

ALSO INSIDE: 2025 OBA Officers and New Board Members Sworn In  
New OBA Member Benefit • Applicants for February 2025 Oklahoma Bar Exam

# THE OKLAHOMA BAR Journal

Volume 96 — No. 2 — February 2025

## Military & Veterans





**OBA CLE**  
Continuing Legal Education

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*Every Lawyer Should Know...*

## **25 PRELIMINARY THINGS EVERY LAWYER SHOULD KNOW ABOUT DRAFTING CONTRACTS**

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## **25 THINGS EVERY LAWYER SHOULD KNOW ABOUT EDITING SENTENCES AND ALLOCATING RISK**

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### **ABOUT OUR SPEAKER:**

Lenné Eidson Espenschied has earned her status as one of the two most popular contract drafting speakers in the U.S. by continually striving for excellence and providing innovative, practical skills-based training for transactional lawyers. She practiced law in Atlanta, Georgia for 25 years, focusing on corporate and transactional representation of technology-based businesses. She is the author of two books published by the American Bar Association: *Contract Drafting: Powerful Prose in Transactional Practice* (ABA Fundamentals, 3rd Ed. 2019) and *The Grammar and Writing Handbook for Lawyers* (ABA Fundamentals, 2011). After graduating from the University of Georgia School of Law magna cum laude, Ms. Espenschied began her legal practice at the firm now known as Eversheds Sutherland; she also served as Senior Counsel in the legal department of Bank of America before eventually opening her own law office. As a law professor, Ms. Espenschied taught commercial law, contracts, and contract drafting. Her passion is helping lawyers acquire the skills they need to be successful in transactional practice.

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## FEATURED SPEAKER



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The image shows the Oklahoma State Capitol building, a grand neoclassical structure with a prominent dome. The entire image is overlaid with a semi-transparent red color. The dome is topped with a statue of a Native American figure holding a bow and arrow. The building features a portico with columns and a series of windows around the base of the dome.

**Oklahoma Bar Association**

# **DAY AT THE CAPITOL**

**Tuesday, March 25**

**Agenda coming soon!**

**Visit [www.okbar.org/dayatthecapitol](http://www.okbar.org/dayatthecapitol) for updates.**

# THE OKLAHOMA BAR Journal

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## THEME: **MILITARY & VETERANS**

Editor: Roy Tucker

**ON THE COVER:** *The Oklahoma Veterans Memorial is located just north of the Oklahoma Judicial Center on Lincoln Boulevard in Oklahoma City. Initially installed in 1986, the memorial was built to honor Oklahoma service members killed in action. Flags were at half-staff to honor 39th U.S. President Jimmy Carter. Photo by Lori Rasmussen.*

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# Do a Good Turn Daily

By D. Kenyon “Ken” Williams Jr.

“**DO A GOOD TURN DAILY**” has been the slogan for both the Boy Scouts of America and the Girl Scouts of the United States of America for over a century (well before I was a Boy Scout in the ‘60s). In today’s vernacular, we might say, “Do a good deed daily.” For many, this may evoke the old comedy routines showing a scout “helping” (dragging) an elderly woman across a busy street and the scout stating, “There you are, ma’am, safely across the street.” To which the elderly woman replies, “But, young man, I did not WANT to cross the street!” followed by a rim shot and laugh track.

For the literal-minded lad that I was at age 10 and a half (my scoutmaster let me start the program a little early because I persuaded him that the activities of Cub Scouts did not call to me – I was certain I was ready to run wild in the woods!), this meant that every day, I intentionally looked for a “good deed” I could do for someone. I did not think about the slogan any more deeply than perceiving it as another “check-the-box” requirement of being part of that organization. It was not until much later in life that I

came to see the deeper meaning of the concept. For me, it is another way to teach and learn that “it is more blessed to give than to receive.” Personal satisfaction and reward come from freely doing good deeds for others (notwithstanding the oft-quoted notion that “no good deed goes unpunished”).

I look at this year as one of opportunity for the OBA – the opportunity to find more satisfaction in what you do with your time (both professional and personal), what and who you know (professionally and personally) and how you make your part of the world a better place.

Over the last 47 years of my membership in the bar, I have been fortunate to serve on many of its committees and sections, having chaired several of them. One of the most exciting opportunities I had was as vice

president when I chaired the Professionalism Committee at the request of 2023 President Brian Hermanson. In that role, I interacted with many of our state’s county bar associations and OBA sections by generating monthly “Professionalism Moments” and coordinating CLE presentations on the topics of professionalism and civility. From that interaction and my service on the Board of Governors, I learned and am inspired by how many great things our members are doing, quietly and without concern for credit or thanks. In addition, I saw the professional and personal relationships of our members that are constantly being formed and reinforced through members’ involvement in our association. If you are still thinking about what committees, sections and/or divisions in which to participate, call any of our officers, your district governor or the executive director and let us help you find one or more areas of service that will allow you to shine, grow and befriend some of the finest people on the planet, our association’s members.

