanthropically oriented clients prefer to instead make a gift to a charitable organization, itemize their deductions at filing and claim a deduction for charitable contributions.<sup>8</sup> In some cases, the donor may carry the deduction forward for as many as five years.<sup>9</sup>

Statistically, advisors overestimate the importance donors place on tax advantages of charitable contributions in their decision-making process, though it is still self-reported as an influential factor.<sup>10</sup> In reality, a wide range of

motivations may coalesce to spur the client to donate real property, chief among them the desire to make a difference. The following nonexhaustive list enumerates reasons frequently cited for making a charitable gift of real property:

- Donors own property they no longer wish to manage or maintain. They may feel burdened by the stress, expense and time associated with owning the property.
- Donors plan to retire and will no longer need the income from farmland or commercial property for business operations.
- Donors either do not have children or do not anticipate their children using or needing the property.<sup>11</sup>
- Donors move to a retirement community and no longer need their personal residence during their golden years.
- Donors own a vacation home they no longer frequent.
- Donors would like to convert the real property into an income-producing gift for themselves, with the remainder going to charity.
- Donors would like to retain the use and enjoyment of the real property in their

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lifetime but would prefer to make a current gift of the remainder interest in the property after their passing in order to receive an immediate tax benefit.

- Donors fear they may outlive their savings and wish to postpone a donation of property at their passing when they know with certainty they will not need resource access.
- Donors hold real property they desire to sell, but that has appreciated, and they face undesirable tax consequences associated with long-term capital gains.
- Donors wish to receive a charitable tax deduction for the gift of property.
- Donors with significant assets face estate taxes and wish to reduce the size of their taxable estate.<sup>12</sup>

### KEY FACTORS FOR FACILITATING GIFTS OF REAL PROPERTY

Real property gifts are generally deemed one of the more complex asset classes to donate. Many charitable gifts are relatively elementary and virtually instantaneous transactions. In contrast, gifts of real property entail many nuances and include a series of steps required by both the IRS and the internal gift acceptance policy of the charitable organization or community foundation. The following considerations are crucial to keep in mind when counseling clients and engaging with the other individuals or organizations involved:

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Certain property types will often be refused as noncompliant with the charitable organization's gift acceptance policy. Commonly rejected property interests include cemetery plots, timeshare interests, gifts with stringent restrictions on use, debt-encumbered property and properties deemed unmarketable or hazardous.

#### *Property Gifts Come in All Shapes and Sizes*

Virtually all real property types are eligible for tax-advantaged giving, though not all types are eligible for each charitable giving arrangement. Examples of real property interests eligible for donation include primary residences, rental properties, investment properties, vacation homes, agricultural properties, commercial properties, raw land or undeveloped properties and mineral or leasehold interests.

#### *Thanks, but No Thanks*

Certain property types will often be refused as noncompliant with the charitable organization's gift acceptance policy. Commonly rejected property interests include cemetery plots, timeshare interests, gifts with stringent restrictions on use, debt-encumbered property and properties deemed unmarketable or hazardous.

#### *The Earlier, the Better!*

It is of paramount importance to consult the beneficiary charitable organization or community foundation as early as possible in the process. When making a gift of property that has appreciated, the best practice is to engage in advance of even discussing the sale of the property with a potentially interested buyer and especially before formally listing the property for sale. If it is deemed by the IRS that there was a "buyer in the wings," the IRS may assert the anticipatory assignment of income doctrine, and the client may risk eligibility for the maximum tax benefits possible.<sup>13</sup>

All is not lost if a buyer has already been confirmed or if the client has sold the property in advance but desires to still make a gift. However, while there are still advantages to gifting the proceeds from a sale of real property after the fact, in most cases, they pale in comparison to the tax benefits associated with gifting the asset first.

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## HALF A LOAF IS BETTER THAN NONE<sup>14</sup>

While Frank Sinatra might have famously crooned that he wants it “all or nothing at all,” this is simply not true for most nonprofits.<sup>15</sup> There are several ways a donor can gift real property without entirely relinquishing the benefits of their investment. The following options outline an array of giving solutions that may serve a client wishing to retain an income, access or ownership interest.

### *Whole-y Cow! Fractions are Fun<sup>16</sup>*

Clients may elect to donate a fractional interest in the property in lieu of the whole ownership interest. To qualify for a charitable contribution deduction, it must be a gift of an undivided interest in the donor’s entire interest in the property.<sup>17</sup> This can be done simply by deeding the fractional interest to the charitable organization. If the transfer is intended to occur at death, the attorney should draft accordingly in the estate plan or otherwise in a transfer on death (TOD) deed. Typically, charitable organizations favor providing preferred gift language. This practice may be done anonymously and generally proves helpful to the client, the attorney and the charitable beneficiary.

### *Let’s Make a Deal!*

#### *Bargain Sale Benefits*

Bargain sales benefit donors wishing to receive compensation for a portion of the sale price. In these instances, the donor sells the property to a charitable organization at a discount. For example, the donor conveys the property to the charitable organization for a portion of the fair market value (FMV). The seller then receives a charitable income tax deduction

for the amount that was discounted below FMV.<sup>18</sup>

### *Charitable Trusts:*

#### *‘Tis Better to Give AND Receive*

Donors may also let the charitable organization “borrow” the property benefits for either a term of years or for the donor’s lifetime by creating a charitable lead trust (CLT). With CLTs, the property will either revert to the donor’s heirs at the donor’s passing or back to the living donor (or other specified recipient) at the end of a stated term of years.<sup>19</sup>

Conversely, with a charitable remainder trust (CRT), the donors may desire to make a gift and retain the right to receive payments (for themselves or up to eight of their loved ones) during either their lifetimes or for a specified term not exceeding 20 years.<sup>20</sup> At the expiration of the term or the death of the donor(s), the remainder interest benefits the charitable organization. Testamentary CRTs provide a posthumously funded option to provide income to the client’s loved ones and ultimately fund a charitable purpose.

Contributions to a CLT or a CRT will receive a charitable contribution deduction for the actuarial value of the interest passing to charity.<sup>21</sup>

### *‘Til Death Do Us Part:*

#### *Retained Life Estates Are Great!*

Retained life estates allow the donor to receive an immediate tax deduction while retaining the use and enjoyment of the property during their lifetime. A common example is an elderly client who wishes to live out their days in their own home but is charitably inclined. At the death of the surviving spouse, the charitable organization will have the right

to occupy or liquidate the property. This option is available for residential property and farms. The attorney should draft a formal gift agreement outlining who is responsible for property costs incurred during the donor’s lifetime and other important details.<sup>22</sup>

## STOP, COLLABORATE AND LISTEN!<sup>23</sup>

Attorneys ought to remember the wit and wisdom of Will Rogers when he remarked, “Everyone is ignorant, only on different subjects.”<sup>24</sup> Relying on the proficiencies of various professionals is often essential to reaching the best result for your client.<sup>25</sup> Oftentimes, a task force contributes their respective expertise throughout the process due to the nature and complexity of this gift type. The typical cast of characters includes the client, the client’s attorney, a qualified appraiser, a property inspector, the client’s financial advisor, the client’s accountant or tax advisor or a representative from the beneficiary charitable organization.

### *Confidentiality and Conflicts*

As always, honoring client confidentiality remains a core component of our code of ethics as attorneys.<sup>26</sup> The attorney should, in many cases, request a client’s permission in the form of written informed consent before discussing the client’s affairs with other parties.<sup>27</sup> As a practical matter, with so many moving parts and parties in these transactions, it is helpful to have clear lines of communication in place to ensure priorities are understood, deadlines are agreed upon and the expectations of all parties align.

Occasionally, clients fall under the mistaken assumption or

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impression that the charity's attorneys represent the client in place of the charitable organization itself. It is important to reinforce that you represent the client's interests, and while the client's and charity's goals may align for this purpose, the charitable organization's attorneys represent the charitable organization generally and not your client personally.<sup>28</sup>

*We're Better Together*<sup>29</sup>

Collaboration with a charitable organization, most commonly a facilitating community foundation, is largely recognized as a best practice. The joining of professional and philanthropic forces helps ensure both the client's and the charitable organization's needs are met. This partnership may grant access to the charity's planned giving expertise at little or no cost to the attorney or client and serve as an intermediary at times between the ultimate charitable beneficiary and the client. Depending on internal policy and the client's wishes, the charitable organization may quarterback the property transfer process. Even with anonymous gifts, the charity's staff will often coordinate with the client's advisors and attorneys to facilitate the requisite legal work and tax analysis.

*The Best Things in Life Are Free (Mostly)*

Community foundations will eagerly provide complementary guidance and services at no upfront cost to the client or the attorney. In many cases, these complementary services are eventually funded by asset management fees on the gift corpus when it is ultimately held in endowment or as another charitable instrument.

Services commonly rendered include supplying charitable gift language for estate plans and gift agreements, generating tax calculations, crafting comparative gift type assessments, naming rights agreements and drafting gift contracts for lifetime gifts. For legacy gifts made within estate planning documents, the community foundation will likely provide recommendations, but the instruments should be drafted by the client's independent counsel.<sup>30</sup>

**GIVING WITH STRINGS ATTACHED: BEST PRACTICES FOR RESTRICTED GIFTS**

More often than not, gifts of real property are sold to fund the mission of the charitable organization rather than maintained and managed by the charitable organization itself. Frequently, a client envisions a "perfect use for this property" that, in reality, is not a viable option for the recipient charitable organization. For example, the donor owns a

property they want developed and used for a certain purpose. Even in instances when this is possible in the near future, it is often impossible to guarantee this use can continue long-term and that the property will not need to be used for a different purpose in the future or be ultimately sold.

Additionally, the use the donor desires may require an additional gift of capital to maintain the property, build new structures, renovate existing structures and/or sustain new program components. While these restricted gifts can occasionally be accommodated, commonly, it is either impractical or impossible. It will help your client anticipate and understand the reasoning behind the likely response if you alert them to the possibility (if not probability) that the charitable organization will only accept the property if it can be liquidated or is accompanied with additional funds.<sup>31</sup>

In the rare instance the donor has a specific restriction for the property in mind and the



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charitable organization has verified that the donor's intent can be honored, it is a best practice for the attorney to draft a legally binding gift agreement that is signed by the donor and the charitable organization that identifies the circumstances when the restrictions may be terminated.

### STEP BY STEP<sup>32</sup>

Property donations can prove an excellent source of revenue for charitable organizations. However, these gifts entail a higher level of administrative support to review, accept and, in most cases, ultimately liquidate. The following steps and stages in the gift process are important for the attorney to remain apprised of when counseling clients.

#### *Real Property Gifts Often Take Months, Not Minutes*

If the donor would like the gift to take place in a certain tax year or season, it is important to plan ahead and allow at least two to three months to complete this type of gift. There are numerous legal and tax factors to consider, and several parties are involved in these transactions. Gifts taking place near year-end may require additional time because of heightened demand on advisors' time, holiday office closures and vacation schedules for various professionals. Of note, the property does not need to be sold by the charitable organization in the same year as the gift for the donor to receive a deduction.

#### *Risky Business: The Prudence of Property Inspections and Due Diligence*

Unlike many other asset types, accepting real property donations exposes the charitable

organization to a level of risk. For example, if the property takes a lengthy period to sell, it may incur sizeable maintenance and insurance costs. Alternatively, there may be some sort of undiscovered liability or environmental hazard that needs to be remediated. To minimize those and other risks, in advance of accepting real property donations, some charitable organizations will require property inspections and disclosures, occasionally via the completion of a detailed information gathering form or signed affidavit. The charitable organization will often then determine whether or not to accept the gift.

#### *Qualified Appraisals for Property Worth More Than \$5,000*

For donors who wish to itemize and claim a charitable contribution income tax deduction, the IRS requires an independent, qualified appraisal to determine the property's FMV.<sup>33</sup> Timeliness is of the essence, and the appraisal must be dated no earlier than 60 days before the date of the property transfer or later than the due date of the tax return where the charitable contribution deduction is first taken or on the date of any amended tax return that first reports the charitable contribution deduction.<sup>34</sup> The IRS takes the position that the taxpayer cannot take a charitable deduction for the appraisal expenses.<sup>35</sup>

#### *Include the Charity's Taxpayer/Employer Identification Number in the Gift Language and Deeds*

The attorney should document the charitable organization's taxpayer/employer identification number (EIN). The charitable organization can provide this information directly, or alternatively, it can

be looked up on the IRS website or at Guidestar.org.<sup>36</sup> Many charitable organizations share similar names or change names over time, so including the EIN in the gift language eliminates confusion when the property may be transferred well into the future.

Moreover, confirming the charitable status by identifying the EIN is also a best practice as part of the attorney's due diligence.<sup>37</sup> Sometimes, a client or attorney mistakenly assumes a good cause is a registered charitable organization when that may not truly be the case and is therefore ineligible for a charitable contribution income tax deduction.

### CONCLUSION

Facilitating philanthropy is just one of the many ways attorneys can uphold their obligations to render public service. Effective counsel is essential to successfully completing gifts of real property. Supporting our clients in philanthropic endeavors is one way we, as attorneys, can use our specific talents and training for the greater good.

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### ABOUT THE AUTHOR



Christa Evans Rogers is an attorney and certified fundraising executive. She lives in Tulsa with her husband and fellow attorney, Timothy Rogers. Ms. Rogers was recognized as the OU College of Law outstanding graduate for the class of 2011. Her practice centers on charitable gift planning, and she serves as the vice president of client engagement for WatersEdge. She has volunteered on the boards of the OBA YLD, the Eastern Oklahoma Chapter of the Association of Fundraising

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Professionals, the OU College of Law Young Alumni board and as the former president of the Oklahoma Association of Charitable Gift Planners.

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# Oklahoma Title Examination Standards: Providing Guidance Since 1946

*By Kraettli Q. Epperson*



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## **WHY DO WE CARE WHETHER AN OWNER OF REAL PROPERTY in Oklahoma holds “marketable record title,” and why do we care that Oklahoma has a large set of Title Examination Standards, adopted by the Oklahoma Bar Association through its House of Delegates?**

When a parcel of land is conveyed or encumbered in the state of Oklahoma, the county land records<sup>1</sup> are usually examined to locate deeds, judgments and other instruments to create a chain of title, starting with a patent out of the government and continuing up to the present, covering surface and minerals.

These instruments can be located only because the county clerk for each county receives deeds and other land-related documents for recording and indexing against land in that county.<sup>2</sup> When reviewing these instruments, the goal is to determine whether “marketable record title” is held by the latest buyer/grantee who now wishes to be a seller/grantor. This is because, as explained in *American Jurisprudence*:

The law implies an undertaking by the vendor of real property to make and convey a good or marketable title to the purchaser in every contract for the sale of real property in the absence of any provision indicating the character of the title provided. Indeed, ordinarily the only implication in an executory contract for the sale of land is the promise to convey good title. A purchaser of real property therefore is entitled to marketable title; a purchaser’s right to this is given by law and does not depend upon inclusion in an agreement. Accordingly, in the absence of a stipulation to the contrary, there is a presumption that marketable title will be conveyed to the purchaser of real property.<sup>3</sup>

The Oklahoma Title Examination Standards themselves provide:

### 1.3 REFERENCE TO TITLE STANDARDS

It is often practicable and highly desirable that, in substance, the following language be included in contracts for a sale of real estate: “It is mutually understood and agreed that no matter shall be construed as an encumbrance or defect in title so long as the same is not so construed under the real estate Title Examination Standards of the Oklahoma Bar Association where applicable.”

In line with this suggestion, the Oklahoma Real Estate Commission has promulgated form contracts for residential sales, commercial sales and farm/ranch/recreational lands, providing:

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Any title requirements reflected in an Attorney's Title Opinion or Title Insurance Commitment, [must be] based on the Standards of marketable title set out in the Title Examination Standards of the Oklahoma Bar Association.

It is certainly beneficial to the public to have uniform procedures to confirm that identified parties have solid reliable chains of title (instead of each title examiner taking a separate arbitrary approach); such certainty, in turn, supports the ability of owners to be comfortable in using their land (surface and minerals) and for lenders to advance funds on it for mortgages. For this system to flow smoothly, one needs to know who holds title to the land and, therefore, has the right to use, mortgage and sell it.

The procedure for examining title to a parcel of land and determining whether it is encumbered with liens or easements or other limitations begins with the compilation of copies (paper or digital) of the deeds, decrees/judgments, liens and encumbrances comprising the chronological "chain of title" from the county land records (commonly referred to as an abstract of title). Often, when examining title to severed minerals, a direct review of the county land indexes and instruments is undertaken by a landman to compile a set of notes or a collection of copies of the relevant instruments that form the chain of title. Such informal compilation or notes are usually accompanied by a copy of the relevant indexes maintained by the county clerk. Second, an examination of such abstract, copied instruments or notes is usually conducted by a licensed attorney (or, depending on the circumstances, by

a paralegal or landman) reviewing such abstract, instruments or notes and then expressing an opinion as to who is the current owner of marketable record title and listing any recorded liens and encumbrances. The examiner would also identify any defects in the ownership "chain of title," such as a missing probate or defective deed, along with a requirement for the necessary curative action, usually by an instrument (e.g., a quit claim deed) or a court proceeding (e.g., a probate).

The use of title insurance to insure the title of buyers and the valid lien position of lenders (for surface or fee simple titles but not severed minerals) is a widespread practice in the real estate industry. Notably, the Oklahoma Statutes provide:

No policy of title insurance shall be issued in the State of Oklahoma except:

- 1) After examination by an attorney licensed to practice in this state of a duly certified abstract extension or supplemental abstract prepared by an abstractor licensed in the county where the property is located, from a certified abstract plant in the county where the property is located.<sup>4</sup>

Additionally, the Oklahoma attorney general has held:

Your second question raises the issue of whether the title examination for purposes of issuing a title policy must be done by a licensed attorney. A previous opinion of the Attorney General held:

"All such examinations of abstract ... shall be conducted by a licensed attorney prior to issuance of the policy of title insurance." A.G. Opin. No. 78-151 (June 6, 1978). This opinion was based on the assertion that a title insurance policy "expresses an opinion as to the marketability of title." A.G. Opin. 78-151, supra. In reality, title insurance simply insures the policyholder against defects in the title. It does not express an opinion that the title is marketable. *Land Title Company of Alabama v. State ex rel. Porter*, 299 So. 289, 295 (Ala. 1974). While the rationale of the previous opinion is incorrect, *we adhere to the conclusion expressed in that opinion that the examination of the abstract pursuant to 36 O.S. 5001(C) (1981) must be done by a licensed attorney. We reach this conclusion because the examination required by statute would only be useful if the examiner expressed an opinion on the marketability of the title. This constitutes the practice of law by the examiner. Land Title Company of Alabama v. State ex rel. Porter*, supra at 295; *Kentucky State Bar Association v. First Federal Savings & Loan*, 342 S.W.2d 397 (Ky.App. 1961). The theory that the corporation is actually examining the title for itself through an agent or employee and thus not engaged in the practice of law is invalid since laypersons or non-professionals cannot perform legal services for

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It is certainly beneficial to the public to have uniform procedures to confirm that identified parties have solid reliable chains of title (instead of each title examiner taking a separate arbitrary approach); such certainty, in turn, supports the ability of owners to be comfortable in using their land (surface and minerals) and for lenders to advance funds on it for mortgages.

their employers. *Kentucky State Bar Association v. Tussey*, 476 S.W.2d 177 (Ky.App 1972). There is no prohibition, however, against licensed staff attorneys furnishing title opinions for the company as long as these opinions are not sold or given to third parties. *The Florida Bar v. McPhee*, 195 So.2d 552 (Fla. 1967); *Steer v. Land Title Guarantee & Trust Co.*, 113 N.E.2d 763 (Ohio Com.Pl. 1953).<sup>5</sup>

When different title examiners examine the same instruments in the same “chain of title,” they sometimes have a difference of opinion as to the adequacy or meaning of the instruments in the “chain.” Such examination seeks to establish who holds “marketable record title.” Ideally, this would be a series of recorded deeds and

judgments connecting each grantee to the next grantee or from decedents to devisees/heirs to create an unbroken “chain of title.”