On a related note, please plan to join the Board of Governors and many of our members on March 25 for this year’s OBA Day at the Capitol event. The expertise of Oklahoma lawyers is an excellent resource for lawmakers when legislation is considered, and now is the time to reach out to your state representative in advance of this annual opportunity to discuss legislative issues. Our members who participated last year were well received by their state representatives, and I am confident your participation will be appreciated this year!

Again, all you do as volunteers in service to the public and your communities is amazing and inspiring! I cannot say often enough how much I appreciate all that you do. It is an honor to represent our association this year as your president. Let’s find a “good turn” to do together!



A handwritten signature in black ink that reads “Ken” in a cursive, stylized font.

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# Accredited Representatives and the Veterans' Benefits Claim Process

By Doris L. Gruntmeir

**T**HE U.S. DEPARTMENT OF VETERANS AFFAIRS (VA) plays a pivotal role in providing support and services to veterans, ensuring they receive the benefits and care they have earned through their service. Among the various programs administered by the VA, the Accreditation, Discipline and Fees (ADF) program, as outlined in 38 U.S.C. §§5902-5904 and 38 C.F.R. §§14.626-630, stands out as a critical framework designed to regulate the conduct of accredited representatives who assist veterans in navigating the complex landscape of benefits and claims. The overarching goal of the ADF program is to protect veterans from potential exploitation and ensure they receive competent assistance as they pursue benefits for which they may be entitled. Protecting veterans is particularly important, given the complexities of the claims process, which can be overwhelming for any number of veterans.

## OVERVIEW

The ADF program is a critical tool through which the VA ensures that individuals and organizations assisting veterans in their pursuit of benefits are not only qualified but also adhere to established standards of conduct. By ensuring that only qualified individuals and organizations are accredited, the VA aims to create a system upon which veterans may rely for representation in their pursuit of benefits. The ADF program also seeks to improve the quality of services provided to veterans. Accredited representatives are expected to stay

informed about changes in laws and regulations that affect veterans' benefits in order to provide accurate advice and assistance. This commitment to continuing education and professional development is the foundation of the ADF program, as it directly and positively impacts the support received by veterans.

The ADF program is vital to maintaining the integrity of the claims process and protecting veterans, many of whom are vulnerable to exploitation. Congress deemed this protection sufficiently necessary to codify the ADF

program.<sup>1</sup> The statute lays out the criteria for accreditation, including articulating the qualifications accredited representatives need to effectively assist veterans. These qualifications include educational requirements, experience handling veterans' claims and a comprehensive understanding of the VA's policies, procedures and regulations. In addition, the ADF program provides that accredited representatives have certain responsibilities, including providing accurate information, acting in the best interests of the veteran and maintaining certain ethical standards

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throughout the claims process. The ADF program also incorporates a process for disciplinary actions, including suspension or revocation of accreditation for those failing to comply with the regulations to ensure misconduct is addressed appropriately. This legal framework is essential to upholding the integrity of the ADF program and maintaining a trustworthy means for veterans to seek assistance.

### THE ACCREDITATION PROCESS

Title 38 U.S.C. §5902 lays out eligibility criteria designed to ensure only qualified individuals are accredited to represent veterans in their claims for benefits, while the regulatory framework established in 38 C.F.R. §§14.626-630 further elaborates on the accreditation process. The detailed regulations ensure an overall transparent, fair and consistent accreditation process.

The accreditation process itself involves a number of steps that prospective representatives must complete to obtain VA accreditation. Initially, individuals seeking accreditation must submit an application that includes documentation demonstrating their qualifications. The documentation will cover relevant education, training and experience in dealing with veterans' benefits and affiliations with recognized veterans' organizations. It may also include transcripts from educational institutions, training certificates and a resume detailing their professional history. The application form requires applicants to disclose personal information, such as professional affiliations and previous experience working with veterans. In addition, applicants may be asked to provide references who can attest to their qualifications and character. The VA takes the vetting

**Information on the Accreditation, Discipline and Fees (ADF) Program:** [www.va.gov/ogc/accreditation.asp](http://www.va.gov/ogc/accreditation.asp)

**Verifying Accreditation:** The VA maintains a public-facing website, which can be used to search for individuals who are currently accredited by the VA to provide representation or to search for VA-recognized Veterans Service Organizations. <https://bit.ly/3WnXlxB>

process seriously, as it ensures those who are granted accreditation are committed to serving veterans.

Applications for accreditation are thoroughly reviewed by the VA to determine the applicant's suitability. In addition, the applicants may undergo background checks to ensure against criminal history or unethical behavior that would disqualify them. Unless the VA receives information to the contrary, bar membership in good standing establishes an attorney's character and fitness to represent claimants before the VA. To be accredited, the applicant must also pass a test on VA benefits law, which is currently offered online four times per year.<sup>2</sup>

Once representatives are accredited,<sup>3</sup> they are required to adhere to a standard of conduct<sup>4</sup> that emphasizes the importance of ethical behavior, transparency and accountability to ensure they act in the best interests of veterans. Accredited representatives must be honest in their dealings, provide accurate information and avoid misleading claims. They must ensure they protect the confidentiality of veterans' personal and sensitive information. They must also conduct themselves professionally in a manner that reflects positively on the VA and other accredited representatives. Attorneys who are accredited are

also required to adhere to the professional rules of conduct of the jurisdiction in which they are licensed to practice law.<sup>5</sup>

In addition to maintaining a standard of conduct, accredited representatives are required to complete ongoing training to stay abreast of changes in VA regulations and policies. Given the continually evolving landscape of veterans' benefits resulting from legislative changes, new programs and policy revisions, continuing education is critical. Accredited representatives must satisfy an initial three-hour continuing legal education (CLE) requirement within one year of becoming accredited<sup>6</sup> and an additional three hours of CLE every two years thereafter.<sup>7</sup> An accredited representative's commitment to continuous learning benefits will positively impact the quality of service they are able to provide and the outcomes they receive for veterans. Finally, accredited representatives are required to keep accurate records of their communications with veterans, which supports the accountability and transparency of accredited representatives in the ADF program.

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## FEES AND COMPENSATION

Another important element of the ADF program relates to the fees that accredited representatives may charge for their services. Accredited representatives are allowed to charge fees for services provided in connection with claims for benefits as long as such fees are reasonable and disclosed to the veteran in advance. Specifically, an accredited representative may only charge claimants a fee after an agency of original jurisdiction (*e.g.*, a VA regional office) has issued an initial decision on a claim and the attorney or claims agent has filed a power of attorney and a fee agreement with the VA.<sup>8</sup> This provision establishes a framework for compensation while also safeguarding veterans from potential exploitation. Two types of fee agreements can be filed with the VA:

- **Direct payment:** The claimant and the accredited representative agree that the fee is to be paid to the accredited representative by the VA directly from any past-due benefits awarded to the claimant.
- **Nondirect payment:** The accredited representative is responsible for collecting any fee for representation from the claimant without assistance from the VA.<sup>9</sup>

While the law does not specify the amounts accredited representatives may charge, it does provide that fees may be charged based on a fixed amount, an hourly rate, a percentage of past-due benefits recovered or a combination of such bases, *and the fees must be reasonable*.<sup>10</sup> A fee that does not exceed 20% of the past-due amount of benefits

awarded on a claim shall be presumed to be reasonable,<sup>11</sup> whereas a fee that exceeds 33.33% of the past-due benefits creates a rebuttable presumption that is unreasonable.<sup>12</sup>

Thus, the driving principle in ensuring veterans receive fair treatment when seeking assistance with their claims is the “reasonableness” of the fee being charged. Reasonableness turns, in part, on the complexity of the case and the level of service provided.<sup>13</sup> This flexibility allows fees to be tailored to the unique circumstances of each veteran’s case. For example, higher fees may be warranted in those cases involving multiple claims, appeals or the need for expert testimony, given the time and expertise required. However, a straightforward claim may warrant a lower fee.<sup>14</sup> In addition, accredited representatives who offer a higher level of service – such as thorough case evaluations, individual consultations and ongoing support throughout the claims process – may warrant charging higher fees than those who provide more basic assistance.<sup>15</sup>

Accredited representatives must provide a clear breakdown of their fees and services, which further reinforces transparency.<sup>16</sup> This transparency helps foster trust between veterans and their accredited representatives by eliminating unexpected costs or hidden charges. The VA also has the authority to review and approve fee agreements,<sup>17</sup> either on its own motion or on the veteran’s motion, which provides additional oversight of fee agreements and compensation within the ADF program. By reviewing fee agreements, the VA is able to intervene if they identify concerns regarding the reasonableness of the fees being charged and to protect veterans

from potential abuses. The concept of reasonable fees, along with VA oversight, helps protect veterans while ensuring that accredited representatives are fairly compensated for their services.

## DISCIPLINARY MEASURES AND ENFORCEMENT

To maintain the integrity of the ADF program, 38 U.S.C. §5903 provides the VA with the authority to take disciplinary action against accredited representatives who fail to meet the established standards of conduct or who engage in unethical behavior. More specifically, 38 U.S.C. §5904 and 38 C.F.R. §14.633 give the VA the authority to take disciplinary measures, including suspension and revocation of accreditation, depending on the severity of the violation. The types of violations that may lead to suspension or revocation of accreditation can encompass a wide range of unethical behaviors, including misrepresentation of qualifications, filing fraudulent claims, failure to provide adequate or competent representation, failure to act in the best interests of veterans and conflicts of interest. For example, if an accredited representative knowingly submits false information to the VA on behalf of a veteran, it may harm the veteran’s chances of receiving the benefits they deserve and, in turn, undermines the integrity of the ADF program. While serving as a deterrent against misconduct, the statutory framework reinforces the expectation of high ethical standards within the ADF program.