In order to establish a common set of standards for a title examiner to apply to this process – to minimize title transaction delays and disputes arising from differing approaches and attitudes between different examiners – sets of statewide standards have been adopted across the country. This started with the adoption of the first set of statewide standards in 1938 by the Connecticut Bar Association.

The first set of “Model Title Standards” was published in 1960 under the auspices of the University of Michigan Law School and the Real Property, Probate and Trust Law Section of the American Bar Association, authored by Lewis M. Simes and Clarence B. Taylor.

There is a freestanding Oklahoma Title Examination Standards Handbook, which contains the full set of the most recently adopted set of standards for Oklahoma. According to the brief history provided at the beginning of this handbook:

The impetus for the adoption of Title Examination Standards in Oklahoma was apparently supplied by the Title Lawyers Group of Oklahoma City under the leadership of Howard T. Tumilty. Seemingly at the instigation of this group and a similar group from Tulsa, the Central Committee of the Oklahoma Bar Association “gave its approval” to ten (10) Standards in the Oklahoma Bar Journal on September 28, 1946.

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These Title Examination Standards, which are “persuasive” (as explained later), guide the title examiners of this state – especially attorneys – to ensure a smooth flow of commerce by providing a uniform approach to title examination. Like in the “Goldilocks” story, these uniform standards need to be neither too hot nor too cold, neither too hard nor too soft and (specifically for Title Examination Standards) neither too strict nor too loose but “just right.” The goal is to avoid either extreme: the flyspecker (or nitpicker) who requires a quiet title lawsuit to confirm every title versus the blind examiner who has never found a title they didn’t like!

The Title Examination Standards Committee has adopted the following policy statement explaining the goals of their standards: “for the purposes of educating and guiding title examination attorneys.”

#### AUTHORITY

The authority behind the reliance on these Oklahoma standards to identify a “marketable record title” has been established by Oklahoma legislation, court rulings and contract terms.

The phrase “marketable record title” is defined by the Oklahoma Title Examination Standards in Section 1.1 “Marketable Title Defined,” which provides:

*A marketable title is one free from apparent defects, grave doubts and litigious uncertainty, and consists of both legal and equitable title fairly deducible of record. ...*

Comment: Marketable title is a title free of adverse claims, liens and defects that are *apparent from the record*. Any objections should be reasonable and not

based on speculation. For purposes of this definition, words describing the quality of title such as perfect, merchantable, marketable and good, mean one and the same thing.

All Oklahoma Supreme Court opinions are binding and must be followed by all trial court judges, meaning that such decisions are “precedent” (binding). However, an opinion of one of the intermediate three-judge panels of the Oklahoma Court of Civil Appeals is only “persuasive” authority for trial judges while making their decisions and is not “binding” (provides guidance but is not precedent).<sup>6</sup>

The Oklahoma Supreme Court has accepted Oklahoma’s set of standards as being “persuasive”:

While [the Oklahoma] Title Examination Standards are not binding upon this Court, by reason of the research and careful study prior to their adoption and by reason of their general acceptance among members of the bar of this state since their adoption, *we deem such Title Examination Standards and the annotations cited in support thereof to be persuasive.*<sup>7</sup>

The Legislature has approved the use of these standards when dealing with oil and gas title as provided in the Production Revenue Standards Act:

2. a. Where such proceeds [of production] are not paid because the title thereto is not marketable, such proceeds shall earn interest at the rate of (i) six percent (6%) per annum to be compounded annually for time periods prior to November 1,

2018, and (ii) the prime interest rate as reported in the Wall Street Journal for time periods on or after November 1, 2018, calculated from the end of the month in which such production was sold until such time as the title to such interest becomes marketable or the holder has received an acceptable affidavit of death and heirship in conformity with Section 67 of Title 16 of the Oklahoma Statutes, or as set forth in subparagraph b of this paragraph. *Marketability of title shall be determined in accordance with the then current title examination standards of the Oklahoma Bar Association.*<sup>8</sup>

However, it should be noted that the Oklahoma attorney general has opined:

It is therefore, the opinion of the Attorney General that where there is a conflict between a title examination standard promulgated by the Oklahoma Bar Association and the Oklahoma Statutes, the statutory provisions set out by the Legislature shall prevail.<sup>9</sup>

#### PROCEDURE FOR THE ADOPTION OF TITLE EXAMINATION STANDARDS IN OKLAHOMA

In Oklahoma, under current procedures, new standards or amended standards are drafted, discussed and adopted each year through a series of nine monthly meetings held by the Title Examination Standards Committee, which are held from January to September. Prior to this year, these proposals were published in the *Oklahoma Bar Journal* in October and then

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presented annually by the Title Examination Standards Committee to the OBA Real Property Law Section at the section's annual meeting, usually held in November.<sup>10</sup> The next day, the section would forward any new or amended proposals to the OBA House of Delegates for their consideration and approval.<sup>11</sup> The current practice is to only adopt standards if they receive almost unanimous approval from the Title Examination Standards Committee to ensure widespread acceptance by the bar at large.

The Oklahoma Title Examination Standards are published as an appendix to Title 16 "Conveyances" of the Oklahoma Statutes and are, therefore, available in any current version of the Statutes.<sup>12</sup> Although changes to the Title Examination Standards are effective immediately upon adoption by the OBA House of Delegates, until recently, *West's Oklahoma Statutes* usually came out with the revised set of Title Examination Standards only one to two years after these changes were adopted, meaning they were not generally available. Therefore, in 1982, a freestanding handbook was created by the Title Examination Standards Committee to make a current version available within one to two months after their adoption (by February the following year) and has been kept current continuously since.<sup>13</sup>

Since 1946, the total number of standards has grown from 10 to 142 in 2023, separated into 35 topical chapters (including several reserved for future use). Since 1946, Oklahoma land owners, title examiners, title insurers, mineral owners and operators and lenders have benefited from the adoption, recognition and use of these standards.

## ABOUT THE AUTHOR



Kraettli Q. Epperson is of counsel with Nash Cohenour & Giessmann PC in Oklahoma City. He received his J.D. from the

OCU School of Law in 1978 and focuses on mineral and surface title litigation and expert representation. Mr. Epperson chaired the OBA Title Examination Standards Committee from 1988 to 2020 and taught "Oklahoma Land Titles" at the OCU School of Law from 1982 to 2018. He edits and co-authors *West/Epperson: Oklahoma Real Estate Forms*.

## ENDNOTES

1. See 16 O.S. §§71-80, Marketable Record Title Act; 1 O.S. §§20 *et seq.*, Oklahoma Abstractors Act.

2. 25 O.S. §§10-13; 16 O.S. §§15-16; 46 O.S. §7; 12 O.S. §§181, 706 and 2004.2; 16 O.S. §§31, 43, 62, 66, and 82-84; 19 O.S. §§263, 287, 291, 298(A), and 298.1; 43 O.S. §134; and 58 O.S. §§428, and 703; see also "Constructive Notice: Oklahoma's Hybrid System Affecting Surface and Mineral Titles," 89 *OBJ* 40 (January 2018) by Kraettli Q. Epperson.

3. 77 *Am Jur* 2d Vendor and Purchaser §79 (obligation to furnish good or marketable title).

4. 36 O.S. §5001(C).

5. 1983 OK AG 281, ¶6-7 (italics added).

6. But an opinion of the Court of Civil Appeals is a precedent if "it has been approved by the majority of the justices of the Supreme Court for publication in the official reporter." 20 O.S. §30.5.

7. *Knowles v. Freeman*, 1982 OK 89, ¶16, 649 P.2d 532, 535; see also *Blair v. Richardson*, 2016 OK 96, ¶20, 381 P.3d 717, 723 (italics added).

8. 52 O.S. §570.10(D)(2a).

9. Okl. A.G. Opin. No. 79-230.

10. For 2024, the OBA Annual Meeting was moved from November back to July to combine the OBA Annual Meeting with the annual Oklahoma Judicial Conference and the OBA Solo & Small Firm Conference.

11. A brochure dated July 21, 2019, describes the "Authority and Procedure" the Oklahoma Title Standards Committee has followed for the last three decades, which was prepared by the longtime chairman of the Oklahoma Title Examination Standards Committee, Kraettli Q. Epperson, serving from 1988 to 2020. Roberto Seda took over as the chairman and has served since 2021.

12. A copy of the current Title Examination Standards is also available at this author's website: [www.EppersonLaw.com](http://www.EppersonLaw.com).

13. This handbook was originally created and edited by the then-current Title Examination Standards Committee chairman, Kraettli Q. Epperson, with the assistance of Dale Astle.



# The Basics of a 1031 Like-Kind Exchange

By J. Max Nowakowski

**O**KLAHOMA HAS EMERGED AS AN INCREASINGLY ATTRACTIVE DESTINATION for real estate investors, both foreign and domestic. With diverse economic sectors and a favorable business climate, our state offers a wealth of investment opportunities across various asset classes. It is important for legal professionals who counsel real estate investors to understand the unique dynamics of the Oklahoma real estate market and the intricacies of popular tactics and methods, such as a Section 1031<sup>1</sup> like-kind exchange (1031 exchange).

Section 1031 is a key provision of federal tax law that can drive investment strategy. At a high level, it offers a valuable opportunity for taxpayers to defer capital gains taxes on the exchange of like-kind properties; this is not a tax savings loophole but an indefinite tax deferral procedure that incentivizes taxpayers to reinvest their real estate sale proceeds.

Section 1031 states, in part, “No gain or loss shall be recognized on the exchange of real property held for productive use in a trade or business or for investment if such real property is exchanged solely for property of like kind which is to be held either for productive use in a trade or business or for investment.”<sup>2</sup>

The modern-day definition and framework for the tax-deferred like-kind exchange has evolved from its inception in 1921 through multiple amendments to the Internal

Revenue Code and numerous Internal Revenue Service (IRS) rules and regulations. Taxpayers in an exchange will sell a “relinquished property” and obtain a “replacement property” using some or all of the proceeds from the relinquished property sale that would otherwise be subject to capital gains tax. Exchanges are reported on IRS Form 8824.<sup>3</sup>

## EXCHANGE STAKEHOLDERS

The beneficial property owners, meaning buyers and sellers, are the primary individuals and entities in an exchange.

A qualified intermediary (QI) is used in the vast majority of exchanges, even if just for safe harbor protection. QIs are third-party fiduciaries who receive relinquished property sale proceeds, secure funds in escrow and help inform parties of relevant deadlines.<sup>4</sup> Attorneys can be QIs but cannot

provide any other advisory or representation service to the same client on the same transaction.

Professionals and agents are the final group of exchange facilitators. Any number of various professionals may be involved in an exchange: real estate agents and brokers, bankers, surveyors, accountants and attorneys.

If not acting as a QI, attorney services in 1031 exchanges are comparable to other real estate transactions: drafting letters of intent and written agreements, conducting title reviews and curing title issues, obtaining and reviewing tenant leases, facilitating physical and environmental inspections and reviewing reports, maintaining contract deadlines and generally assisting with the transaction through closing.

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## TYPES OF EXCHANGES

Simultaneous exchanges involve a same-day closing such that the taxpayer never actually receives relinquished property proceeds, which are not strictly required to be deposited with a QI (except in the cases of deferred or reverse exchanges, which are discussed later). However, IRS regulations expressly state that using a QI provides safe harbor for a simultaneous exchange.<sup>5</sup>

Deferred exchanges, sometimes called delayed exchanges, are what most investors and clients will have in mind when considering a 1031 exchange; a relinquished property is sold and proceeds are held by the QI, the taxpayer identifies potential suitable replacement properties within 45 days, and closing on the replacement property must occur within 180 days of the relinquished property closing.<sup>6</sup>

Reverse exchanges are simply a deferred exchange conducted in reverse order. In a reverse exchange, the replacement property is obtained and title is held by the taxpayer before closing on a relinquished property divestiture.<sup>7</sup>



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There are two common exchange failures. First, capital gains tax may be assessed because the taxpayer is unable to meet exchange deadlines or fails to close on replacement properties. Second, a partial exchange can occur whereby a portion of relinquished property proceeds are not reinvested and are, therefore, subject to capital gains tax.

#### DEFERRED EXCHANGE GENERAL ORDER OF OPERATIONS

- Line up the QI and set terms for how funds will be held, managed and protected.<sup>8</sup>
- Close on the relinquished sale and escrow sale proceeds with the QI. Do not allow the taxpayer entity to directly hold sale proceeds or the sale will be deemed a transfer without exchange.
- Use one of the three possible replacement property identification methods (three property rule, 200% rule or 95% rule), and formally identify the target replacement properties to the IRS within 45 days of the relinquished property closing.<sup>9</sup>
- Contract to acquire the target replacement property(ies) and perform appropriate due diligence.

- Close the replacement property sale(s) using the QI-held funds, with additional funds or financing as necessary, within 180 days of the relinquished property closing.<sup>10</sup>

#### WHAT HAPPENS IF A 1031 EXCHANGE FAILS?

There are two common exchange failures. First, capital gains tax may be assessed because the taxpayer is unable to meet exchange deadlines or fails to close on replacement properties. Second, a partial exchange can occur whereby a portion of relinquished property proceeds are not reinvested and are, therefore, subject to capital gains tax.

#### TIPS FOR A SUCCESSFUL EXCHANGE

Counsel can advise exchange clients to consider identifying potential replacement properties prior to selling the relinquished property. This can alleviate the crunch of a tight 45-day identification deadline. Parties can also consider using nonbinding letters of intent or inquiry letters to expedite the acquisition of a replacement property. There is no rule that an exchange must take the full 180 days. Be wary of new builds – construction delays may push a taxpayer beyond the 180-day deadline. Keep detailed information about each exchange to ensure a successful audit, including all material transaction documents and independent third-party valuations of each property.

#### OTHER KEY RULES AND CONSIDERATIONS

- Replacement properties must be obtained in the same manner as the relinquished property. The same individual or legal entity (e.g., LLC, trust, etc.) must divest the relinquished property and acquire the replacement property.<sup>11</sup>
- Replacement properties must be a like-kind property. This typically includes any property held for investment purposes or used for trade or business purposes. Real property located in the United States is not like-kind with property located outside the United States.<sup>12</sup> However, improved land and unimproved land may be like-kind.<sup>13</sup>
- Taxpayers can exchange one property for multiple

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properties or vice versa.<sup>14</sup> This means clients can expand from lower to higher property values or from one asset class to another.

- Clients may wish to explore other tax-deferral strategies in addition to the 1031 exchange. Consider two strong alternatives: the Deferred Sales Trust, discussed by attorney Dawn D. Hallman in the February 2019 *Oklahoma Bar Journal*, or the Delaware Statutory Trust, which can help exchangers quickly place QI-held funds into pooled real estate investments if time is running out for a successful 1031 exchange.<sup>15</sup>

## CONCLUSION

Property valuations in the state have increased quickly as of late, meaning more property owners have equity that will be subject to capital gains tax in an eventual sale. The need for a working knowledge of 1031 exchanges may prove to be increasingly important for Oklahoma attorneys in the coming years.

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## ABOUT THE AUTHOR



J. Max Nowakowski is the principal attorney and founder of Avenue Legal Group, a full-service firm focused on real estate transactions and disputes, estate planning, probate and business matters. Mr. Nowakowski represents

clients in 1031 exchanges across Oklahoma and serves as local counsel for clients and firms outside the state.

## ENDNOTES

1. All section references contained herein are to the Internal Revenue Code of 1986, as amended (the "Code"), unless otherwise indicated.
2. Section 1031(a)(1). *See also* Treas. Reg. §1.1031(a)-1.
3. [www.irs.gov/forms-pubs/about-form-8824](http://www.irs.gov/forms-pubs/about-form-8824).
4. <https://bit.ly/4baRery>.
5. Treas. Reg. §1.1031(b)-2.
6. Treas. Reg. §1.1031(k)-1.
7. IRS Fact Sheet No. FS-2008-18.
8. Rev. Proc. 2022-43, 2022-52 I.R.B. 570.
9. Treas. Reg. §1.1031(k)-1(4). *See also* Section 1031(a)(3)(A).
10. Section 1031(a)(3)(B).
11. IRS Fact Sheet No. FS-2008-18.
12. Section 1031(h). *See also* 26 CFR §1.1031(a)-1(b) and (c).
13. Treas. Reg. §1.1031(a)-3(a).
14. Treas. Reg. §1.1031(j)-1.
15. <https://bit.ly/3y4gO2C>.



## OKLAHOMA INDIGENT DEFENSE SYSTEM

The Oklahoma Indigent Defense System is honored to announce and celebrate the outstanding contributions of our dedicated interns who have recently completed their tenure with us. These remarkable individuals have brought enthusiasm, creativity, and fresh perspective to our team, enriching our workplace and leaving a lasting impact on our organization.

OIDs would like to recognize the following: **Conner Anderson, Amanda Barlow, John Barnes, Lauren Canaan, Ashely Hicks, Daniel Jensen, Jacob Lee, Dane Lyman, Rachel Miller, Ashley Nuckolls, Joseph Stone.**





# SUMMER SCHOOL IS IN SESSION

## JULY 10-12 | EMBASSY SUITES, NORMAN

For the first time in decades, the OBA Annual Meeting will be hosted in the summer, and for the first time in several years, it will be held in conjunction with the Oklahoma Judicial Conference. This year's meeting, July 10-12 at the Embassy Suites in Norman, will give OBA members a chance to gather and learn in a relaxed and informal setting – and we are excited to have you join us!

The 2024 OBA Annual Meeting will be particularly meaningful. OBA members will have opportunities to connect with members of the state's judiciary, establish relationships and strengthen connections with colleagues, recognize our outstanding fellow lawyers with annual OBA Awards and, of course, earn top-notch CLE that will help improve your practice – with full-day tracks that will appeal to solo, small-firm and large-firm attorneys alike.

As we face many changes and a revolving door of new challenges in the legal profession, the OBA is evolving to embrace those changes. Part of this evolution involves meeting our members where they are. We hope to provide better opportunities to attend the Annual Meeting and make the educational programming as relevant and accessible to you as possible.