The regulatory framework outlines the procedures for investigating allegations of misconduct and the rights of accredited representatives facing disciplinary action.<sup>18</sup> The disciplinary procedures are

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Access to timely and qualified assistance is crucial for many veterans seeking benefits that can directly impact their quality of life. Delays in the claims process or inadequate or incompetent support in submitting their claims can lead or contribute to a veteran's financial instability, mental health issues and sense of isolation, particularly for those who are from marginalized communities.

designed to be fair and provide accredited representatives the opportunity to respond to allegations prior to the VA making a decision. When a complaint is filed, the VA conducts an investigation to gather evidence and assess the validity of the allegations. Prior to taking an action to suspend or revoke an accredited representative's accreditation, the VA is required to provide an explanation of the charges against them, and the accredited representative is entitled to a hearing to defend themselves. The process also includes the opportunity for the accredited representative to appeal any decisions made regarding their accreditation status.<sup>19</sup> These due process elements help protect an accredited representative's rights and the interests of veterans, thus reinforcing the integrity of the ADF program.

Upon a finding of clear and convincing evidence of a violation of or refusal to comply with VA laws or regulations or a number of other violations, the penalties the VA may impose range from temporary suspension to permanent revocation of accreditation.<sup>20</sup> In cases where a representative's accreditation is suspended or revoked, the VA may also impose additional penalties, such as fines,<sup>21</sup> restrictions on future accreditation applications<sup>22</sup> and, for attorneys, notification to all agencies, courts and bars to which the agent or attorney is admitted to practice.<sup>23</sup> The imposition of discipline impacts not only the accredited representative but also the organizations they represent and the veterans they serve. A loss of accreditation can diminish public trust in the organization and may lead to a decrease in the number

of veterans seeking assistance from accredited representatives. This regulatory framework serves as a deterrent against misconduct and ensures that there is a transparent and structured process for addressing misconduct that helps maintain the integrity and effectiveness of the ADF program.

If the VA receives complaints of unauthorized practice before the VA – *i.e.*, individuals not accredited by the VA charging improper fees to a claimant for the preparation, presentation or prosecution of a VA benefits claim – the VA does not have direct authority to pursue injunctive or disciplinary action. In those cases, the VA will notify the individual or organization to cease the unlawful practice and recommend the complaint be submitted directly to the Federal Trade Commission's complaint assistant.<sup>24</sup> Currently, Title 38 U.S.C. §5905 only authorizes penalties for wrongfully withholding from a claimant or beneficiary any part of a benefit due to the claimant or beneficiary. Whereas, prior to 2006, Section 5905 imposed punishment on a much broader range of conduct related to fees and compensation with respect to providing representation on claims for VA benefits, including criminal penalties.<sup>25</sup> In the absence of its own enforcement authority, the VA must work with state and federal entities to pursue enforcement action in these situations. Fortunately, the VA has had multiple successes working with state attorneys general offices, the U.S. Department of Justice and the Consumer Financial Protection Bureau (CFPB) in pursuing actions against those who attempt to take advantage of veterans related to their VA benefits claims. The VA's referral to these entities often

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results in settlement or consent decrees in which the unaccredited individual agrees to cease providing unauthorized services to veterans. To overcome this statutory limitation and further its efforts to protect veterans, the VA has, since fiscal year 2018 and every year thereafter, proposed legislation that would reinstate the penalties for directly or indirectly charging or receiving any fee or compensation with respect to the preparation, presentation and prosecution of claims for VA benefits except as provided by law.<sup>26</sup>

### IMPACT ON VETERANS

Access to timely and qualified assistance is crucial for many veterans seeking benefits that can directly impact their quality of life. Delays in the claims process or inadequate or incompetent support in submitting their claims can lead or contribute to a veteran's financial instability, mental health issues and sense of isolation, particularly for those who are from marginalized communities. The ADF program helps level the playing field of the complex world of veterans' benefits. The combination of accredited representation, protective measures and transparent fees culminates in a significant empowerment of veterans in their pursuit of benefits. When veterans have confidence in their accredited representative and understand the costs involved, they are more likely to actively engage in the process to pursue benefits to which they are entitled. Active participation by veterans leads to better communication with their accredited representatives, which, in turn, helps ensure all relevant information is shared and included in their claim submissions. Moreover, veterans

who feel empowered are more likely to advocate for themselves and other veterans. As a result, veterans are able to work effectively with their accredited representatives to develop comprehensive claims packages and strategies that address their specific needs and circumstances, ultimately leading to improved outcomes in their claims for benefits.

### CONCLUSION

The ADF program is an essential component of the VA's efforts to protect and serve veterans by combatting predatory practices that target veterans, particularly through offers of assistance in applying for VA benefits claims. By establishing rigorous standards for accreditation and ensuring accredited representatives adhere to a standard of conduct and are held accountable when failing to do so, the ADF program plays a crucial role in safeguarding veterans' interests. As veterans navigate the challenging and often complex landscape of VA benefits claims, the ADF program serves to support them by ensuring they receive the competent and ethical assistance they deserve, which enhances their experience and increases their chances of receiving the benefits they have earned. The VA's oversight and the disciplinary measures available through the ADF program serve as a safeguard for veterans. These measures act as a deterrent to fraudulent practices and unethical behavior and provide veterans with the peace of mind of knowing there are processes in place to protect them.

Similar to the Oklahoma Bar Association's goal to protect the public by licensing, investigating complaints against and prosecuting lawyers who have committed

ethical violations, the ADF program seeks to protect veterans. Through its administration of the ADF program, the VA not only upholds the integrity of the claims process but also upholds its commitment to the well-being of veterans and their families.

### ABOUT THE AUTHOR



Doris L. Gruntmeir is a senior executive with the U.S. Department of Veterans Affairs Office of General Counsel in Washington, D.C., where she serves as the chief counsel for personnel law. She received her J.D. from the OU College of Law in 2000.

### ENDNOTES

- 38 U.S.C. §§5902-5904.
- The next three examination dates will be Jan. 28, 2025; May 20, 2025; and Sept. 23, 2025.
- As of April 19, 2023, the VA had 91 VA-recognized Veterans Service Organizations (VSOs) with 8,142 accredited VSO representatives, 5,445 accredited attorneys and 482 accredited claims agents. Testimony of David Barrans, <https://bit.ly/3PoDpwi>.
- 38 C.F.R. §14.632.
- 38 C.F.R. §14.632(d).
- 38 C.F.R. §14.629(b)(1)(iii).
- 38 C.F.R. §14.629(b)(1)(iv).
- 38 U.S.C. §5904(c)(1); 38 C.F.R. §14.636(c) and (g).
- Id.*
- 38 C.F.R. §14.636(e).
- 38 U.S.C. §5904 (a)(5).
- 38 C.F.R. §14.636(f)(1).
- 38 C.F.R. §14.636(e)(1) and (2).
- 38 C.F.R. §14.636(e)(2).
- 38 C.F.R. §14.636(e)(1), (4) and (6).
- 38 C.F.R. §14.636(g) and (h).
- 38 C.F.R. §14.636.
- 38 C.F.R. §14.633.
- 38 C.F.R. §14.633(h).
- 38 C.F.R. §14.633(c).
- 38 U.S.C. §5905.
- 38 C.F.R. §14.633(g).
- 38 C.F.R. §14.633(i).
- [ReportFraud.ftc.gov](https://www.ftc.gov/report-fraud).
- 38 U.S.C. §5905(1) (2005); removed from the statute by Pub. L. No. 109-461, §101(g), 120 Stat. 3408.
- S.740 GUARD Act; Testimony of David Barrans, <https://bit.ly/3PoDpwi>.

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# Defending Those Who Defend America: Military Justice for the Civilian Lawyer

By Robert Don Gifford II

**“Military justice is to justice what military music is to music.”**

– Julius Henry “Groucho” Marx<sup>1</sup>

**“If I had an innocent client, I would want that person to be tried in a military court, [where] the accused receives a full and fair trial of the facts.”**

– F. Lee Bailey, *For the Defense* (1975)<sup>2</sup>

## PRACTICING CRIMINAL LAW IN MILITARY COURTS IN OKLAHOMA

“I agree that it will be a grave error if by negligence we permit the military law to become emasculated by allowing lawyers to inject into it the principle derived from their practice in the civil courts, which belong to a totally different system of jurisprudence.”

– Gen. William T. Sherman, 1879<sup>3</sup>

For most criminal law practitioners, their craft is primarily done in the state, federal and municipal courts, and since 2020, it has expanded into tribal courts after *McGirt v. Oklahoma*. What many may overlook is yet another venue for the criminal defense bar to practice its craft – the representation of a military service member

in a court-martial. Oklahoma has long had a deep military connection with a strong military presence within its borders with Fort Sill, Tinker Air Force Base, Vance Air Force Base, Altus Air Force Base and the McAlester Ammunition Depot, as well as numerous Reserve and National Guard units gracing the heartland.