Registration is now open at [www.okbar.org/annualmeeting](http://www.okbar.org/annualmeeting). Come as you are, bring your families and be prepared to learn, grow and connect in a vacation-like setting. Summer school is in session, and we hope to see you there!

*Miles Pringle, Oklahoma Bar Association President*

**VISIT [WWW.OKBAR.ORG/ANNUALMEETING](http://WWW.OKBAR.ORG/ANNUALMEETING) FOR MORE INFORMATION**





# 2024 ANNUAL MEETING HIGHLIGHTS

## Don't Miss These Upcoming OBA Annual Meeting Events

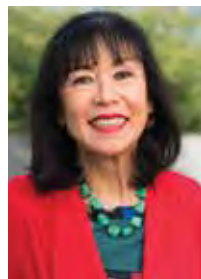
### Wednesday and Thursday CLE Sessions



The Wednesday and Thursday CLE sessions will give attendees the opportunity to explore Oklahoma legal history. On Wednesday, July 10, Osage Nation

Principal Chief Standing Bear and Victoria Holland will discuss "Exploring the Flower Moon: The Osage Murders and Indian Law Today."

Thursday's Plenary Session speaker will be Dr. Karen Korematsu. Dr. Korematsu is the daughter of civil rights icon Fred Korematsu and is the founder and president of the Fred T. Korematsu Institute. She is a national speaker who advocates for civil liberties, social justice, civics and ethnic studies education. Thursday's Plenary Session will be held in conjunction with the Oklahoma Judicial Conference. These enlightening sessions are included with your Annual Meeting registration.



### Artificial Intelligence: Shaping the Future of Law Practice

On Friday, July 12, the Artificial Intelligence Conference will be held in conjunction with the



Annual Meeting. After leaving this full day of learning, participants will have a better understanding of artificial intelligence and more confidence about including it in their practice. Topics include integrating AI with practice management, navigating Microsoft Copilot, AI tools for today's lawyers, the ethics of using AI in your practice and more. This one-day conference can be added on to your Annual Meeting registration.

### Wednesday Evening Reception

All are welcome to join this fun and relaxed evening social event. Admission is free. *Sponsored by OAMIC.*



OKLAHOMA ATTORNEYS  
MUTUAL INSURANCE COMPANY

### Fastcase Training



Fastcase is the online legal research software provided to OBA members at no cost as an OBA member benefit. Join your colleagues as you learn to navigate this software, helping you conduct legal research more efficiently. This training is included in your OBA Annual Meeting registration.

### Barristers' Ball

Everyone is invited to the Thursday evening Barristers' Ball. Come dressed resort-casual and rock out to your favorite 90s tunes performed by the







locally beloved My So Called Band. This fun event will give attendees the opportunity to dance to live music, enjoy delicious heavy hors d'oeuvres and network with other bar members.

### Law School Luncheons

Law school graduates will convene at the annual law school luncheons to enjoy a delicious meal, reminisce with law school colleagues and friends and hear from inspiring speakers. Speakers will be announced soon!



### 60 Tips in 60 Minutes



During this session, panel speakers Kenton Brice, Julie Bays, Catherine Sanders Reach and Lori Noonan will cover 60 tech tips, tools

and gadgets in 60 minutes. This session, led by OBA MAP Director Jim Calloway, was made popular through the OBA Solo & Small Firm Conference and remains a favorite among OBA members. Attendees will learn about the latest law-related technology and have the opportunity to win one of the highlighted legal tech gadgets to use in their home or law office.

### Annual Luncheon

At this year's Annual Luncheon, you'll hear from Oklahoma's university presidents during a fun conversation called "Tales from the Principal's Office."



Burns V. Hargis



John R. Hargrave



Tom J. McDaniel

OBA Awards honoring several Oklahoma lawyers will be presented during the luncheon. Tickets for the Annual Luncheon can be added to your Annual Meeting registration. See page 50 for details on this event. *Sponsored by the OBA Family Law Section.*

### CLE for Everyone

This Annual Meeting has something for everyone, solo and small firm attorneys and larger firm attorneys alike. The dynamic range of topics covered gives insight into addressing legal deserts, document automation, the Corporate Transparency Act, legislative updates, building your brand, numerous tech tips for law office management and so much more!



### House of Delegates and General Assembly

The most important association business of the year takes place Friday morning – OBA awards presentations, updates from judicial and OBA leaders, elections and consideration of resolutions.



### Visit Our Sponsors and Vendors



Don't forget to visit our sponsor and vendor tables! Connect with organizations and companies that provide OBA members with top tools and services for your law practices.

Register today and learn more about the events, speakers and CLE at [www.okbar.org/annualmeeting](http://www.okbar.org/annualmeeting).

And be sure to book your room at the Embassy Suites before the room block closes on June 17! To reserve a room, call 1-800-EMBASSY and mention the Oklahoma Bar Association 2024 Conference (or group code OBA) or visit <https://bit.ly/3UdWW4B> to book online.



**JULY 12 | EMBASSY SUITES | NORMAN**



# ARTIFICIAL INTELLIGENCE SHAPING THE FUTURE OF LAW PRACTICE

**IN CONJUNCTION WITH THE OBA ANNUAL MEETING**

Be sure to join us on Friday, July 12 for a full-day conference dedicated to the impact of artificial intelligence on your law practice. Renowned speakers will discuss topics such as using AI with your practice management system, Microsoft Copilot and other helpful AI tools for your practice, ethics of using AI in your practice and much more.

## FEATURED SPEAKERS



**JIM CALLOWAY**

Director, Management Assistance Program, Oklahoma Bar Association



**JULIE BAYS**

Practice Management Advisor, Oklahoma Bar Association



**JORDAN TURK**

Attorney and Legal Technology Advisor, Smokeball



**BEN SCHORR**

Senior Content Program Manager, Microsoft



**SEAN HARRINGTON**

Director of Technology and Innovation, OU College of Law



**KENTON BRICE**

Director, Donald E. Pray Law Library, OU College of Law



**CATHERINE SANDERS REACH**

Director, Center for Practice Management, North Carolina Bar Association

**DON'T MISS BEN'S MICROSOFT COPILOT DEMO!**

**AND GINA HENDRYX**

General Counsel, Oklahoma Bar Association

**REGISTER AND VIEW EVENT DETAILS AT [WWW.OKBAR.ORG/ANNUALMEETING](http://WWW.OKBAR.ORG/ANNUALMEETING)**

More speakers and topics to be announced soon! *Programming is subject to change.*



# ANNUAL LUNCHEON

## Celebrate Your Colleagues and Enjoy ‘Tales From the Principal’s Office’

Each year, the Annual Luncheon is an opportunity to hear from thought-provoking speakers while celebrating numerous OBA Award winners and enjoying a delicious meal with friends and colleagues. Don’t miss this Annual Meeting tradition sponsored by the OBA Family Law Section. In recognition of the “Summer School” meeting theme, this year, we’ll hear from three OBA members who will share their unique experiences as leaders within the arena of higher education. Don’t miss out on hearing these “Tales From the Principal’s Office”!

### ABOUT THE ANNUAL LUNCHEON SPEAKERS



**Burns V. Hargis** (*OU College of Law, 1970*) served as the 18th president of OSU from 2008-2021. During his tenure, which

was the third-longest in OSU history, the university experienced both record enrollment and record fundraising. During the course of his career, Mr. Hargis has also served in the military, practiced law for 28 years, worked as a bank vice chairman and served in numerous high-profile community positions of leadership and influence.

In 2022, just a year after retiring as the president of OSU, he rejoined McAfee & Taft. In his current role, he serves as senior counsel to the firm. He originally joined McAfee & Taft in 1994, 25 years after establishing himself as

one of the state’s preeminent attorneys practicing in the field of commercial and bankruptcy law and litigation. Among his notable clients was the Federal Deposit Insurance Corp., which he represented in the Penn Square Bank closure, as well as others during the 1980s. He served as vice chairman of Bank of Oklahoma NA from 1997 to 2008.

Active in the community, his long history of community service includes serving as a founding board member and then-chair of the Regional Food Bank of Oklahoma, founding chair of the Oklahoma Creativity Project, chairman of the Greater Oklahoma City Chamber of Commerce and chairman of the Oklahoma Commission for Human Services. He also served as vice chairman of the Oklahoma State Election Board, as a board member of the Oklahoma Constitutional Revision Commission and as a member of the Commission of the North

Central Association of Colleges and Schools. For 15 years, he served as a co-host and commentator on KFOR-TV’s weekly political news show, *Flash Point*.



**John R. Hargrave** (*OU College of Law, 1980*) served as the eighth president of East Central University from 2009-2017. He graduated with

honors from ECU in 1978, majoring in speech and sociology. While serving as president, he oversaw the opening of five new facilities and the renovation of several more on campus. He currently serves as CEO of the ECU Foundation.

Mr. Hargrave’s past and current lengthy list of civic duties includes member of the Ada Chamber of Commerce, past member of the



Ada Jobs Foundation board and member of the Mercy Hospital Board of Trustees, Oklahoma African American Educators Hall of Fame board (the first non-African American to serve on the board), chair of the Council of Presidents for the Great American Conference and past chair of the Council of Presidents for the Regional University System of Oklahoma (RUSO).

Additionally, he serves on the Board of Trustees for the Oklahoma Excellence in Education Foundation and the Scientific and Natural Resource Foundation Board of Directors. He is also active in the ECU Alumni Association and served on several committees as appointed by the chancellor of the Oklahoma State Regents for Higher Education. He is also an advisory board member for the Miss Ada Pageant and the Jasmine Moran Children's Museum in Seminole. He serves as a trustee of the Seminole State College Foundation.



**Tom J. McDaniel** (*OU College of Law, 1963*) was the 16th president of OCU, a position he held from 2001 to 2010. The

construction and dedication of the Meinders School of Business, the Wanda L. Bass Music Center, the Ann Lacy Visitors and Admissions Center and the Norick Art Center all occurred during his tenure. The capital improvements were part of a successful \$100 million centennial development campaign that doubled the university's endowment and allowed the creation of new academic programs in nursing, dance and film, as well as new athletic programs in rowing, wrestling and volleyball.

Prior to his service to OCU, Mr. McDaniel served as president of Northwestern Oklahoma State

University in Alva, becoming the first and only graduate (1960) of that school to serve as its president. He has served in the past as administrative director of state courts in Oklahoma and as vice chairman of Kerr-McGee, where he also was a member of the Board of Directors. He is a former state chairman of the Oklahoma Fellows of the American Bar Association and served as chairman of the board of trustees of Columbus Elementary Enterprise School, Oklahoma's first charter public school.

He became president of the American Fidelity Foundation in 2011. He is active in the community, serving on numerous boards and commissions and currently serves as chairman of the Citizens Advisory Board for the Maps III projects. He and his wife, Brenda, were selected as 2010 "Treasures of Tomorrow" by the Oklahoma Health Foundation. In 2006, he was inducted into the Oklahoma Hall of Fame.

Burns Hargis, John Hargrave and Tom McDaniel will co-present "Tales from the Principal's Office" during the Annual Luncheon on Thursday, July 11, at noon as part of the OBA Annual Meeting. This year's Annual Luncheon will be held in the University Ballroom at the Embassy Suites in Norman. During the event, several of the 2024 OBA Award winners will also be honored. Tickets for the event may be purchased for \$75 for the luncheon only or in addition to your Annual Meeting registration. Register now at [www.okbar.org/annualmeeting](http://www.okbar.org/annualmeeting). *Sponsored by the OBA Family Law Section.*



# 2024 OBA AWARDS

The following awards will be presented during the OBA Annual Luncheon on Thursday, July 11.

## AWARD OF JUDICIAL EXCELLENCE



**Judge Barbara Hatfield, El Reno**

Judge Barbara Hatfield has served as a special judge in Canadian County for more than 13 years. She is assigned to a busy docket, including divorces and paternities, traffic court, community sentencing, small claims and more, and she happily volunteers to help other judges with their dockets when needed. Judge Hatfield is known for treating everyone who appears before her with dignity and respect, as well as showing care for attorneys and their lives outside of work. Behind the scenes, Judge Hatfield works tirelessly for the Canadian County Bar Association, securing CLE speakers, planning and organizing recognition events – such as retirement parties, swearing-in ceremonies and receptions for milestone members – keeping the association updated, helping

prepare resource lists for attorneys and litigants and more. Those who are privileged to know and work with Judge Hatfield know what a tremendous asset she is, not only to the judicial profession but to Canadian County as well.

## AWARD OF JUDICIAL EXCELLENCE



**Magistrate Judge Paul Cleary, Tulsa**

Magistrate Judge Paul Cleary has had a distinguished career as a U.S. magistrate judge in the Northern District of Oklahoma since 2002. His patience and fairness are admired by many – litigants who enter his courtroom know they will receive an impartial decision. He has exhibited excellence of character, quality job performance and service to the bench, bar and community.

Magistrate Judge Cleary's characteristics and hard work earned him an appointment as head of the Northern District's Alternative Dispute Resolution program for many years. In this role, he recruited and appointed

respected attorneys in the community as adjunct settlement judges and directly oversaw settlement conferences in complicated and contentious cases. He has also contributed to the legal profession with high-quality writing in his reports and recommendations, which were adopted in their entirety by U.S. district judges in the Northern District and the *Oklahoma Bar Journal*. His writing is repeatedly cited by judges across the country, particularly regarding pretrial matters, such as discovery practice.

Although he has served on the bench for more than two decades, most recently in a senior role, Magistrate Judge Cleary never waivers in his support for the Northern District of Oklahoma and other magistrate judges. His service and continued support have minimized the burden on other judges and ensured that litigants get their day in court in a timely manner.

Judge Cleary graduated with honors from the TU College of Law in 1981. He earned his bachelor's degree in 1971 from Worcester Polytechnic Institute in Massachusetts.

## LIBERTY BELL AWARD



### Oklahoma County Diversion Hub

The Oklahoma County Diversion Hub aims to fill gaps in the criminal legal system by promoting criminal justice reform, helping people successfully navigate a complex court system and ultimately reducing the pressure on the Oklahoma jail and the prison populations. This network connects justice-involved individuals to life-stabilizing resources and services to help them become safe, self-sufficient and stable members of the community, reducing their contact with the legal system.

This nonprofit offers assistance with navigating housing, employment, justice, mental health, substance use and public benefits. The programs focus on underlying problems that lead to criminalized behavior, addressing the root causes of community instability. This cost-efficient method helps improve long-term community safety and reduce crime.

Through three principal programs, as well as several others, the Oklahoma County Diversion Hub allows clients to remove barriers to unmet needs, access treatment, obtain needed community resources, achieve self-sufficiency and stability and much more. The work of the organization's staff has greatly impacted the community and has helped countless individuals change their lives.

## JOE STAMPER DISTINGUISHED SERVICE AWARD



**Andrew M. Coats,**  
**Oklahoma City**

Andrew M. Coats has greatly impacted his state and community, as well as

the legal community, throughout his life. He has tirelessly served his bar association, city, community and country. Throughout his career, Mr. Coats has served as an officer in the U.S. Navy, Oklahoma County district attorney, Oklahoma City mayor and director at the Oklahoma City office of Crowe & Dunlevy. He was president of the OBA in 1992, president of the American College of Trial Lawyers from 1996 to 1997, and he was charter Oklahoma president of the American Board of Trial Advocates.

He is also active in several professional organizations, where he holds positions such as trustee of the U.S. Supreme Court Historical Society, fellow of the International Academy of Trial Lawyers and more.

Currently, he serves as dean emeritus and professor of law at the OU College of Law and director emeritus of the OU Entrepreneurial Law Center. Under his leadership, the college has experienced a resurgence. Endowed professorships and scholarships significantly increased. He also presided over the college's renovation; the OU Board of Regents recognized his leadership by officially naming the building Andrew M. Coats Hall in his honor. He was also inducted into the Oklahoma Hall of Fame in 2005 and received the Professionalism Award from the U.S. Court of Appeals for the 10th Circuit in 2010.

Mr. Coats's continued support and contributions have greatly impacted the legal profession, the OU College of Law, Oklahoma City and the state of Oklahoma.

## ALMA WILSON AWARD



**Tsinena Bruno Thompson,**  
**Oklahoma City**

Tsinena Bruno Thompson's involvement has changed the lives of countless

children. Though she primarily practiced in bankruptcy, products liability, federal sector civil rights and employment discrimination, Ms. Thompson has always had a passion for advocating for children. In 1997, she began volunteering for Oklahoma Lawyers for Children, a team of lawyer and citizen volunteers who ensure Oklahoma's foster care children are protected and have legal representation even when public resources are inadequate. This led to her getting involved in two long jury trials for the organization.

Ms. Thompson served as president and CEO of the organization from 2008 until 2021. Under her leadership, OLFC took an active role in ensuring that children taken into the custody of the state through the Oklahoma Department of Human Services were assigned an attorney. This ensured that children had legal representation regardless of whether there was a lack of public defenders in Oklahoma County. The organization serves the interests of hundreds of children at a time and even works with parents to help them comply with court orders to regain custody of their children. Ms. Thompson's hands-on approach included volunteering,



scheduling cases into volunteers' dockets, writing grants and organizing fundraisers and annual events for kids in the foster system. She took pride in facilitating family reunions and forming new families.

In addition to her distinguished career leading OLFC, Ms. Thompson is the founder and a former chair of the OBA Juvenile Law Section and a founding board member of the Count Me In 4 Kids Coalition. She has served on the Juvenile Court Improvement Task Force and the Supreme Court Task Force on high-quality legal representation for parents and children in deprived proceedings.

### NEIL E. BOGAN PROFESSIONALISM AWARD



**A. Mark  
Smiling, Tulsa**

A. Mark Smiling is admired and respected by many for his character. With nearly 40 years

as a trial lawyer, he has tried and defended more than 500 jury trials. He is a lawyer who treats all clients with the utmost importance and who is known for his courtesy, kindness, attention to detail, depth of understanding of the law and overall legal abilities.

Mr. Smiling has been a practicing Oklahoma attorney since 1984. He practices civil litigation and is a member of the Oklahoma, Missouri, Kansas, Arkansas and North Carolina bar associations. Additionally, he's admitted to practice in the U.S. District Court for the Eastern, Western and Northern districts of Oklahoma, the 10th Circuit Court of Appeals, tribal courts in Oklahoma and the U.S. District Court for the Eastern and Western

districts of Arkansas. He has had several published decisions by the Oklahoma Supreme Court that have made law for the state of Oklahoma in areas such as the zone of danger rule and case law defining the appropriateness of jurors taking notes in civil jury trials, allowing the jurors to have a legal pad and pen in every jury trial in the state. With thousands of cases under his belt, Mr. Smiling has had a notable career. These cases, with many garnering national attention from major news networks, include one of the largest fire catastrophes in western Oklahoma to the largest E. coli case in Oklahoma history. It also includes cases where he didn't take a penny, representing individuals pro bono who lost loved ones or limbs or had major life traumas.

He is regarded by fellow lawyers, courtroom reporters, judges and others as professional, honest and honorable. His dedication to ethics and integrity in the legal profession has made a mark on those who have worked with him. Mr. Smiling is a public servant and has set an example for other lawyers.

### JOHN E. SHIPP AWARD FOR ETHICS



**Robert W.  
Ravitz,  
Oklahoma City  
(posthumous)**

Many regard Robert W. Ravitz, who passed away Jan. 23, 2024,

as the embodiment of the principle of ethics. From enforcing the ethical code all attorneys swear to abide by on the Professional Responsibility Commission and Tribunal to serving as a public defender, he exhibited the highest level of fairness and candor.

For 37 years, Mr. Ravitz was chief public defender for the Oklahoma County Public Defender's Office. He was constantly creative with his problem-solving and his unique ability to convince others that the seemingly divergent thoughts of punishment for a criminal act and empathy for the offender's personal struggles could coexist. He grew the office from four lawyers to more than 40, not including the small army of investigators and support staff assisting with the mission. He always fought hard for the rights of not only the office's clients but for all the citizens of Oklahoma County.

To Mr. Ravitz, ethics was what naturally happened when you treated people the way you were supposed to. Almost single-handedly raising an entire generation of trial attorneys, his dedication to ethics and guidance to do the right thing has stuck with them and will not be forgotten. In the last 30 years, Mr. Ravitz did so much, so often, to further the ethical principles of the justice system and the people within it.

*The following awards will be presented during the OBA General Assembly on Friday, July 12.*

### OUTSTANDING COUNTY BAR ASSOCIATION AWARD **Tulsa County Bar Association Michael E. Esmond, 2023-2024 President**

With a legacy of unwavering commitment spanning over a century, the Tulsa County Bar Association has been a steadfast pillar of support for members of the legal profession and the community, earning a reputation for trust and reliability.

The association provides its diverse members with educational



and networking opportunities and free in-person and virtual CLE programs. It is also planting seeds for the future, recently launching the YLD Leadership Academy and reviving its mentorship program, ensuring everyone has a chance to grow and succeed.

The association's support extends far beyond its members, reaching out to the broader legal community. This includes law students, whom it supports with free membership, a mentorship program and scholarships. It also aids the judiciary by hosting a biannual judicial dinner fundraiser, which provides crucial funding for the Tulsa County District Court for expenses not covered in the court's limited budget.

The TCBA also supports residents of Tulsa County through various programs such as the Lawyer Referral and Information Services (LRIS) that offers over-the-phone assistance with legal resource navigation or, for \$25, a referral to an attorney for a 30-minute consultation; Street Law, which provides legal life skill lessons to underserved youth while exposing them to careers in the law; Court Assistance Program (CAP), which connects volunteer attorneys with tenants facing eviction; Holiday Challenge, which brings cheer in the form of

holiday gifts for families reunifying through the courts; and the First Responder Will Project, which provides basic wills at no cost for those who put their lives on the line daily.

The Tulsa County Bar Association works tirelessly to educate, assist and empower its members and the Tulsa community. This dedication to helping members grow personally and professionally and creating solutions and assistance for the community is truly outstanding.

#### EARL SNEED AWARD



**Anthony Hendricks,**  
**Oklahoma City**

Anthony Hendricks has repeatedly provided the highest standard of CLE

to various committees and sections. Most notably, he presented "Voting Rights in Oklahoma: The Legacy of *Guinn v. U.S.*" to the OBA Diversity Committee. He covered Oklahoma's most notable voting rights case, expertly explaining Oklahoma and U.S. legal history and where the case fits in. This engaging program was raved about by participants. Mr. Hendricks is a regulatory, data privacy and high-stakes commercial litigation attorney in the Oklahoma City office of Crowe & Dunlevy. He is also an adjunct professor, teaching a cybersecurity and data privacy law course and an information privacy course at the OCU School of Law. He is a member of the Oklahoma County Bar Association and the American Bar Association Environment, Energy and Resources Section, Litigation Section and Young Lawyers Division. Mr. Hendricks

has shown a strong dedication to providing high-quality CLE that greatly benefits OBA members.

#### HICKS EPTON LAW DAY AWARD



#### Oklahoma County and Tulsa County Bar Associations

For almost 50 years, the OBA has held Ask A Lawyer on Law Day, a statewide hotline providing free legal advice to the public. This service is only possible with the help of volunteer lawyers. The staff and dedicated volunteers at the Oklahoma County and Tulsa County bar associations have, for decades, ensured that the Ask A Lawyer phone lines are fully resourced to meet the needs of the public and provide this invaluable community service.

The volunteers these bar associations recruit are the best of the best and continue the long tradition of public service that is a bedrock of the legal profession. Current TCBA Law Day Chairs Tana Van Cleave and Mary Clement and OCBA Law Day Chair Todd Blasdel, along with their

many predecessors, have contributed to Ask A Lawyer's long and successful history. Also noteworthy are the efforts of outstanding lawyer volunteer Dan Crawford of Tulsa, who has coordinated the project in Tulsa for 35 years and will hand over the reins to a successor after the 2024 event.

### GOLDEN GAVEL AWARD



**Oklahoma Bar Journal Board of Editors, Melissa G. DeLacerda, Chair**

For decades, the *Oklahoma Bar Journal* Board of Editors, currently chaired by Melissa DeLacerda of Stillwater, has worked tirelessly to develop substantive law content for the award-winning *Oklahoma Bar Journal*. Their work is commonly regarded as one of the most valuable benefits to the 18,000 OBA members.

The volunteer editors work to determine law-related themes up to two years in advance for each of the 10 yearly issues and recruit articles for the different themes, spending countless hours identifying potential authors with subject matter expertise and soliciting the submission of articles. They then review submissions, work with authors to make revisions and deliver the submissions to the board for editorial review. The board reviews dozens of articles for quality, accuracy, appropriateness and relevance.

Their work is admired by members and OBA leadership and has been recognized nationally. The May 2021 issue was honored with a 2022 Silver Gavel Award for Media and the Arts by the American Bar Association. Their innumerable hours of service on top of their busy law practices and personal lives to produce a high-quality publication for bar association members is remarkable and meritorious.

### OUTSTANDING YOUNG LAWYER AWARD



**Caroline Shaffer Siex, Tulsa**

Caroline Shaffer Siex has enthusiastically served the OBA and the YLD. Her continued service to Oklahoma's young lawyers includes numerous YLD events for new members, providing information and advice about the bar exam to TU College of Law students and reestablishing and hosting the New Bar Admittee Happy Hour in Tulsa, among other things.

For six years, she has been a member of the YLD. During that time, she has served in multiple leadership roles, such as hospitality chair, secretary, treasurer and chair. She also was the ABA YLD district representative for District 24 (Oklahoma and Arkansas) from 2020 to 2021, working on an Oklahoma disaster during this time. Ms. Shaffer Siex has been heavily involved with the OBA, including in the Access to Justice Committee, Solo and Small Firm Conference Planning Committee, Budget Committee, the Tulsa County Bar Association Women in Law Subcommittee social chair

and the Wills for Heroes Program. Ms. Shaffer Siex has improved the legal profession and the community at large.

### OUTSTANDING SERVICE TO THE PUBLIC AWARD



**OBA YLD Wills for Heroes Program**

The OBA YLD Wills for Heroes Program is a dedicated service that gives back to Oklahoma's emergency personnel – including law enforcement officers, corrections officers, probation officers, firefighters, paramedics and veterans – by helping them establish a basic will and powers of attorney free of charge. The YLD created the program in 2007 when then-OBA President Stephen Beam tasked the division with providing these services to those who have served us. They have been providing this pro bono service ever since, recognizing that planning and preparation are critical needs for those who serve others in this capacity.

While initially hosted in Tulsa and Oklahoma City, the program has expanded its reach over the years to include rural cities and communities, such as Vinita, Afton and other areas around the state. The program's volunteers' commitment to service has set an example for others and changed the lives of many.



## AWARD FOR OUTSTANDING PRO BONO SERVICE



**Rick Rodgers,  
Duncan**

Rick Rodgers has a distinguished tenure providing pro bono legal services to community organizations. He became a member of the OBA in 1965 and has been committed to legal excellence and ethical conduct ever since. Not only has he been an active member of the OBA, serving as a member of the Board of Governors, but he has gone above and beyond the bar's mission of advancing access to justice and upholding the rule of law.

Mr. Rodgers has zealously advocated for social causes and civic engagement with United Way of Stephens County and the Duncan Lakes Commission and Parks and Recreation Advisory Board, as well as through other programs in the community. He serves as legal advisor for Ray of Hope Church in Stephens County, where he helps and advises the church with bylaws, amendments of bylaws and obtaining nonprofit status. Most recently, he played a major role in establishing Hope K-12 Academy of Stephens County Inc., serving as a Bible teacher and Advisory Board member.

His willingness to share his expertise to help nonprofit organizations and those who can't afford legal advice is revered by his community. He has advised on wills, LLCs and other legal issues, never hesitating to offer a helping hand to those in need and exemplifying the spirit of giving. Mr. Rodgers has invested many hours in others without asking for anything in return, and his generosity does not go unnoticed.

## MAURICE MERRILL GOLDEN QUILL AWARD



**Andrew J. Hofland and  
Justin A. Lollman**

Andrew J. Hofland and Justin A. Lollman are awarded the Maurice Merrill Golden Quill Award for co-authoring "Take Five, But Civilly: A Civil Litigator's Primer on the Fifth Amendment," which appeared in the January 2024 issue of the *Oklahoma Bar Journal*. Mr. Hofland is a shareholder at GableGotwals, where his practice focuses on white-collar defense and commercial litigation. He previously served

as an assistant U.S. attorney for the Northern District of Oklahoma and a Navy judge advocate.

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

## MAURICE MERRILL GOLDEN QUILL AWARD



**Conor P.  
Cleary**

Conor P. Cleary is awarded the Maurice Merrill Golden Quill Award for authoring

"Fractionation or Consolidation? The Land Buy-Back Program for Tribal Nations (2012-2022)," which appeared in the April 2024 issue of the *Oklahoma Bar Journal*. Mr. Cleary is the Tulsa field solicitor for the U.S. Department of the Interior. He holds an LL.M. in American Indian and Indigenous law from the TU College of Law and a J.D. from the OU College of Law.



# 2024 HOUSE OF DELEGATES

Please submit delegate information as soon as possible to Mark Schneidewent; marks@okbar.org; 405-416-7014. The list below was up to date as of the time of press.

<b>COUNTY</b>	<b>DELEGATE</b>	<b>ALTERNATE</b>
Adair Co. ....	Judge John Jeffrey Payton .....	Ralph F. Keen II
Alfalfa Co.		
Atoka Co.		
Beaver Co.		
Beckham Co.		
Blaine Co.		
Bryan Co. ....	Christopher Dwight Jones.....	Heather Hillburn Burrage
Caddo Co.		
Canadian Co. ....	Judge Khristan K. Strubhar.....	Jana Lee Knott
	Kristy Ellen Loyall .....	John Albert Alberts
	Magdalena Anna Way .....	David Patrick Henry
	Mary Ruth McCann .....	David H. Halley
	Micheal Steven Oglesby.....	Rene'e Diann Little
Carter Co.		
Cherokee Co. ....	Judge Jerry Scott Moore	
	Bill John Baker II	
Choctaw Co. ....	John Frank Wolf III.....	Jon Edward Brown
Cimarron Co. ....	Judge Christine Marie Larson .....	Judge Ronald L. Kincannon
Cleveland Co. ....	Jillian Tess Ramick .....	Jan Meadows
	Jonathan Michael Irwin .....	Ret. Judge Gregory Ben Dixon
	Kelly Lucile Bergin .....	Jama Haywood Pecore
	Lucas Michael West .....	Donnie G. Pope
	Peggy Stockwell.....	Judge Jeffrey Blake Virgin
	Judge Thad Haven Balkman .....	Donna Marie Compton
	Christopher Carl Lind .....	Dave Stockwell
	Joshua David Simpson .....	Elizabeth Stevens
	Ret. Judge Rodney David Ring .....	Benjamin Houston Odom
	Micheal Charles Salem.....	Emily Marie Virgin
	Gary Alan Rife .....	Bridget M. Childers
	Rebekah Chisholm Taylor .....	Gerald Blake Virgin Jr.
	Amelia Sue Pepper.....	Judge Lori Walkley
	Alissa Dawn Preble Hutter .....	Kaitlin Brooke Magee

**COUNTY**

**DELEGATE**

**ALTERNATE**

Holly Kay Jorgenson Lantagne ..... Kristi Michelle Gundy  
Julia Catherine Mills Mettry ..... Tyson Thomas Stanek  
Richard Joseph Vreeland ..... Tina Jean Peot  
Casey Anne Hudiburg ..... Betsy Ann Brown  
Rickey Joe Knighton II ..... Cindy Loree' Allen  
Kristina Lee Bell ..... Tyler Rogers Barrett  
Jeanne Meacham Snider ..... John Hunt Sparks  
Evan Andrew Taylor ..... Cindy Loree' Allen  
Holly Rachelle Iker ..... Tyler Rogers Barrett

Coal Co.

Comanche Co.

Cotton Co.

Craig Co. .... Kent Ryals ..... Leonard Marion Logan IV

Creek Co. .... Ret. Judge Richard A. Woolery ..... G. Gene Thompson

Keri Denman Palacios ..... Charles Cameron McCaskey

Custer Co.

Delaware Co. .... Clayton Matthew Baker ..... Kenneth Earl Wright III

Dewey Co.

Ellis Co.

Garfield Co.

Garvin Co.

Grady Co.

Grant Co.

Greer Co. .... Judge Eric G. Yarborough ..... Corry Kendall

Harmon Co.

Harper Co.

Haskell Co.

Hughes Co.

Jackson Co.

Jefferson Co.

Johnston Co.

Kay Co. .... William Ladd Oldfield ..... Lauren Kay Jech

Kingfisher Co. .... Judge Lawrence E. Schneiter IV ..... Jonathan Ford Benham

Kiowa Co.

Latimer Co.



**COUNTY****DELEGATE****ALTERNATE**

Le Flore Co.

Lincoln Co.

Logan Co.

Love Co. .... Richard A Cochran Jr.

Major Co..... Joe Dawson Houk ..... William Scott Church

Marshall Co.

Mayes Co.

McClain Co..... George Wm Velotta II

McCurtain Co.

McIntosh Co..... Judge Christopher Brendon Bridges

Murray Co.

Muskogee Co. .... Parker Lee Wilkerson ..... Matthew Ryan Price

Austin Lane Witt ..... John Tyler Hammons

Noble Co.

Nowata Co.

Okfuskee Co.

Oklahoma Co. .... Judge Richard C. Ogden..... Benjamin Ryan Grubb

William Todd Blasdel ..... Nicole Renea Jones

Courtney Kay Warmington ..... Bart Jay Robey

Judge Anthony L. Bonner Jr. .... John Handy Edwards III

Judge Heather Elizabeth Coyle ..... Curtis J. Thomas

Judge Susan Camille Stallings..... Coree L. Stevenson

Michael Wayne Brewer..... Kayli Lynn Maxwell

William Henry Hoch..... Zane Tyler Anderson

Holly Hefton..... Aimee Lynn Majoue

Monica Ybarra Weedn..... Wyatt Daniel Swinford

Justin Don Meek ..... Chad William Philip Kelliher

Angela Ailles Bahm ..... Chance Lynn Pearson

Jeffrey Allen Curran..... Reign Grace Karpe

Amber Brianne Martin ..... Barrett Ford Fuller

Katherine Ruth Mazaheri..... Genni Dawn Ellis

Shanda Marie McKenney ..... M. Courtney Briggs

Kelli J. Stump..... Jeffery Darnell Trevillion

Andrew Scott Mildren..... Gary Wayne Wood

Mariano Acuna ..... Rachel Stoddard Morris

Kyle Wayne Goodwin ..... Faye Christine Rodgers

Clyde Russell Woody ..... Michelle Lynn Edstrom

Judge Natalie Nhu Mai ..... Lisa Marie Black

Mack Kelly Martin..... Justin P Grose

Collin Robert Walke..... Robert Parrish Powell

Richard Wayne Kirby..... Chelsi Nicole Chaffin Bonano

Judge Kathryn Ruth Savage ..... Daniel Joseph Thompson

Seth Aaron Day ..... Merideth Bentley Herald

Cody Jarrett Cooper

Fred Albert Leibrock

Barbara Carol Stoner

Okmulgee Co.

Osage Co.

Ottawa Co. .... Stephanie Elizabeth Tadajewski ..... Jeremy Jay Bennett

Pawnee Co.

COUNTY	DELEGATE	ALTERNATE
Payne Co.....	Anthony Richard Seeberger .....	Zachary Scott Yarborough
Pittsburg Co.		
Pontotoc Co.		
Pottawatomie Co.		
Pushmataha Co.....	Amber Celeste Duncan .....	Judge Jana Kay Wallace
Roger Mills Co.		
Rogers Co.		
Seminole Co.		
Sequoyah Co.		
Stephens Co.		
Texas Co.....	Taos Caleb Smith .....	Cory Brandon Hicks
Tillman Co.		
Tulsa Co.		
Wagoner Co.		
Washington Co.		
Washita Co.		
Woods Co.		
Woodward Co.		

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	DELEGATE	ALTERNATE
<b>Oklahoma Judicial Conference</b> .....	Dist. Judge Justin P. Eilers .....	Dist. Judge Stuart Tate
	Assoc. Dist. Judge Russell C. Vaclaw	
	Special Judge Jennifer H. McBee	

**PAST PRESIDENTS – DELEGATES AT LARGE**

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



# 2025 OBA BOARD OF GOVERNORS VACANCIES

Nominating Petition deadline was 5 p.m. Wednesday, May 8

## OFFICERS

### President-Elect

Current: D. Kenyon Williams Jr., Sperry  
Mr. Williams automatically becomes OBA president Jan. 1, 2025.  
(One-year term: 2025)  
Nominee: **Kara Vincent, Tulsa**  
Nominee: **Amber Peckio, Tulsa**

### Vice President

Current: Amber Peckio, Tulsa  
(One-year term: 2025)  
Nominee: **Richard D. White Jr., Tulsa**

## BOARD OF GOVERNORS

### Supreme Court Judicial District 3

Current: S. Shea Bracken, Edmond Oklahoma County  
(Three-year term: 2025-2027)  
Nominee: **Vacant**

### Supreme Court Judicial District 4

Current: Dustin E. Conner, Enid  
Alfalfa, Beaver, Beckham, Blaine, Cimarron, Custer, Dewey, Ellis, Garfield, Harper, Kingfisher, Major, Roger Mills, Texas, Washita, Woods and Woodward counties  
(Three-year term: 2025-2027)  
Nominee: **Benjamin J. Barker, Enid**

### Supreme Court Judicial District 5

Current: Allyson E. Dow, Norman  
Carter, Cleveland, Garvin, Grady, Jefferson, Love, McClain, Murray and Stephens counties  
(Three-year term: 2025-2027)  
Nominee: **Lucas M. West, Norman**

### Member at Large

Current: Angela Ailles Bahm, Oklahoma City  
Statewide  
(Three-year term: 2025-2027)  
Nominee: **Rhiannon K. Thoreson, Broken Arrow**  
Nominee: **Kate Doodoo, Oklahoma City**

## NOTICE

Pursuant to Rule 3 Section 3 of the OBA bylaws, the nominees for uncontested positions have been deemed elected due to no other person filing for the position. The elections for the contested positions will be held at the House of Delegates meeting July 12, during the July 10-12 OBA Annual Meeting. Terms of the present OBA officers and governors will terminate Dec. 31, 2024.