While each respective branch of service has its own attorneys in uniform as members of the Judge Advocate General’s Corps (JAG Corps) to represent an accused, service members also seek civilian defense counsel. For the civilian trial lawyer, a working knowledge of the military justice system is an opportunity to “defend those who defend America.”

## THE FOUNDATIONS OF MILITARY JUSTICE

“Military law ... is a jurisprudence which exists separate and apart from the law which governs in our federal judicial establishment.”

– Chief Justice Fred M. Vinson, *Burns v. Wilson*, 346 U.S. 137, 140 (1954)

The American system of military justice is older than our federal court system and houses its foundations back to Richard the Lionheart in 1190.<sup>4</sup> It is a criminal justice system with worldwide jurisdiction<sup>5</sup> over service members on active duty and based on the necessity of “good order and discipline.”<sup>6</sup> Jurisdiction of a court-martial depends solely on an accused’s status as a member of the armed forces, not the location or “military nature” of the crime.

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As with any system of law, the primary source is the statute itself; military law is codified in the Uniform Code of Military Justice (UCMJ or code). This is complemented by the *Manual for Courts-Martial* (MCM or manual).<sup>7</sup> Courts-martial are courts of special and limited jurisdiction that derive their authority from the U.S. Constitution,<sup>8</sup> the UCMJ, the MCM<sup>9</sup> and customary international law and treaties. The genesis of our system was the Articles of War, which were derived from the British Code of 1765.<sup>10</sup> It was revised in 1806, again during the War of 1812 and the Seminole Wars, again in 1874, and it was completely overhauled in 1917. While the Articles of War

governed the Army, the Navy operated from a completely different system known as the Articles for the Government of the Navy (or Rocks and Shoals).

When the armed services unified under the Department of Defense in 1947, efforts began for a uniform code that would jointly cover each of the armed service branches.<sup>11</sup> The UCMJ<sup>12</sup> was enacted and signed into law in May 1950, with the MCM following in 1951. After the Korean and Vietnam conflicts, there were major revisions to the MCM in 1969 and again in 1983 with the Military Justice Act and executive order by President Ronald Reagan in the adoption of the MCM in 1984, with annual revisions being made.

Additionally, *stare decisis* is followed in military courts, which mostly relies upon their own precedents from their service branch courts,<sup>13</sup> and the next-in-line appellate court, the Court of Appeals for the Armed Forces (CAAF),<sup>14</sup> and, of course, the precedential opinions from the U.S. Supreme Court. Other helpful (and often necessary) sources include regulations issued by the Department of Defense or service secretary,<sup>15</sup> military law review articles<sup>16</sup> and court decisions.<sup>17</sup>

Over time, there have been misconceptions of the military criminal justice system – that members of our armed forces do not enjoy the same constitutional protections they are sworn to

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defend. In actuality, the rights guaranteed to military members in the pretrial, trial and posttrial stages are probably *more* protective than the rights granted to individual citizens in both the civilian federal and state court systems.<sup>18</sup> For example, the right to counsel for the military member facing court-martial is not only grounded in the Sixth Amendment of the Constitution<sup>19</sup> but also in the UCMJ<sup>20</sup> and the MCM.<sup>21</sup> The right to counsel for members of the armed forces is one of the aspects that is broader than that afforded to most civilians, as all service members have a right to free military counsel regardless of ability to pay or possible sentence.<sup>22</sup> While the topic of military justice may not arise often for most criminal law practitioners, every Oklahoma attorney should be aware of some foundational concepts with the significant military presence that lies within Oklahoma.<sup>23</sup>

### THE NECESSITY OF A CRIMINAL CODE WITH WORLDWIDE JURISDICTION

“At least since the harsh days of Gustavus Adolphus, governments have striven to strike a perceived balance of fairness in substantive and procedural law as applied to members of the military force, a balance which primarily takes into account the vital mission of the force itself. Often this balance is described in a specialized criminal code.”

– Gen. William C. Westmoreland and Gen. George S. Prugh<sup>24</sup>

The Fifth Amendment, the UCMJ and the MCM protect a service member from being tried twice for the same offense in an Article III *federal* district court and by the Article I military court. As a practice note, the Air Force has extended, by regulation, this “jeopardy” protection to trial by state courts as well,<sup>25</sup> and the Army has adopted the policy that prosecutions will

not “ordinarily” be tried by court-martial or punished by the UCMJ for a same act already punished by civilian state courts.

The crimes subject to military justice include any crime contained in the UCMJ, as well as those incorporated through the penumbra of the Assimilated Crimes Act.<sup>26</sup> The need for a separate justice system arose out of the necessity for “good order and discipline” in the armed services and the need for a system of military law with worldwide jurisdiction.<sup>27</sup> Because a member of the armed forces may be stationed overseas, there is a need for worldwide jurisdiction. In addition, due to the unique nature of military life, the civilian courts are not equipped to address those military-specific crimes codified such as absence without leave (AWOL), dereliction of duty, conduct unbecoming of an officer, disobedience, adultery, malingering, mutiny, insubordination, contempt toward

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officials (*i.e.*, the president), subordinate compelling surrender, etc.