# OKLAHOMA BAR ASSOCIATION NOMINATING PETITIONS

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

## OFFICERS

### President-Elect Kara Vincent, Tulsa

Nominating petitions have been filed nominating Kara Vincent, Tulsa, for president-elect of the Oklahoma Bar Association Board of Governors for a one-year term beginning Jan. 1, 2025. Fifty of the names thereon are set forth below:

Elizabeth Kathleen Pence, Emily Elizabeth Crain, Madelaine Ann Tack Hawkins, Deborah Ann Reed, Cynthia Jane Burlison, Carl G. Vincent Jr., Gary L. Maddux, Michael Edward Nesser, Stephanie Rickman Mitchell, Charles Robert Willing, Joe Martin Fears, Stefan Andre Mecke, Dusty Darlene Weathers, Richard Dale White Jr., Kurtis Ryan Eaton, Kelsey T. Pierce, William Todd Holman, Kara Elizabeth Pratt, Curtis Joe Shacklett, Adrienne Nichole Cash, Robert J. Bartz, Robert Lee Bearer, Arthur F. Hoge III, Braden Wesley Mason, Eric Christopher Money, Seth Aaron Day, Alexandra Albert Crawley, Jared Raye Ford, Littleton Tazewell Ellett IV, John Frederick Kempf Jr., Jonathan Lloyd Rogers, Jonathan A. Epstein, Collin Robert Walke, Michael Hoyt Smith, Bryan Allen Fuller, John Patrick Slay, Emily Paige Pittman, Jacqueline M. McCormick, Carson Glass Lamle, Gregory Patrick Reilly, Aaron Christian Tifft, Richard Mark Petrich, John Thomas Richer, James Craig Milton, Christopher Joe Gnaedig, Sarah Elizabeth Sadler, Heather Flynn Earnhart, Michael Terence Keester, Kristen Pence Evans and Ann Ellen Keele.

**A total of 63 signatures appear on the petitions.**

### Amber Peckio, Tulsa

Nominating petitions have been filed nominating Amber Peckio, Tulsa, for president-elect of the Oklahoma Bar Association Board of Governors for a one-year term beginning Jan. 1, 2025. Fifty of the names thereon are set forth below:

James Rouse Hicks, Melissa Ann Bell, Joseph Venard Allen, Emily Brooks Kosmider, Dillon James Hollingsworth, John Seaton Wolfe, John Charles Gotwals, Lauren Elizabeth Peterson, Adam Keith Marshall, John Edward Harper Jr., Timothy Lee Rogers, Robert B. Sartin, William Robert Grimm, Andie Beth Netherland, Anne Sickles Maguire, Robert Wallace Hill, Nicholas Kyle Woodward, Trevor Ray Henson, Nathan Daniel Richter, Shiny Rachel Pappy, Katherine Ruth Mazaheri, Felina Noelle Rivera-Brown, Shanda Marie McKenney, Anna Yesenia Sanchez, Sheila Joanne Naifeh, Steven W. Vincent, John Sherman Nobles, Loren Riley Kern, Michael Lee Carr, Allison Joanne Martuch, John Eric Barbush, Nicholas Edwin Thurman, Catherine Zilahy Welsh, Jim Charles McGough Jr., James Travis Barnett, Michael Paul Taubman, Allyson Elizabeth Dow, Dustin Edward Conner, Philip D. Hixon, Angela Ailles Bahm, O. Clifton Gooding, Thomas Henry Gayle Jr., Jana Lee Knott, Jeffery Darnell Trevillion, Shannon Renee Brown, Ann Elena Murray, Scott Bearskin Goode, Erin LeeAnn Means DeWalt, Benjamin J. Fu and Andrea Ann Brown.

**A total of 64 signatures appear on the petitions.**

### Vice President Richard D. White Jr., Tulsa

Nominating petitions have been filed nominating Richard D. White Jr., Tulsa, for vice president of the Oklahoma Bar Association Board of Governors for a one-year term beginning Jan. 1, 2025.

**A total of 56 signatures appear on the petitions.**

## BOARD OF GOVERNORS

### Supreme Court Judicial District 4 Benjamin J. Barker, Enid

Nominating petitions have been filed nominating Benjamin J. Barker, Enid, for election of Supreme Court Judicial District No. 4 of the Oklahoma Bar Association Board of Governors for a three-year term beginning Jan. 1, 2025. Twenty-four of the names thereon are set forth below:

Norma G. Cossio, Stephen P. Cameron, Roger L. Ediger, Ronald Wayne Willis, Timothy Edward DeClerck, Amanda Nichole Lilley, Larry D. Lahman, E.W. Bill Shaw, Joshua Cord Davis, Michael David Roberts, Blake A. Gibson, Kimberly Savannah Hall, Peter John Hodgden, Taylor Christian Venus, Randolph Lee Wagner, Robert R. Faulk, David C. Henneke, Jennifer Ann Liggett, Regan Larissa Wagner, Christopher Charles Trojan, David G. Trojan, Dustin Edward Conner, John David White and Edna Mae Holden.

**A total of 26 signatures appear on the petitions.**

### Supreme Court Judicial District 5 Lucas M. West, Norman

Nominating petitions have been filed nominating Lucas M. West, Norman, for election of Supreme Court Judicial District No. 5 of the Oklahoma Bar Association Board of Governors for a three-year term beginning Jan. 1, 2025. Twenty-five of the names thereon are set forth below:

Alissa Dawn Preble Hutter, Julia Catherine Mills Mettry, Richard Joseph Vreeland, Jillian Tess Ramick, Casey Anne Hudiburg, Jonathan Michael Irwin, Peggy Stockwell, Donna Marie Compton, Betsy Ann Brown, Holly Rachelle Iker, Eugene K. Bertman, Joshua Steven Turner, Samuel Logan Talley, Kaitlin Brooke Magee, Rachel Diane Hartman, Kristin Michelle Josephs, Holly Kay Jorgenson Lantagne, Lauren Alyssa Gomez, Daniel Dean

Lee, Christopher Carl Lind, Andrew Dale Nichols, Douglas Sidney Wall, Jama Haywood Pecore, Mallory Grace Stender and Anthony Lewellyn Purinton.

**A total of 29 signatures appear on the petitions.**

### Member at Large Rhiannon K. Thoreson, Broken Arrow

Nominating petitions have been filed nominating Rhiannon K. Thoreson, Broken Arrow, for election of member at large of the Oklahoma Bar Association Board of Governors for a three-year term beginning Jan. 1, 2025. Fifty of the names thereon are set forth below:

Anne Laurie Koller, Ashley Holbrook Leavitt, Eddie Lynn Carr, Ashley P. Gregg, Breanne Markey Gordon, Margo Elizabeth Shipley, Vanessa Laurine Lock, Candace Merifield, Melissa Shepard Taylor, Andrew Michael King, Kathryn Lorraine Sawyer, Joanna Kathleen Murphy, Bryce Anthony Hill, Amanda Mayo Finch, Denise I. Deason-Toyne, Grace Elizabeth Dawkins, Chrissi Renae Nimmo, Gina J. Carrigan-St. Clair, Joseph Lumpkin Hull III, Joseph Michael Norwood, Elizabeth Kathleen Sherwood, Rachel Lynne Farrar, Keri Denman Palacios, Charles Cameron McCaskey, Cheryl Anne Jackson, Jared Kent Nelson, Nicole Dawn Herron, Susan Carns Curtiss, Micah Joseph Felton, Phillip C. Hawkins, Susan Hamilton Jones, Richard Sherwin Toon Jr., Carrie Lynn Allen-Cole, C. Magan Graham, Scott Robert Helton, Allie Lynn Palmer, Bethany Renee Turney, Bria Alysse Hanlon, Jennifer Ashley Barnett, Michael Paul Taubman, Catherine Zilahy Welsh, Kobi D'Anne Cook, Jim Charles McGough Jr., James Travis Barnett, Guy W. Tucker Jr., Sofia Miranda, Rebekah Martin Burchfiel, Katheryn Cole Bell, Jennifer Lynn Tunder and Jennifer Ary Brown.

**A total of 51 signatures appear on the petitions.**

### **Kate Dadoo, Oklahoma City**

Nominating petitions have been filed nominating Kate Dadoo, Oklahoma City, for election of member at large of the Oklahoma Bar Association Board of Governors for a three-year term beginning Jan. 1, 2025. Fifty of the names thereon are set forth below:

Angela Ailles Bahm, Shanda Marie McKenney, Michael L. Chitwood, Christina DeFiore Stone, Reign Grace Reign, Tayler Marie Lane, Thomas Pratt Manning, Ronald Theodore Shinn Jr., Curtis J. Thomas, Michael Alexander Arthur Duncan, Logan Phillips Blackmore, Katelyn Michelle King, Laura Jo Long, Andrew James Morris, Braden Mark Hoffmann, Cole Braden McLanahan, Zachary Lee Neighbors, Garrett James Reed, Myrna Schack Latham, Jacob Micah Andrew Patton, Peyton Storm Howell, Robert Cooper Black, Matthew Austin Welborn, Samantha Abigail Tamura, Catherine Anne Cape, Lindsey Nicole Gonzalez, Riley Paige Wren, Kaitlyn Elizabeth Schrick Chaney, Alexis Simone Barnes, Katherine Marie Crowley Jimenez, Evan James Crumpley, Isaac Zion Treadaway, Justin Todd Woolery, Thomas Patrick Goresen Jr., Chase Christopher Webb, Joshua D. Smith, Dominic Deangelo Williams, Darrell Leon Buck, Ruseal Ely Brewer, Myriah Seyon Downs, Ryan Lee Dean, Lance Chandler Cook, Jacob Travis Sherman, Eric Payson Warner, Kevin Howard Cunningham, Tiece Imani Dempsey, Kim Taylor, Traci Lynn Rhone, Troy R. Cowin and Frances Cassandra Ekwerekwu.

**A total of 74 signatures appear on the petitions.**





# 2025 LEADERSHIP AND CANDIDATES



## 2024 President

*Miles Pringle,  
Oklahoma City*

Miles Pringle is the executive vice president and general counsel at The Bankers Bank in Oklahoma City. A native Oklahoman and third-generation attorney, Mr. Pringle is licensed to practice law in Oklahoma,

Missouri and Texas. After graduating from Heritage Hall High School, he obtained his bachelor's degrees from the University of Kansas in political science and history and his J.D. from the University of Missouri – Kansas City School of Law, where he was a member of the national moot court team. Prior to joining The Bankers Bank, he was a partner with the law firm of Pringle & Pringle.

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

Mr. Pringle is a recognized leader in the banking community. He has been a teacher for the Oklahoma Bankers Association Intermediate Banking School and other banking organizations. As an officer and past chair of the Financial Institutions and Commercial

Law Section, he helps coordinate and present at the Annual Banking and Commercial Law Update. In 2022, Mr. Pringle was named on the 40 Under 40 list of national emerging community bank leaders by the Independent Community Bankers of America.

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



## 2025 President

*D. Kenyon Williams Jr.,  
Sperry*

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

1977. He received his bachelor's degree in petroleum engineering from TU and his J.D. from the TU College of Law. He is licensed in Oklahoma and Arkansas and represents businesses and communities in environmental, regulatory, administrative and litigation matters.

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

In the OBA, Mr. Williams has served as governor for Judicial District 6 on the Board of Governors and as a master, vice chief master and presiding master for the Professional Responsibility Tribunal. He has also served as chair of the Professionalism Committee and the Environmental Law Section and on various other OBA committees. Currently, Mr. Williams serves on the Budget Committee and the Judicial Professional Responsibility Commission.

He is a frequent CLE presenter and a former recipient of the OBA Earl Sneed Award in recognition of his contribution to continuing legal education. The TCBA also awarded him the Gary C. Clark Distinguished Service Award in recognition of his many years of service to the TCBA and the legal profession.

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

Elected as the 2024 president-elect and serving one year in that position, Mr. Williams automatically becomes president Jan. 1, 2025.

## 2025 NEWLY ELECTED BOARD OF GOVERNORS

Pursuant to Rule 3, Section 3 of the OBA bylaws, the following nominees have been deemed elected due to no other person filing for the position.



### **Vice President**

*Richard D. White Jr.,  
Tulsa*

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

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

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



**Supreme Court Judicial District 4**

*Benjamin J. Barker, Enid*

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

he is engaged primarily in areas related to criminal defense and family law. He graduated from Enid High School in 2006, OSU in 2010 and received his J.D. from the OU College of Law in 2013. He is admitted to practice in the U.S. District Court for the Western District of Oklahoma, and he is a member of the Garfield County Bar Association, Cherokee Nation Bar Association, Oklahoma Criminal Defense Lawyers Association, Family Law Section and others.

Previously, Mr. Barker served on the Young Lawyers Division Board of Directors and has acted as Law Day Chair for Garfield County for several years. He is the secretary of the Phi Gamma Delta – Sigma Omicron Housing Association and the past vice president and a current member of the Enid Symphony Association Board of Directors. He and his wife, Kendale, have three children: Caroline (6), Elizabeth (3) and Charles (1), plus a dog, Herbert (10). While not in court, Mr. Barker has been known to do a little woodworking, leather-working and (from time to time) banjo picking.



**Supreme Court Judicial District 5**

*Lucas M. West, Norman*

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

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

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

Mr. West has a passion for guiding clients through the complex legal process and helping them reach positive resolutions. He is invested in treating clients with respect and providing the individualized and diligent representation clients deserve.



**OBA YLD Chair**

*Taylor C. Venus, Enid*

Taylor C. Venus is a native of Ponca City who graduated from OSU with bachelor’s degrees in economics and finance. While attending OSU, Mr. Venus had the honor to be Pistol Pete. Thereafter, he obtained his J.D. and MBA at OU. While

in law school, he served as the articles editor for the *Oil and Gas, Natural Resources and Energy Journal* and as an officer or representative in multiple student groups.

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

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

**CONTESTED ELECTIONS**

The elections for president-elect and member at large will be held at the House of Delegates meeting on July 12 at the 2024 OBA Annual Meeting.



## President-Elect



*Kara Vincent,  
Tulsa*

Kara Vincent, a shareholder at Barber & Bartz PC, boasts 28 years of experience as both a CPA and attorney. She holds a BBA in finance from Northeastern State University, a BBA in accounting from Langston University and a J.D. from the TU College of Law. She

primarily practices in estate and trust matters, covering design, administration, special needs planning and litigation.

She holds certifications as a Certified Fraud Examiner, a CPA with a specialization in financial forensics and a Chartered Global Management Accountant through the American Institute of Certified Public Accountants. Ms. Vincent has been extensively involved with the Tulsa County Bar Association and the OBA, serving in various roles, including mid-year coordinator, treasurer, secretary and chair of the Estate Planning, Probate and Trust Section board. She has also held leadership positions in the Tulsa County Bar Association at all levels and in all executive roles, culminating in her term as president in 2022.

Currently, Ms. Vincent is a Tulsa County Bar Foundation Trustee and co-chair of Street Law, a program started by the TCBA during her presidency. She serves as vice chair of the ADR Committee for the Real Property, Trusts and Estate Law Section of the American Bar Association. In her community involvement, she has volunteered and served on the Board of Directors for various organizations, including CASA for Children in Muskogee and Wagoner counties, the Tulsa Artists' Coalition, Oaks Indian Mission Inc. and the Asbury Development Center, which serves seven nonprofits in the community.



*Amber Peckio,  
Tulsa*

Amber Peckio is a solo practitioner with the Amber Law Group in Tulsa. As an AV-Rated Preeminent attorney with more than 20 years of trial experience, Ms. Peckio primarily practices in litigation, insurance dispute litigation, complex family litigation and

personal injury litigation. She also works extensively in the newly established cannabis law field in Oklahoma and routinely counsels Oklahoma businesses in all cannabis-related legal matters.

Ms. Peckio currently serves as vice president on the OBA Board of Governors and is the past chair of the OBA Cannabis Law Committee. She is a member of the American Bar Association, where she previously served as vice chair of the Tort Trial & Insurance Practice Section Cannabis Policy and Law Committee and as state membership chair for Oklahoma. She also co-hosted “Between Two Weeds – Joint Sessions: 2024 Cannabis Legislation Preview” for OBA CLE.

She has served the OBA as an Oklahoma Bar Foundation Trustee (2014 to 2019), Women in Law Committee chair (2007), Lawyer Advertising Task Force member (2007), Young Lawyers Division board director for Tulsa (2006 to 2014), Professionalism Committee member, Law Related Education Committee chair, Solo and Small Firm Conference Planning Committee member, Audit Committee member (2022), graduate of the inaugural OBA Leadership Academy (2009) and as a frequent CLE speaker. Ms. Peckio was also active in the Tulsa County Bar Association, having served as vice president (2020), secretary (2019) and small firm director (2021).

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

Ms. Peckio lives in Tulsa with her fiancé, C. Alex Stodghill, and their beloved dogs, Woody, Bulliet and Hendricks.

## Member at Large



*Rhiannon K. Thoreson,  
Broken Arrow*

Rhiannon K. Thoreson is a civil litigator for the city of Broken Arrow who defends tort, property, employment and Section 1983 claims. She earned her undergraduate degree from TU and her master's degree from OU. She worked for several years in the social services

field before receiving her J.D. from the TU College of

Law. While in law school, she served as executive editor for the *Tulsa Law Review*, and her article was selected for publication. She earned several awards and distinctions, including graduating with highest honors, Order of the Curule chair, a certificate in health law, the Robert C. Butler Award for Excellence in Legal Scholarship and Writing and numerous CALI awards.

Ms. Thoreson is the current chair of the OBA Women in Law Section and the Municipal Law Section of the Tulsa County Bar Association. She is a member of Leadership Tulsa and serves on the *Tulsa Lawyer Magazine* Committee. She previously served as a member of the OBA Young Lawyer Division Board of Directors, and she currently serves on the boards of directors for Tulsa Lawyers for Children and Domestic Violence Intervention Services. She has presented on various CLE topics, is a TEDx speaker and has twice been published in the *Oklahoma Bar Journal*.

Ms. Thoreson has a passion for helping victims of crime and is a member of the RAINN Speakers Bureau.

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

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



*Kate N. Dodoo,  
Oklahoma City*

Kate N. Dodoo is an experienced attorney who leads both the Appellate Group and Immigration & Compliance Group at McAfee & Taft. With more than 18 years of legal experience in the public and private sectors,

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



# 2024 RESOLUTION

*The following resolution will be submitted to the House of Delegates at the 120th Oklahoma Bar Association Annual Meeting at 11 a.m. Friday, July 12, 2024, at the Embassy Suites by Hilton Norman Hotel & Conference Center in Norman.*

**RESOLUTION:  
RULES CREATING AND  
CONTROLLING THE OBA —  
ANNUAL DUES**

BE IT RESOLVED by the House of Delegates of the Oklahoma Bar Association to recommend to the Supreme Court amendment of Article VIII, Section 1 of the Rules Creating and Controlling the Oklahoma Bar Association, as published in the *Oklahoma Bar Journal* and posted to the website [www.okbar.org](http://www.okbar.org), relating to a change in the amount of dues to be paid by active members of the Oklahoma Bar Association. (Submitted by OBA Board of Governors.)