Those subject to the UCMJ include enlisted personnel, commissioned officers, inductees, cadets, retirees,<sup>28</sup> persons in military custody, prisoners of war (POWs), reservists in an active-duty status and even civilian personnel accompanying the armed forces in the “field” in time of war or when martial law is declared.

Members of the National Guard are subject to the UCMJ when they are in federal status;<sup>29</sup> otherwise, they are subject to their respective state military codes when they are on active duty in their state status.<sup>30</sup> They are also subject to the jurisdictions of the local state, federal,<sup>31</sup> municipal and, for many in states like Oklahoma and for certain individuals, tribal laws of a Native American tribe.<sup>32</sup>

Additionally, many military reservations are subject to either exclusive federal jurisdiction, as most Army installations would subject any civilians to U.S. district court prosecution,<sup>33</sup> or concurrent jurisdiction of an Air Force base with civilian prosecution in state or federal court. It should be noted that while active-duty service members’ criminal acts are normally handled through the UCMJ, they may appear in federal court on the “petty offense docket” for on-post/base traffic violations. For example, a magistrate judge from the Western District of Oklahoma hears these matters arising at Fort Sill, Vance Air Force Base in Enid and Tinker Air Force Base in Oklahoma City. As a practice matter for the criminal defense bar, while driving under the influence of alcohol (DUI) is a specifically delineated offense under the UCMJ, many military installations have decided to retrocede those cases involving military members back to the federal magistrate judge for a civilian court prosecution.

## THE PLAYERS IN THE MILITARY JUSTICE SYSTEM

“Discipline in an Army is like the law in a civil society. There can be no liberty in a commonwealth where the laws are not revered and most sacredly observed, nor can there be happiness or safety in an army for a single hour when discipline is not observed.”

– John Adams<sup>34</sup>

One notable distinction between the military and civilian systems is the charging decision or “prosecutorial discretion.” While a local prosecutor in the civilian criminal justice system holds that power, the initial charging decision for a court-martial resides with the accused’s commander as a “command-driven system.” While the commander is most often a nonlawyer, they have the benefit of advice from the unit’s assigned “JAG” as a legal advisor in the role of “trial counsel” (military prosecutor).

It should also be noted that, unlike a civilian prosecutor, a military commander and their command’s attorney also have far more tools in their prosecutorial “toolbox” on how to best address a matter that may otherwise be criminal or harmful to the “good order and discipline” with a military unit. Among these options, a commander has the discretion to choose no punishment, a letter of reprimand, nonjudicial punishment (which may include punishments that resemble what occurs in a court),<sup>35</sup> administrative separation<sup>36</sup> or some form of court-martial.

Of the various types of military tribunals, the general court-martial (GCM) is reserved for the most serious crimes.<sup>37</sup> A service member

may only be sent before a GCM by order of the general court-martial convening authority (GCMCA)<sup>38</sup> The “convening authority” is normally one of the highest-ranking military officers on a base who has authority over “felony-level” misconduct concerning members of their command.<sup>39</sup> A GCM is for the most severe offenses and punishments and a “dishonorable discharge.” For example, at Fort Sill or Tinker Air Force Base, the “commanding general” serves as the GCMCA. The special court-martial is often looked at as the “misdemeanor level” as it is limited to confinement of one year and a “bad conduct discharge.”

While both the uniformed lawyers (the trial counsel and the defense counsel) are members of the Judge Advocate General’s Corps,<sup>40</sup> the appointed military defense counsel is in a part of a “stovepipe” organization independent of a commander’s influence.<sup>41</sup> This protects the independence of military defense counsel from fear of suffering in career progression for advocating zealously for their clients.<sup>42</sup> Other noteworthy individual players include the staff judge advocate (SJA),<sup>43</sup> who is the top lead lawyer at any given military installation; a legal specialist (paralegal/court reporter); and/or those in military law enforcement, like the military police/security forces, the criminal investigation division (CID) and/or Naval Criminal Investigative Services.

The final major role is that of the military judge. Prior to the Military Justice Act of 1968,<sup>44</sup> the “judge” in a court-martial did not have to be a lawyer.<sup>45</sup> Under the current system, however, the military judge is a lawyer who is a criminal law specialist, as there is no system of

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civil courts in the military.<sup>46</sup> A military judge is usually a senior judge advocate with proven experience in military criminal justice.