PROPOSED AMENDMENT TO  
THE RULES CREATING  
AND CONTROLLING THE  
OKLAHOMA BAR ASSOCIATION

ARTICLE VIII

Section 1. ANNUAL DUES. The annual dues for each member of the Association shall be based upon the financial requirements of the Association including maintenance of an adequate reserve fund for contingencies and emergencies.

Until otherwise provided the annual dues for each active member shall be ~~\$275~~ \$400 per year; except that dues for active members who have been admitted to practice in any State less than three (3) years, as of the first day of January of the dues paying year, shall be ~~\$137.50~~ \$200 for each such year. All dues shall be due and payable, on or before January 2 of each year, to the Executive Director of the Association. Persons admitted to the Bar of this State after January 2 of any year shall not be liable for dues until January 2 of the following year. Nothing in these rules shall prevent the establishment of Sections with the approval of the Board of Governors, nor the charging of voluntary dues to members of any such Section.





# NOTICE OF MEETINGS

## CREDENTIALS COMMITTEE

The Oklahoma Bar Association Credentials Committee will meet Thursday, July 11, 2024, from 9-9:30 a.m. in the JHQ Board Room at the Embassy Suites by Hilton Norman Hotel & Conference Center located at 2501 Conference Drive, Norman, OK, 73069, in conjunction with the 120th Annual Meeting. The committee members are: Chairperson Luke Gaither, Henryetta; Jeffery D. Trevillion, Oklahoma City; Jennifer Fischer Walford, Edmond; and Ann Keele, Tulsa.

## RULES & BYLAWS COMMITTEE

The Oklahoma Bar Association Rules & Bylaws Committee will meet Thursday, July 11, 2024, from 10-10:30 a.m. in the JHQ Board Room at the Embassy Suites by Hilton Norman Hotel & Conference Center located at 2501 Conference Drive, Norman, OK, 73069, in conjunction with the 120th Annual Meeting. The committee members are: Chairperson Judge Richard A. Woolery, Sapulpa; Kara Rose Didier, Oklahoma City; Billy Coyle IV, Oklahoma City; Nathan Richter, Oklahoma City; Ronald M. Gore, Tulsa; and Kelsey Lynn Quillian, Oklahoma City.

## RESOLUTIONS COMMITTEE

The Oklahoma Bar Association Resolutions Committee will meet Thursday, July 11, 2024, from 10:45-11:45 a.m. in the JHQ Board Room at the Embassy Suites by Hilton Norman Hotel & Conference Center located at 2501 Conference Drive, Norman, OK, 73069, in conjunction with the 120th Annual Meeting. The committee members are: Chairperson Molly Aspan, Tulsa; Kendall A. Sykes, Oklahoma City; Peggy Stockwell, Norman; Clayton M. Baker, Jay; M. Courtney Briggs, Oklahoma City; and Randon James Grau, Edmond.

## TELLERS COMMITTEE

The Oklahoma Bar Association Tellers Committee will meet Friday, July 12, 2024, at 11 a.m. in the University Ballroom at the Embassy Suites by Hilton Norman Hotel & Conference Center located at 2501 Conference Drive, Norman, OK, 73069, in conjunction with the 120th Annual Meeting. The committee members are: Chairperson Bryan Ross Lynch, Oklahoma City; April Moaning, Oklahoma City; Moira C. G. Watson, Oklahoma City; and Wilson D. McGarry, Oklahoma City.



# REGISTRATION

Summer school is in session! Join your peers July 10-12 in a relaxed, informal setting for great CLE, camaraderie, networking and fun events at this year's Annual Meeting. See what's included with your Annual Meeting registration below. Plus, choose from optional CLE courses with nationally recognized speakers and add-on events and luncheons. Your Annual Meeting registration includes:

- Conference gift for in-person attendees
- OBA continental breakfast and hospitality refreshments daily
- Wednesday evening Reception
- Wednesday and Thursday CLE sessions
- Thursday Plenary Session
- Thursday evening President's Barristers' Ball (resort casual dress)

## HOW TO REGISTER



### ONLINE

Register online at [www.okbar.org/annualmeeting](http://www.okbar.org/annualmeeting)



### MAIL

OBA Annual Meeting  
P.O. Box 53036  
Oklahoma City, OK 73152



### PHONE

Call Ben Stokes  
at 405-416-7026 or  
800-522-8065



### FAX/EMAIL

Fax the form to  
405-416-7092 or email  
it to [bens@okbar.org](mailto:bens@okbar.org)

## MEETING DETAILS

### LOCATION

Most activities will take place at the Embassy Suites in Norman, 2501 Conference Drive.

### PARKING

The Embassy Suites offers free on-site self-parking.

### HOTEL

Fees do not include hotel accommodations, which must be booked separately. To reserve a room, call 1-800-EMBASSY and mention the Oklahoma Bar Association 2024 Conference (or group code OBA) or visit <https://bit.ly/3UdWW4B> to book online. The deadline to reserve a room under the room block is June 17.

### CANCELLATION POLICY

A partial refund *may* be available after the conclusion of the Annual Meeting. Contact Ben Stokes at [bens@okbar.org](mailto:bens@okbar.org).

### SPECIAL NEEDS AND REQUESTS

Please notify Ben Stokes at [bens@okbar.org](mailto:bens@okbar.org) at least one week in advance if you have a special need and require accommodation.

**CHECK [WWW.OKBAR.ORG/ANNUALMEETING](http://WWW.OKBAR.ORG/ANNUALMEETING) FOR UPDATES**



# MEETING REGISTRATION

Name \_\_\_\_\_

Badge Name (if different from roster) \_\_\_\_\_ Bar No. \_\_\_\_\_

Email \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

Name of nonlawyer guest \_\_\_\_\_

Check all that apply:  Judiciary  Delegate  Alternate

Check the box next to your choice:

## ON OR BEFORE JUNE 7

Member  \$250  
New Member\*  Free

## ON OR AFTER JUNE 8

Member  \$300  
New Member\*  \$150

*\*Members sworn in within the past two years*

MEETING REGISTRATION SUBTOTAL \$ \_\_\_\_\_

## OPTIONAL CLE

### FRIDAY, JULY 12:

Artificial Intelligence: Shaping the Future of Law Practice

\$150 (In Person - Includes Lunch)

OPTIONAL CLE SUBTOTAL \$ \_\_\_\_\_

## LUNCHEONS & EVENTS

OU College of Law Luncheon - Wednesday, July 10

OU luncheon registration is available at 405-325-5395 or johnsonsa@ou.edu

TU College of Law Luncheon - Wednesday, July 10

TU luncheon registration is available at TULawAlumni@utulsa.edu

OCU School of Law Luncheon - Wednesday, July 10

OCU luncheon registration is available at 405-208-7102

Annual Luncheon - Thursday, July 11

\_\_\_\_\_ # of tickets at \$75 \$ \_\_\_\_\_

President's Barristers' Ball Guest - Thursday, July 11

\_\_\_\_\_ # of tickets at \$75 \$ \_\_\_\_\_

Delegates Breakfast for nondelegates and alternates - Friday, July 12

\_\_\_\_\_ # of tickets at \$40 \$ \_\_\_\_\_

Delegates Breakfast for delegates (no charge) - Friday, July 12

(check if attending as a delegate)

LUNCHEONS & EVENTS SUBTOTAL \$ \_\_\_\_\_

## PAYMENT

Check enclosed: Payable to Oklahoma Bar Association

TOTAL COST \$ \_\_\_\_\_

Credit Card:  Visa  Mastercard  American Express  Discover

Card # \_\_\_\_\_ CVV \_\_\_\_\_ Exp. Date \_\_\_\_\_

Authorized Signature \_\_\_\_\_

**CHECK [WWW.OKBAR.ORG/ANNUALMEETING](http://WWW.OKBAR.ORG/ANNUALMEETING) FOR UPDATES**





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## **THERE IS STILL TIME TO SPONSOR THE OBA ANNUAL MEETING!**

The deadline to apply has been extended to Friday, June 7.

Connect with attorneys from across the state by becoming a sponsor or vendor. This is a great way to network and share your product or services! **Please note that space is limited.**

Visit [www.okbar.org/annualmeeting](http://www.okbar.org/annualmeeting) for more information.

**JULY 10-12 | [WWW.OKBAR.ORG/ANNUALMEETING](http://WWW.OKBAR.ORG/ANNUALMEETING)**

*Sponsor and Vendor list current as of May 22*

# 2024 Law Day Highlights

**EVERY MAY, WE CELEBRATE** Law Day, but the Law Day Committee stays busy with planning and promotion throughout the year. The Law Day Art and Writing Contest promotion began last fall, and more than 1,600 students entered the contest. The Law Day Committee met Feb. 6 for contest judging and held the

Awards Ceremony on April 4 at the state Capitol. Twenty-four students received awards for their phenomenal artwork and writing.

A few weeks later, on Wednesday, May 1, attorneys from across the state met at their local county bars to provide free legal advice to Oklahomans in need. Hundreds of calls and more than 500 emails were answered.

Throughout the month of May, many other Law Day events were held by county bar associations across the state. The Oklahoma Bar Association is proud of our members' continued contributions to Law Day, recognizing the importance of the rule of law and lawyer contributions to the community.



OBA President Miles Pringle records a Law Day video message aimed at increasing public understanding of the law and legal concepts.

**Left:** From left OBA President Miles Pringle, OBA Executive Director Janet Johnson and OBA Law Day Committee Chair Ed Wunch look on as Chief Justice Kane signs the Law Day directive.





OBA President Miles Pringle (far left), Oklahoma Supreme Court Chief Justice M. John Kane IV (back, center) and OBA Law Day Committee Chair Ed Wunch (far right) congratulate first-place winners on their achievements. The first-place winners attended the Law Day Art and Writing Contest awards ceremony at the state Capitol on Thursday, April 4.



Hundreds of contest entries were received this year. The Law Day Committee had a tough job of choosing the winners from so many great student entries.

Right: The Law Day Committee judges the art entries for the Law Day Art and Writing Contest.





**Top left:** Dan Crawford joins other Tulsa attorneys to offer free legal advice on May 1 during Ask A Lawyer. Mr. Crawford has served as the Tulsa County Bar Association Law Day volunteer coordinator for 35 years.

**Top right:** Attorneys in Tulsa volunteered their time to answer hundreds of phone calls throughout the day during Ask A Lawyer.

**Bottom left:** Volunteer attorney Marvin Lizama was among dozens of Tulsa attorneys who donated their time to provide free legal advice for Ask A Lawyer on May 1.

**Bottom right:** Oklahoma City attorney Kent Johnson volunteered his time answering phone calls during Ask A Lawyer at the Oklahoma Bar Association on May 1. Mr. Johnson has volunteered for Ask A Lawyer for many years.





**Top left:** Long-time Ask A Lawyer volunteer Stan Evans stayed late into the evening providing free legal advice during the event.

**Top right:** Katheryn Bell, Oklahoma City attorney, coordinated the group answering legal questions via email for Ask A Lawyer. More than 500 emails were received this year. Ms. Bell was the winner of the 2023 Hicks Epton Law Day Award for her contributions to Law Day.

**Left:** OBA Leadership Academy participants volunteered several sessions for Ask A Lawyer this year, answering legal questions over the phone and via email. From left Leadership Academy participants Alyssa Amundsen and Elissa Stiles.

# Investing in Our Future: The ‘Tao’ of Tom Hanks

By Janet Johnson

**WHILE AT MY PARENTS’** for Mother’s Day weekend, we were relaxing in the living room and watching TV. We stopped on one of our favorite movies, *The Money Pit*, a 1986 Tom Hanks film about a couple who buys a “fixer-upper” bargain home and quickly realizes they have bitten off more than they can chew. There are days when I can feel Anna and Walter’s pain. The Oklahoma Bar Center opened its doors on Sept. 21, 1962, at the time new, gleaming, modern construction “proclaimed to be a symbol of the legal profession’s dedication to the public good.”<sup>1</sup> Nearly 62 years and at least two major renovations later, the building our association calls home still stands as an elegant and welcoming beacon to those who serve and lead in our profession.

But as with any historic building, beautiful though it may be, the wear and tear of age is not its ally. Current challenges include a roof that leaks with every drop of rain, significant plumbing challenges within the building and 25 feet of collapsed cast iron pipe connecting to the main sewer line, among many other maintenance issues common to older buildings. Couple those ongoing problems with a necessary remodel to the front entrance to maintain ADA accessibility. The cost of



*Photograph used for a story in The Daily Oklahoman newspaper. “Hundreds of lawyers from all over the state were on hand for the official opening of the Oklahoma Bar Association’s new \$300,000 Bar Center on Lincoln Boulevard south of the state Capitol building.” Courtesy Oklahoma Historical Society.*

“Band-Aid” repairs just to avoid the chaos that ensues when these systems fail is staggering.

In addition to all the infra-structurally needed repairs, we are also facing outdated technology. Upgrading our association hardware, software, audio/visual and telecommunications systems is another critical item on our to-do list. We want to ensure our members have safe, clean, attractive places to meet, with fully

functional technology equipment conducive to operating in the 21st-century workplace.

The knowledge that these twin challenges are on the horizon, in addition to an inflationary environment that means our current dues revenue no longer supports our routine operational expenses in a sustainable way, is the driving force behind the proposed dues increase our Board of Governors recommends.

The decision to recommend this increase was not made lightly. In fact, it was heavily discussed in 2023 and in the early 2024 Board of Governors meetings. Projections and inflation were considered. Additionally, we considered similarly sized integrated bars in our analysis. Among those considerations were the hidden costs of delaying repairs. For every dollar saved in deferring maintenance, there comes a \$4 increase in future costs, according to some estimates. These costs come in the form of emergency repairs, reduced efficiency, collateral damage (a leaky roof can quickly turn into a flooded building) and health and safety risks to employees and visitors.<sup>2</sup> These are risks we can no longer afford to take lightly, and it would be irresponsible to “kick the can down the road” any further.



It has been two decades since the last dues increase. In 2004, after 15 years of no increase, a 57% increase occurred. Today, 20 years later, we are looking at a 45% increase. Many of us practicing today have never seen a dues increase; this will certainly be my own first experience. However, these are the times we live in, and hard decisions must be made.

I do not believe our beautiful bar center is a “money pit.” I believe it’s a symbol of our strong association, and it is worth investing in. Wouldn’t the most financially prudent approach be to “pay as we

go” for these no-longer-optional repairs and upgrades, rather than dip into our strategic reserves? Wouldn’t our members prefer we take seriously our role as stewards of the association to remain on a solid financial footing, ensuring the health of our association for generations of young lawyers to come as we continue to fulfill our critical mission in advancing the administration of justice? I hope so. And I hope you will join me in supporting this increase when our House of Delegates makes its own decision next month during the Annual Meeting.



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

#### ENDNOTES

1. Bob Burke and Renee DeMoss, “The History and Impact of the Oklahoma Bar Foundation,” *OBJ*, Vol. 94, No. 5 (May 2023).
2. James Piper, “Five Hidden Costs of Deferring Maintenance,” <https://bit.ly/3QQ8ObX>.



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# Artificial Intelligence: Shaping the Future of Law Practice

Learn More About AI at the July 12 Conference

By *Jim Calloway*

**A**S TECHNOLOGY CONTINUES to transform every sector, the legal profession is no exception. The Oklahoma Bar Association understands the importance of staying ahead of the curve and harnessing the power of emerging technologies. With that in mind, we are pleased to announce our upcoming conference on Artificial Intelligence (AI) on July 12, in conjunction with the July 10-12 OBA Annual Meeting at the Embassy Suites in Norman.

Artificial Intelligence: Shaping the Future of Law Practice is a one-day conference we have designed both for those who want a deeper understanding of AI tools and for those who do not know where to begin in figuring out how and whether they should use AI.

Many lawyers first learned of the powerful generative large language AI models like ChatGPT when they read of a New York lawyer who used the ChatGPT to draft a brief that contained several quotations from cases that did not exist. His embarrassing hearing before the court made national legal news and cost him \$5,000 in sanctions. So, clearly, some lawyers need a better understanding of how to ethically use AI.

We have a stellar faculty assembled, including several speakers whose AI presentations were featured at ABA TECHSHOW 2024. Our AI conference aims to explore the ways in which AI is shaping the future of law practice and equip legal professionals with the knowledge and tools to thrive in this evolving landscape. The conference will feature a series of CLE sessions led by distinguished experts in the field of AI. I will be serving as conference moderator as we cover a number of important aspects of AI and practicing law.

The day will kick off with a session on “Integrating AI with Your Practice Management Solution” with Jordan Turk, legal technology advisor for Smokeball. Many of you had the opportunity to hear Ms. Turk present at our 2023 Solo & Small Firm Conference. In this session, attendees will explore the benefits of leveraging AI for streamlining case management, optimizing workflows and enhancing client engagement. Many practitioners will find the AI tools built into their practice management solution to be extremely useful – and there will be new developments in these tools.

Next on the lineup is Ben Schorr, senior content program manager at Microsoft, who will lead a session on “Navigating Microsoft Copilot.” As I have written in previous columns, Copilot seems to be the more affordable and safer AI solution for many small- to medium-sized law firms. Mr. Schorr will share insights and strategies for maximizing the potential of Microsoft’s AI-powered Copilot to boost productivity and efficiency. I predict many attendees will be amazed at the value of a Copilot subscription at \$30 per user per month.

Another highlight of the conference will be the session “AI in Legal: State of the Art, State of Business” with Kenton Brice, director of the Law Library at the OU College of Law, and Sean Harrington, director of technology and innovation at the OU College of Law. Mr. Brice and Mr. Harrington will provide an overview of the current landscape of AI trends in the legal industry. Attendees will gain valuable insights into the cutting-edge AI advancements, trends and potential challenges associated with implementing AI in their practice.





**JULY 12 | EMBASSY SUITES | NORMAN**



**ARTIFICIAL INTELLIGENCE  
SHAPING THE FUTURE OF LAW PRACTICE**  
IN CONJUNCTION WITH THE OBA ANNUAL MEETING

Using AI with your practice management system | Microsoft Copilot  
Helpful AI tools for your practice | Ethics of using AI in your practice  
And much more!

**REGISTRATION IS NOW OPEN!**  
Keep up to date with the latest Annual Meeting information  
at [www.okbar.org/annualmeeting](http://www.okbar.org/annualmeeting).

Registration details and the complete schedule can be found on the OBA website, [www.okbar.org/annualmeeting](http://www.okbar.org/annualmeeting). Early-bird registration for the conferences is \$150, which includes lunch. Together, let's embrace the future of law practice and position ourselves at the forefront of the legal profession in the AI era.

There are many other great educational opportunities at the

OBA Annual Meeting, including the ever-popular 60 Tips in 60 Minutes, "Exploring the Flower Moon: The Osage Murders and Indian Law Today," featuring Principal Chief of the Osage Nation Geoffrey Standing Bear, and a session analyzing key changes from recently passed laws led by the members of the OBA Legislative Monitoring

Committee. "Taming Your Inbox," led by Catherine Sanders Reach, and "Automating Your Documents: Avoiding Traps and Pitfalls," with Julie Bays, are other valuable sessions. There is also a session on new obligations under the Corporate Transparency Act, which went into effect this year. Are all your corporate clients in compliance?

Make sure to join us this year for the July 10-12 OBA Annual Meeting and the July 12 AI Conference. With the variety of CLE sessions, there is something for everyone – and you definitely won't want to miss it!

---

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

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## SHOW YOUR CREATIVE SIDE ON THE BACK PAGE

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

Email submissions of about 500 words or high-resolution images to OBA Communications Director Lori Rasmussen at [lorir@okbar.org](mailto:lorir@okbar.org).





# Remembering Attorney James F. Davis

**OKLAHOMA CITY ATTORNEY** James Franklin Davis, a founding member of the law firm of Andrews Davis, passed away last September at the age of 90. He spent more than 50 years of his legal career at that firm. His daughter, Nancy Lynn Roberts, followed in his footsteps into the practice of law, creating a family legacy of Oklahoma attorneys.

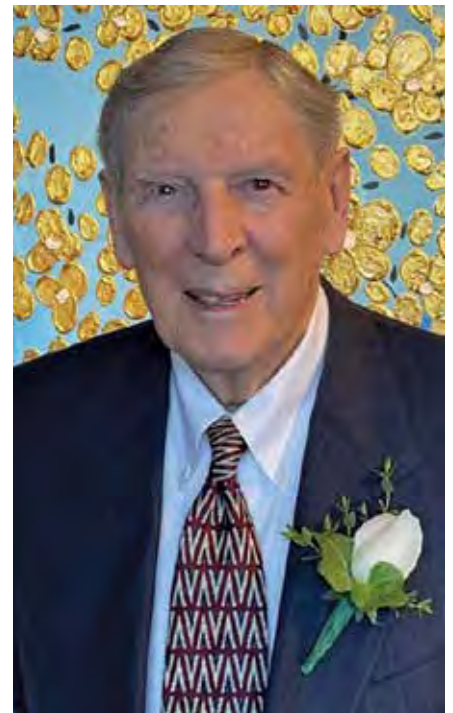
Earlier this year, Ms. Roberts made a generous memorial donation to the OBF in honor of her father. Along with the donation for legal services was a message fondly remembering her father:

Dad hailed from Muskogee. He worked his way through his fraternity, graduated from University of Oklahoma (OU) undergraduate in three years with an accounting degree and then went on to graduate from OU law school. When he got his first job, he had only one suit to wear. The firm he went to work for sent him to Bob Orbach and asked that he “loan him some clothes” on the promise that Jim would pay him back. And that he did. Not only did he take him cash from his paycheck

each month in person, but Dad later told us three daughters that the only place we could shop was at Orbach’s. Dad was forever grateful to Bob for “clothing” him so that he could launch out into the law profession that he so loved.

I was very close to my father. He was a good, good man. He loved the intellectual practice of law, had a deep and very private faith and above all else he loved helping people. He hated billing (and was a bit infamous for that within his firm). To avoid billing, I went the corporate counsel and business owner route. He helped me navigate many of the treacherous waters that entrepreneurs and small business owners face. During one season, I called him every morning on the way to work, and he would listen intently and deliver sage advice, wise next steps, and good things to consider. I miss him every day even though I am so thankful to have had him all my life.

The OBF is proud to honor attorneys like those in the Davis family who work hard to provide legal services in Oklahoma.



*James F. Davis*



## OBF GRANTEE CLIENT WRITES CAPTIVATING BOOK FOR CHILDREN

OBF Grantee client Sang Rem tells her captivating story in her recently published children’s book *Refugee – My Journey from Myanmar/Burma to the USA*. Illustrated by Ms. Rem’s childhood friend, C Remruat Kima, this book is bright, colorful, inspirational and educational.

Ms. Rem is a former refugee from Chin State, Myanmar/Burma. In 1997, she and her family were forcibly displaced from their ancestral lands. They fled to Malaysia and then registered with the United Nations as refugees. Her story and frightening journey to America are truly inspirational.

In 2010, after Ms. Rem and her family were resettled in Oklahoma, she was introduced to OBF Grantee partner The Spero Project. The staff at The Spero Project supported the family daily, helped them learn English and assisted Ms. Rem in achieving her dreams. After high school, she began work as the student support specialist for The Spero Project, helping other refugee clients with similar stories. This job gave her the means to pay for college and ultimately earn a bachelor’s degree in child development and a master’s degree in family education from the University of Central Oklahoma.

Ms. Rem is now the director of resettlement at The Spero Project, but she still has dreams on the horizon. She says, “We didn’t have any children’s books in our house when I was little. There are no children’s books written in my mother’s tongue of Zanniet and very few written in Burmese. Child education and development are very important to me, and I want to write children’s books in these dialects in the future.”

You can purchase *Refugee* and learn more about Ms. Rem’s upcoming projects at <https://sangremproject.com>.



*Sang Rem displays her children’s book *Refugee – My Journey from Myanmar/Burma to the USA*.*

# Partner

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## Legacy Partners for Justice

Leave a legacy by making planned gifts to the OBF. Contact Candice Pace at [foundation@okbar.org](mailto:foundation@okbar.org).

## MORE WAYS TO *support* THE OBF

- CY PRES**  
Leftover monies from class action cases can be designated to the OBF's Court Grant Fund or General Fund.
- MEMORIALS AND TRIBUTES**  
Make a gift in honor of someone. OBF will send a handwritten card to the honoree or family.
- UNCLAIMED TRUST FUNDS**  
Contact the OBF if you have unclaimed trust funds in your IOLTA Account. (405) 416-7070 or [foundation@okbar.org](mailto:foundation@okbar.org).

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FRIDAY,  
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10 - 11:30 a.m.  
Oklahoma Bar Center,

MCLE 1.5/0



**FEATURED SPEAKER**



ELIZABETH ISAAC, Attorney, Ryan Whaley

# FIESTA! Friday

## BASICS IN TRADEMARKS

Jump into the world of trademarks with a spicy twist in our “Fiesta Friday: Basics in Trademarks” course!

Elizabeth Isaac will walk you through the basics using the Taco Tuesday litigation as the guide.

**After the program, enjoy 2 tacos and a drink from a local taco truck!**

**ABOUT OUR SPEAKER:**

Elizabeth Isaac is a registered patent attorney at Ryan Whaley where she leads the firm’s Intellectual Property Transaction Group. Prior to joining Ryan Whaley, she served as director and shareholder at Dunlap Codding where she founded and oversaw the firm’s Design Group.

Elizabeth helps innovators, entrepreneurs, artists, and businesses protect their inventions, brands, designs, and other creative works to leverage their intellectual property portfolios and enhance their business options. She counsels clients regarding a breadth of patents, trademarks, copyrights, and other proprietary rights—with an emphasis on creatively and strategically identifying holistic and dynamic ways to enforce, defend, and improve the value of various technological and creative assets worldwide.

Elizabeth’s current community service includes President of the board of directors for the Oklahoma Bar Association Intellectual Property Section and Chair of the American Intellectual Property Law Pro Bono Committee. She is a member of the AIPLA Industrial Design Committee and served as a coordinator and moderator for the AIPLA Design Rights Boot Camp. Elizabeth is a past board member of OCBA Young Lawyers Division; OCU School of Law Alumni Association; and deadCenter Film; is also the past Board Chair and Event Chair of IgniteOKC; past Vice Chair of membership for the Board of Directors of Catalyst of Allied Arts; a 2017 graduate of Linking Oklahoma Young Adult Leaders Class XII; and a Chapter 29 Rotarian of Oklahoma City. a City’s Forty Under 40 by okc.BIZ.

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

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## Raking in Awards

By Laura R. Talbert

**T**HE YOUNG LAWYERS Division proudly celebrates recent accolades that underscore the YLD's commitment to service and excellence within the legal profession. Among these honors is the esteemed Outstanding Service to the Public Award, which was bestowed upon the division's Wills for Heroes program, recognizing its invaluable contribution to the community. Additionally, the recognition of Caroline Shaffer Siex, the immediate past chair of the YLD, with the distinguished Outstanding Young Lawyer Award, highlights the exemplary dedication and leadership demonstrated by individuals on the YLD Board of Directors. These prestigious acknowledgments serve as a testament to the unwavering dedication of the YLD in advancing legal excellence and public service.

Caroline Shaffer Siex's recognition as Outstanding Young Lawyer shines a spotlight on her remarkable contributions to both the legal profession and the community at large. As 2023 chair, Caroline has exemplified the highest standards of legal excellence and service, inspiring her peers and future generations of legal professionals. Her dedication to advocacy, professionalism and public engagement embodies the ethos of the OBA YLD and serves as an inspiration. Her achievement not only reflects her personal commitment to the legal profession but also



Laura Talbert and Caroline Shaffer Siex represent Oklahoma young lawyers during the 2024 ABA YLD Midyear Meeting in Louisville, Kentucky.

underscores the collective spirit of the YLD in nurturing young lawyers.

In tandem with dedicated individuals like Caroline, the OBA YLD's commitment to public service is epitomized by the remarkable impact of its Wills for Heroes program. This initiative stands as a beacon of hope and support for our local heroes, offering vital legal assistance to our law enforcement officers, first responders, paramedics and military personnel.

Clayton Baker, a dedicated member of the YLD, is the Wills for Heroes chair and a passionate advocate for the program, and he will be accepting this award on

behalf of the YLD. With a brother who serves in law enforcement, several veterans in his family and a cousin who is an active-duty major general in the U.S. Air Force, it goes without saying that this program is near and dear to his heart. Prior to leading the program, Clayton was a volunteer at this event for many years. Reflecting on his firsthand experiences, he emphasized the intention of providing essential legal services to our local heroes.

In Clayton's words: "Our law enforcement officers, first responders, firefighters, paramedics and military sacrifice so much

for us. They put their lives on the line every day to protect us. We're grateful that the Young Lawyers Division found a path to give back



*A promotional poster advertises a recent YLD Wills for Heroes event.*

to these individuals in a way that could significantly benefit them and their families. Having an estate plan in order is something that we should all have but is often overlooked by many. Providing free last wills and testaments may sound a bit morbid, but it is one of the few things we can do to take the burden off of them and their loved ones. With everything these selfless individuals do for us, offering free wills to them is the least we can do, and this program is only scratching the surface. There is so much more we, as legal professionals, can do to support these individuals."

On behalf of the YLD, we want to thank the OBA for honoring both Caroline Shaffer Siex and the Wills for Heroes program. The YLD is humbled, and we will continue to provide these services, hopefully even more expansively, to better serve all that we can.

If you're a young lawyer and want to get involved, come to the OBA Annual Meeting in July! We'd love to meet you!

---

Ms. Talbert is a lawyer in Oklahoma City and serves as the YLD chairperson. She may be contacted at [lraltalbert@gmail.com](mailto:lraltalbert@gmail.com).



*YLD members provide free legal services to a client during a 2023 Wills for Heroes event.*



# FOR YOUR INFORMATION



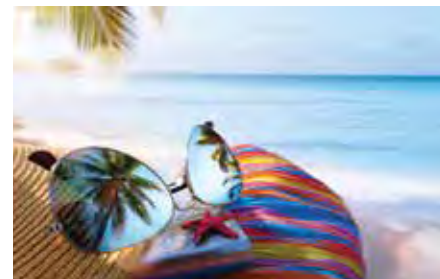
## IMPORTANT UPCOMING DATES

Remember, the bar center will be closed Thursday, July 4, in observance of Independence Day.

Register now for the OBA Annual Meeting. Join us at this year's Annual Meeting, July 10-12, at the Embassy Suites in Norman! This year's

meeting, held in conjunction with the Oklahoma Judicial Conference, will be a relaxed and informal event. Make plans to attend! Learn more and register at [www.okbar.org/annualmeeting](http://www.okbar.org/annualmeeting).

Please note the OBA Annual Meeting room block at the Embassy Suites will close on Monday, June 17. To book your room, call 1-800-EMBASSY and mention the Oklahoma Bar Association 2024 Conference (or group code OBA) or visit <https://bit.ly/3UdWW4B> to book online.



## THE BAR JOURNAL TAKES SUMMER BREAK

The *Oklahoma Bar Journal* theme issues are taking a short break. The next issue, devoted to women in law, will be published in September. You will still receive the digital *Courts & More* issues with court material and news every Wednesday in July and August. Have a safe and happy summer!

## SOVEREIGNTY SYMPOSIUM 2024



The 2024 Sovereignty Symposium, presented by the OCU School of Law, has been scheduled for June 11-12 at the Skirvin Hilton Hotel in Oklahoma City. This year's event is dedicated to the late Dennis Arrow for his work in the field of Indian law and will feature keynote speaker Chief Standing Bear, principal chief of the Osage Nation. Visit [www.sovereigntysymposium.com](http://www.sovereigntysymposium.com) to register and to learn more about the event.

## LHL DISCUSSION GROUP HOSTS SUMMER MEETINGS

The Lawyers Helping Lawyers monthly discussion group will meet July 11 and Aug. 1 in Oklahoma City at the office of Tom Cummings, 701 NW 13th St. The group will also meet July 11



and Aug. 8 in Tulsa at the office of Scott Goode, 1437 S. Boulder Ave., Ste. 1200. The Oklahoma City women's discussion group will meet July 25 and Aug. 22 at the first-floor conference room of the Oil Center, 2601 NW Expressway. Each meeting is facilitated by committee members and a licensed mental health professional. The small group discussions are intended to give group leaders and participants the opportunity to ask questions, provide support and share information with fellow bar members to improve their lives – professionally and personally. Visit [www.okbar.org/lhl](http://www.okbar.org/lhl) for more information, and be sure to keep an eye on the OBA events calendar at [www.okbar.org/events](http://www.okbar.org/events) for upcoming discussion group meeting dates.

## THE BACK PAGE: SHOW YOUR CREATIVE SIDE

We want to feature your work on "The Back Page"! Submit articles related to the practice of law, or send us something humorous, transforming or intriguing. Poetry, photography and artwork are options too. Email submissions of about 500 words or high-resolution images to OBA Communications Director Lori Rasmussen at [lorir@okbar.org](mailto:lorir@okbar.org).

## CONNECT WITH THE OBA THROUGH SOCIAL MEDIA

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







### ANNA CARPENTER APPOINTED 14TH DEAN OF THE OU COLLEGE OF LAW

Anna E. Carpenter will be appointed the 14th dean of the OU College of Law, effective July 15, pending the OU Board of Regents' approval. Ms. Carpenter previously served at the University of Utah as special advisor to the president. She was also a professor of law and the former director of clinical programs at the University of Utah S.J. Quinney College of Law. There, she founded and directed Justice Lab, a clinical course in which students

work with community organizations to solve legal and policy problems and advocate for systemic change. She is the recipient of the inaugural Alli Gerkman Legal Visionary Award from the Institute for the Advancement of the American Legal System, received the Stephen Ellmann Memorial Clinical Scholarship Award and was named a Bellow Scholar by the Association of American Law Schools' Committee on Lawyering in the Public Interest for excellence in scholarship. Before her venture as University of Utah faculty, she served as an associate clinical professor of law at the TU College of Law and as a clinical teaching fellow at Georgetown University Law Center. She was also a Georgetown women's law and public policy fellow. She previously worked as a legal services lawyer representing low-income people in civil and immigration matters and as a federal policy analyst focused on domestic violence and poverty. She received her J.D. and LL.M. from Georgetown University Law Center and her B.A. from Willamette University.

## NOTICE OF HEARING ON THE PETITION FOR REINSTATEMENT OF CREIGHTON COY COLLIER, SCBD # 7621 TO MEMBERSHIP IN THE OKLAHOMA BAR ASSOCIATION

Notice is hereby given pursuant to Rule 11.3(b), Rules Governing Disciplinary Proceedings, 5 O.S., ch. 1, app. 1-A, that a hearing will be held to determine if Creighton Coy Collier should be reinstated to active membership in the Oklahoma Bar Association.

Any person desiring to be heard in opposition to or in support of the petition may appear before the Professional Responsibility Tribunal at the Oklahoma Bar Center at 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma, at 9:30 a.m. on **THURSDAY, JUNE 27, 2024**. Any person wishing to appear should contact Gina Hendryx, General Counsel, Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, Oklahoma 73152, telephone (405) 416-7007.

PROFESSIONAL RESPONSIBILITY TRIBUNAL

## ON THE MOVE

**Andrew G. Wakeman** has become a shareholder in the Tulsa law firm of Atkinson, Brittingham, Gladd, Fiasco & Edmonds. He received his J.D. with highest honors from the TU College of Law in 2006, where he served as an editor of the *Tulsa Law Review* and was awarded the Order of the Curule Chair. Mr. Wakeman has experience in defending cases involving automobile negligence, insurance breach of contract, insurance bad faith and medical malpractice. He is a member of the American Bar Association and the Tulsa County Bar Association and is admitted to practice in the Northern, Eastern and Western U.S. district courts of Oklahoma.

**Lexy Vela** has joined the Oklahoma City law firm of DeBee, Clark & Weber PLLC as an associate attorney. Her practice areas include tax-exempt organizations and business transactions. She received her J.D. from the OCU School of Law in 2023.

**Christin V. Mugg** has joined the Oklahoma City office of Phillips Murrah as of counsel. She practices in the areas of complex estate

planning and planned charitable giving. Ms. Mugg is a member of several professional associations, including the Oklahoma City Estate Planning Council, the State Bar of Texas and the Oklahoma County Bar Association. She also volunteers and serves on the Oklahoma Association of Charitable Gift Planners board and as a trustee for the Oklahoma City Community Foundation. She is a full-time professor at the OCU School of Law, teaching property, wills, trusts and estates, and estate planning, and she is a city council member in Edmond. Ms. Mugg received her J.D. from the OCU School of Law in 1998, where she served as editor-in-chief of the *Oklahoma City University Law Review*, was a Hatton W. Sumners Scholar and graduated at the top of her class.

**Meagon R. Eagon** has joined the Oklahoma City office of Doerner, Saunders, Daniel & Anderson LLP as an associate attorney. She primarily practices in complex litigation and insurance defense matters. Her experience includes defending companies across Oklahoma against premises liability disputes and handling

securities fraud, intervenor actions and broker/dealer disputes.

Ms. Eagon received her J.D. from the OCU School of Law, where she was a merit scholar and on the faculty honor roll and dean's list.

**Anna M. Sanger** has rejoined the Tulsa office of Doerner, Saunders, Daniel & Anderson LLP as an associate attorney. She recently received her LL.M. in agricultural and food law from the University of Arkansas School of Law, where she studied federal administrative rulemaking, water law and food safety regulation. She received her J.D. with honors from the TU College of Law. Ms. Sanger worked as an intern for the U.S. Department of Agriculture, issuing title opinions for the Natural Resources Conservation Service, drafting closing instructions for rural development loans and assisting with forest service litigation.

**Hannah Whitefield** has joined the Norman litigation firm of HB Law Partners PLLC. She received her J.D. from the OU College of Law in 2023. Ms. Whitefield handles a wide variety of civil litigation matters, including complex

### HOW TO PLACE AN ANNOUNCEMENT:

The *Oklahoma Bar Journal* welcomes short articles or news items about OBA members and upcoming meetings. If you are an OBA member and you've moved, become a partner, hired an associate, taken on a partner, received a promotion or an award or given a talk or speech with statewide or national stature, we'd like to hear from

you. Sections, committees and county bar associations are encouraged to submit short stories about upcoming or recent activities. Honors bestowed by other publications (e.g., *Super Lawyers*, *Best Lawyers*, etc.) will not be accepted as announcements. (Oklahoma-based publications are the exception.) Information selected for publication is printed at no cost, subject to editing and printed as space permits.

Submit news items to:

Hailey Boyd  
Communications Dept.  
Oklahoma Bar Association  
405-416-7018  
barbriefs@okbar.org

*Articles for the September issue must be received by Aug. 1.*

## KUDOS

business/shareholder disputes, real estate disputes and consumer fraud and abuse.

**Trent Bridges** has joined the Houston office of Akin Gump Strauss Hauer & Feld LLP as a partner. He represents clients on a range of energy transactions, infrastructure development projects and investments, with an emphasis on the midstream industry. Mr. Bridges previously served as vice president and assistant general counsel at Magellan Midstream Partners LP. He received his J.D. from the TU College of Law in 2008.

**Jatelyn M. Taylor** has joined the Tulsa law firm Sanders & Associates PC as an associate attorney. She previously worked for the firm as an extern in May 2022 and became a licensed legal

intern in April 2023. Ms. Taylor received her J.D. from the TU College of Law with highest honors and took her Oath of Attorney at the 2024 spring swearing-in ceremony.

**Michael J. Davis** has been promoted from assistant professor to associate professor of criminal justice at Southeastern Oklahoma State University and has been granted tenure by the Regional University System of Oklahoma Board of Regents. Mr. Davis has been a full-time faculty member at the university since 2019 and teaches classes on criminal law and procedure, policing, corrections and restorative justice. He received his J.D. from the OU College of Law and his Ph.D. from the University of the Cumberlands in Williamsburg, Kentucky.

**Thomas M. Wright** has been appointed as the 10th Circuit's member of the Defender Services Advisory Group by Judge Robert J. Conrad Jr., director of the Administrative Office of the U.S. Courts. The advisory group provides advice from federal defenders and Criminal Justice Act panel attorneys to the Administrative Office of the U.S. Courts and the Judicial Conference Committee on Defender Services regarding policies that affect the delivery of services under the Criminal Justice Act. Mr. Wright is a graduate of the OU College of Law and represents defendants in federal criminal cases in Oklahoma.

# MANDATORY CONTINUING LEGAL EDUCATION CHANGES

## OK MCLE RULE 7, REGULATION 3.6

Effective **Jan. 1, 2021**, of the 12 required instructional hours of CLE each year, at least two hours must be for programming on Legal Ethics and Professionalism, legal malpractice prevention and/or mental health and substance use disorders. For more information, visit [www.okmcle.org/mcle-rules](http://www.okmcle.org/mcle-rules).





## IN MEMORIAM

**R**obert D. Baron of Oklahoma City died Dec. 31. He was born June 11, 1943, in Moline, Illinois. He graduated from the University of Iowa and received his J.D. from the OU College of Law in 1968. Mr. Baron practiced law in Oklahoma City for more than 53 years. Memorial contributions may be made to Cavalier Rescue USA.

**G**eorge Tony Blankenship of Nichols Hills died April 20. He was born March 11, 1928, in Oklahoma City. Mr. Blankenship graduated from OU with a bachelor's degree in government and history and received his J.D. from the OU College of Law in 1954. **He continued his studies at the U.S. Air Force Judge Advocate General's School and was a judge advocate general stationed in Presque Isle, Maine, and Montgomery, Alabama.** After working in private practice in Oklahoma City for many years, he founded and served as chairman of the board of Nichols Hills Bank & Trust Co. From 1960 to 1966, he was a member of the House of Representatives, the final two of which he served as minority floor leader. He also served as attorney general from 1990 to 2004 – the first Republican in Oklahoma to be elected – and on the OU Board of Regents from 1990 to 2004, completing his second term as chairman in 2004. Mr. Blankenship was involved in countless charitable and educational endeavors, including the Oklahoma Heritage Association, Oklahoma City Public Schools Foundation, Presbyterian Health Foundation, Nichols Hills United Methodist Church, Oklahoma United Methodist Foundation,

United States Marshals Association, Committee of 100, Dean McGee Eye Institute and many others. Mr. Blankenship was inducted into the Oklahoma Hall of Fame and named to the Oklahoma City Public Schools Foundation Wall of Fame. He also had an endowed chair established by the Sarkeys Foundation in his name at the Oklahoma Medical Research Foundation, received the 2004 OU College of Medicine Dean's Award for Distinguished Community Service and was awarded a Doctor of Humane Letters. Memorial contributions may be made to one of the charitable or educational endeavors he supported.

**J**ames Boyd Carnagey of Fort Gibson died Aug. 27, 2023. He was born Nov. 8, 1942, in Hominy. Mr. Carnagey graduated from Northeastern State University and received his J.D. from the TU College of Law in 1983. He worked as a city attorney for Fort Gibson for many years and as an assistant district attorney for Muskogee County and served his clients as an attorney and tax accountant. He was also a member of the Fort Gibson State Bank Board of Directors and the American Bar Association. **Mr. Carnagey served in the U.S. Air Force and was a proud member of the Frank Gladd American Legion Post 20 in Fort Gibson.** He was a lifetime member of the alumni associations of Northeastern State University and OSU. Memorial contributions may be made to the Frank Gladd American Legion Post 20.

**A**ngela K. Fenwick Hamil of Norman died April 18. She was born Jan. 29, 1967, in McAlester. She graduated with a bachelor's degree from OU, where she was a member of Chi Omega. Ms. Hamil received her J.D. from the OU College of Law in 1992. She was primarily a solo practitioner, focusing on medical malpractice and family law. During the last decade of her career, she worked as in-house counsel for a mental health company. Memorial contributions may be made to the American Diabetes Association or a food bank in your area.

**E**. Edd Pritchett Sr. of Kingfisher died April 25. He was born March 23, 1941, in Cashion. He graduated from Cashion High School in 1959 and was a member and lifelong supporter of the National FFA Organization. Mr. Pritchett graduated from OSU in 1963, where he was a member of Alpha Gamma Rho. He put himself through night school and received his J.D. from the OCU School of Law in 1967. His interest in politics led him to work as an attorney for Gov. Dewey F. Bartlett. Mr. Pritchett helped start and write bylaws for the American Gelbvieh Association, was instrumental in getting the Spiro Mounds designated as a national historic site, protected the Gloss Mountains as a state park and stopped AT&T from charging long-distance rates for calls from Oklahoma City to Cashion and surrounding communities. He was an OBA member for over 50 years and held a single-engine pilot's license. Memorial contributions may be made to the Cashion FFA.

**J**ames F. Robinson of Oklahoma City died Feb. 15. He was born Sept. 26, 1944, in San Diego, California. He graduated from Phillips University and received his J.D. from the OCU School of Law. **Mr. Robinson served in the U.S. Navy.** He briefly worked in private practice before becoming a city attorney and an assistant district attorney for Oklahoma County and later joining the U.S. Department of Justice. In his 32 years as Assistant U.S. Attorney, he tried more than 150 cases and was counsel of record in more than 30 cases at the 10th Circuit Court of Appeals. He began his career with the U.S. Attorney's Office prosecuting drug and gun crimes. He later became an expert white-collar financial crime, from fraud to counterfeiting. Memorial contributions may be made to the Regional Food Bank of Oklahoma or the WildCare Foundation.

**C**arla Jo Snipes of Oklahoma City died Dec. 13. She was born Nov. 29, 1957. Ms. Snipes received her J.D. from the OCU School of Law in 1989. She was a staff lawyer at the Oklahoma State Insurance Fund, representing employers. She also represented injured workers at Vassar Law Firm in Oklahoma City. In 2012, Ms. Snipes was appointed by Gov. Mary Fallin to serve an eight-year term as a judge of the Oklahoma

Workers' Compensation Court. After the end of her term, she was appointed by then-Chief Justice Noma Gurich of the Oklahoma Supreme Court as a special judge of the court. Memorial contributions may be made to the Al M. & Rebecca Snipes Endowment Fund of the Fellowship of Christian Athletes or to John 3:17 Ministry.

**M**ichael C. Snyder of Oklahoma City died Oct. 13, 2023. He was born Feb. 3, 1957. Mr. Snyder received his J.D. from the OU College of Law in 1982.

**N** Martin Stringer of Oklahoma City died May 5. He was born June 6, 1940, in Hagley, England. He graduated from OU and received his J.D. from the OU College of Law. Mr. Stringer had experience as a negotiator in business law and in mergers and acquisitions and complex business litigation matters. He was the co-founder of McKinney & Stringer. In 2005, he joined McAfee & Taft, where he practiced until a month before his death. Mr. Stringer was credited with being a lead negotiator in bringing the Seattle SuperSonics, now the Oklahoma City Thunder, to the state. Memorial contributions may be made to Firststep Men's and Women's Recovery Program or a charity of your choice in his name.

**S**teven W. Vincent of Tulsa died April 23. He was born Oct. 3, 1951, in Hazlet, New Jersey. Mr. Vincent graduated from the University of Southern Florida and received his J.D. from the TU College of Law.

**G**erald E. Weis of Yukon died April 27. He was born Oct. 23, 1942. Mr. Weis received his J.D. from the TU College of Law in 1967.



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



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MCDANIEL ACORD, PLLC IS RECRUITING A LITIGATION ASSOCIATE ATTORNEY for the firm's Edmond office to assist our clients in civil litigation within a strong team setting that focuses on client service and maximizing outcomes. Our practice includes challenging procedural and technical issues, and the successful candidate will possess strong analytical and advocacy skills. Our Firm provides excellent benefits and rewards performance. We are looking for the right attorney to join our team who will take pride in the service we deliver and fit within our family-oriented, friendly, and low-key firm environment. Candidates should have 2 to 5 years litigation experience that reflects skill in legal research, drafting memoranda, briefs and discovery, taking depositions, managing document production, and oral argument. Candidates should submit a recent writing sample and CV to [smcdaniel@ok-counsel.com](mailto:smcdaniel@ok-counsel.com).

TRUST OFFICER POSITION AVAILABLE IN SOUTHEAST OKLAHOMA. Large community bank with well-established trust department is seeking a self-motivated applicant to fill the new position as Trust Officer. Applicants need to have 5 years' working experience in accounting, finance, real estate, or legal related business. Degree in Accounting or Finance preferred. Position involves management of 30-40 trust accounts and coordination with auditors, CPAs and attorneys for current trust clients. Applicants must be highly empathic and have good communication skills. Generous benefit package and competitive pay. Contact Kristy Bolen, [kbolen@visionbank.bank](mailto:kbolen@visionbank.bank).

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The Ritchie Rock & Atwood Law Firm is seeking a General Civil Practice Attorney to join the firm's team in our Shawnee, Oklahoma office as a general civil practice associate.

General Information about the Firm may be found on the web at [www.rrmalaw.com](http://www.rrmalaw.com). New law school graduates scheduled to take the Bar Exam or newly admitted attorneys to the Bar are welcome to apply for the Position.

#### Position Salary Package:

- Competitive compensation commensurate with qualifications
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STATE AGENCY SEEKS GENERAL COUNSEL with other job openings in legal division. Service Oklahoma (SOK), the state's driver license and motor vehicle administrators, invites candidates to apply for attorney positions in OKC. SOK is looking for innovative thinkers and trusted partners to help the agency maintain legal compliance and provide legal guidance as we redefine the way Oklahomans engage with government services. Apply at <https://bit.ly/4bEEtoX>.

THE OKLAHOMA INDIGENT DEFENSE SYSTEM (OIDS) is currently seeking full-time Capital Counsel in our Capital Trial Division, Sapulpa office. OIDS is a state agency responsible for implementing the Indigent Defense Act by providing trial defense services to persons who have been judicially determined to be entitled to legal counsel. Capital Counsel represent clients against whom the State of Oklahoma is seeking the death penalty. Capital Counsel provide informed, zealous, and independent legal representation, within the bounds and forums provided by law, in assigned capital cases. Visit <https://bit.ly/3QkQKq8> to view job announcement and apply online.

LEGAL INTERN POSITION. The Ritchie Rock & Atwood Law Firm is seeking a 2nd or 3rd year law student to serve as a paid legal intern at our office in Shawnee, Oklahoma. The intern would be involved in various civil practice matters under the direction and supervision of an attorney. Flexible hours to accommodate your legal educational demands. General Information about the Firm may be found on the web at [www.rrmalaw.com](http://www.rrmalaw.com). To apply please submit your resume by email to [hgerhart@rrmalaw.com](mailto:hgerhart@rrmalaw.com). You may also mail a resume to Ritchie, Rock & Atwood Law Firm, P.O. Box 246, Pryor, OK 74362.

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### REMOTE ASSOCIATE ATTORNEY POSITION

The Ritchie Rock & Atwood Law Firm is seeking a General Civil Practice Attorney to join the firm's team as a remote associate working from home. Applicants for this position must have a minimum of 3 years of experience as a practicing attorney.

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THE U.S. ATTORNEY'S OFFICE FOR THE EASTERN DISTRICT OF OKLAHOMA IN MUSKOGEE, OK, is seeking applicants for multiple Assistant U.S. Attorney positions for our Criminal Division. AUSAs in the Criminal Division have the unique opportunity to represent the United States of America by directing the investigation and prosecution of federal offenses occurring within the Eastern District, including Indian Country. Salary is based on the number of years of professional attorney experience. Applicants must possess a J.D. degree, be an active member of the bar in good standing (any U.S. jurisdiction) and have at least one (1) year post-J.D. legal or other relevant experience. Prior violent crime prosecution and jury trial experience is preferred. AUSAs may live within 25 miles of the district which includes much of the Tulsa metropolitan area. See vacancy announcement 23-12029252-AUSA at [www.usajobs.gov](http://www.usajobs.gov) (Exec Office for US Attorneys). Applications must be submitted online. See How to Apply section of announcement for specific information. Questions may be directed to Jessica Alexander, Human Resources Specialist, via email at [Jessica.Alexander@usdoj.gov](mailto:Jessica.Alexander@usdoj.gov). This is an open, continuous announcement that has been extended to June 28, 2024. Additional reviews of applications will be conducted periodically, until all positions are filled.

## POSITIONS AVAILABLE

### ADMINISTRATIVE DIRECTOR OF THE COURTS

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Oklahoma Supreme Court

Judicial Center

2100 North Lincoln Boulevard, Suite 1

Oklahoma City, OK 73105

Questions: (405) 556-9100

*All applications are treated as confidential.*

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**THE OKLAHOMA INDIGENT DEFENSE SYSTEM (OIDS)** is opening a Non-Capital Trial Division satellite office in Pryor. Positions available include: Deputy Division Chief, Attorney – Defense Counsel, and Legal Secretary. Visit <https://bit.ly/3QkQKq8> to view job announcements and apply online.

**MCDANIEL ACORD, PLLC IS RECRUITING A LITIGATION ASSOCIATE ATTORNEY** for the firm's Tulsa office to assist our clients in civil litigation and family law within a strong team setting that focuses on client service and maximizing outcomes. Our practice includes challenging procedural and technical issues, and the successful candidate will possess strong analytical and advocacy skills. Our Firm provides excellent benefits and rewards performance. We are looking for the right attorney to join our team who will take pride in the service we deliver and fit within our family-oriented, friendly, and low-key firm environment. Candidates should have 2 to 5 years litigation experience that reflects skill in legal research, drafting memoranda, briefs and discovery, taking depositions, managing document production, and oral argument. Candidates should submit a recent writing sample and CV to [smcdaniel@ok-counsel.com](mailto:smcdaniel@ok-counsel.com).

**THE OKLAHOMA INDIGENT DEFENSE SYSTEM (OIDS)** is opening a Non-Capital Trial Division satellite office in Poteau. Positions available include: Deputy Division Chief, Attorney – Defense Counsel (2 positions available), and Legal Secretary. Visit <https://bit.ly/3QkQKq8> to view job announcements and apply online.

# Not Remotely Interested

By R. Steven Haught

### SITTING AT THE COMPUTER

Sitting in my guest bedroom/office while wearing a sports coat, a dress shirt with a tie, a tropical-colored Tommy Bahama swimsuit and HEYDUDES below, I await the beginning of an arbitration evidentiary hearing over which I will preside via videoconference. From my perch on the penthouse floor of the tallest building on the island, where a peregrine falcon occasionally sits on my balcony, I can see the breakers of the Atlantic Ocean dissolve into a swash onto the powdery beach located two blocks away. Out of the other window, I see the Intracoastal Waterway, replete with long, beautiful yachts gliding effortlessly on manatee-inhabited waters with the style and smugness of a runway model at a Paris fashion show. In between, there lies a manicured garden of palm trees reaching toward the sunny Florida sky. Idyllic? Meh.

As a practicing trial lawyer for more than 40 years, I have always worked from home, but it was always in addition to, not in lieu of, working in the office. On Saturdays, I regularly came to the office to check the mail, and on Sundays, I convinced myself that I needed to go into the office to organize for the upcoming week. The office was always my favorite place, holding an allure that could not be denied.

I miss the steady stream of employees and colleagues rushing back and forth in the hallway



outside my office, the deadlines, stress, urgency, laughter, celebrations, steady buzz and energy that a real office provides.

Following my videoconference, I will quickly remove my jacket, dress shirt and tie. While donning a T-shirt adorned with obligatory tropical motifs, I will make the most important decision of the day: 1) take the elevator to the outdoor pool and enjoy a refreshing swim or tan beneath a palm tree while weighing my happy hour options or 2) walk to the nearby beach and be greeted by my beach captain, Rutger, who will direct me to my beach chair and table and adjust my beach umbrella to my specifications for the preferred degree of sun exposure.

Whichever option I choose, I am likely to close my eyes and fantasize that it is the 1980s again. My long hair is slicked back à la Gordon Gekko, and I am

wearing a high blue Trofeo wool Ermenegildo Zegna suit, a Brioni white and blue striped shirt with French cuffs, a blue, purple and gold striped silk Luciana Barbera tie, black alligator shoes hand-made in Florence, an engraved platinum Mont Blanc pen in my coat and a Tiffany silver card case in my pocket holding the latest iteration of my business card, a Copperplate Gothic Heavy font in bone. In my dream, I am walking with purpose to my ultimate destination, the biggest corner office imaginable. As I open the door to my anachronistic leather and wood paradise, I am jarred back to reality by the piercing sound of a lifeguard's whistle.

---

OBA member R. Steven Haught is enjoying semi-retirement as an arbitrator based in Delray Beach, Florida.





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