### THE PRELIMINARY HEARING (ARTICLE 32 HEARING)

The Fifth Amendment right to a grand jury indictment, by its express terms, is not applicable to service members,<sup>47</sup> just as it does not require an indictment by a grand jury in state courts.<sup>48</sup> In place of the grand jury, the military provides that an individual may not be tried by a GCM unless there has been a thorough investigation.<sup>49</sup> The Article 32 preliminary hearing has been compared to a civilian grand jury investigation<sup>50</sup> and bears a resemblance to a federal preliminary hearing and Oklahoma's preliminary hearing in the district courts.<sup>51</sup> The Article 32 preliminary hearing accomplishes several things. Among them is the protection of the service member from baseless charges,<sup>52</sup> early defense discovery<sup>53</sup> and assisting the convening authority in determining whether to refer (send forward) charges to a GCM, recommend dismissal or utilize a lesser disposition (a letter of reprimand, etc.).

### COURTS-MARTIAL PRACTICE AND PROCEDURE

A GCM is very similar to a civilian criminal trial. The military counsel (the prosecution and the assigned defense counsel) appear in uniform, but the military judge wears the traditional robe.<sup>54</sup> As in civilian courts, a meeting is held with the judge and opposing counsel for a pre-trial conference<sup>55</sup> to coordinate the trial. These conferences are held by phone or in person but are not

used to resolve contested issues. Contested motions and formal arraignment are held on the record in the courtroom in "Article 39(a) sessions."<sup>56</sup> These sessions are held outside the presence of the "panel" (jury) members but are open to the public. At the arraignment portion of the Article 39(a) session, the accused must state on the record their plea, choice of counsel and the forum to decide their case (judge-alone, panel with all officers or a panel with a mixture of officers and enlisted).

In military courts-martial, accused service members do not have a Sixth Amendment right to a trial by jury.<sup>57</sup> As considered an "Article I court," Congress put forth the qualifications for service by military members on courts-martial panels in the 1920 Articles of War,<sup>58</sup> which Congress then incorporated into the UCMJ as Article 25 upon its enactment in 1950.<sup>59</sup> The military jury "panel" has been described as a "blue ribbon" jury with a guarantee of various viewpoints not necessarily found in civilian courts.<sup>60</sup> Whereas an Oklahoma civilian jury on a state case or a federal jury venire is selected by voter registration rolls or lists of actual voters,<sup>61</sup> the convening authority for a specific military installation is who initially selects military court panel members.<sup>62</sup> Selection to "jury service" as a panel member is based upon statutorily required age, education, training, experience, length of service and temperament.

An accused has the right to have their case decided by either a judge alone or a "panel."<sup>63</sup> The panel members are also members of the military (peers from the same community) appointed to this special duty by the convening

authority. The panels selected are normally mature and responsible officers with long military command experience. If the accused is enlisted, they are also entitled to either have a panel of all officers or a panel consisting of one-third of enlisted personnel.<sup>64</sup> An accused and their counsel will have the opportunity to *voir dire* the panel members for any prejudices and can challenge members for cause or use the one peremptory challenge to exclude any member for any reason. While *voir dire* may occur with the removal of a panel member pursuant to a peremptory strike or for "cause," that panel member will not be replaced, and the panel will be reduced in numbers. A quorum can be declared with as little as five members sitting for a general court-martial and three members for a special court-martial.

The trial on the merits portion of the case is much like a civilian case. After a selection of panel members (if not a judge-alone trial), both sides may give opening statements, present their case with witnesses and evidence, cross-examine witnesses, call rebuttal witnesses and give closing arguments. Also, like civilian courts, the rules of evidence do apply. Referred to as the Military Rules of Evidence or informally as "MREs," they mirror the Federal Rules of Evidence (FRE)<sup>65</sup> with minor variations.

With the exception of a sentence of death, a court-martial verdict of either guilt or innocence may be less than unanimous.<sup>66</sup> Therefore, military jury panels at a GCM may consist of only five members.<sup>67</sup> Sentences of death require a unanimous panel vote,<sup>68</sup> sentences of more than 10 years of confinement

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require a three-fourths vote among panel members, and all other sentences require a two-thirds vote.<sup>69</sup> In addition, unlike a civilian state or federal court jury, a “hung jury,” a panel that cannot reach a verdict, is not allowed. While court-martial panel members are usually made up of different ranks, the use of superior rank in the deliberation room as a means of pressure on another panel member is prohibited. Also, a quorum can be declared with as few as five members sitting for a GCM.

### GUILTY PLEAS AND SENTENCING

In the military, a guilty plea by an accused is far more involved than guilty plea practices in civilian courts. While the U.S. Supreme Court has held that a defendant may constitutionally plead to enter an “Alford plea,”<sup>70</sup> and most civilian courts also allow a plea of “*nolo contendere*” (no contest), a military accused can only enter a plea of either “not guilty” or “guilty.” Before a judge can find an accused guilty, they must go through a lengthy and in-depth “providence inquiry” that may last several hours as a part of allocution to ensure the accused is factually guilty and that there are no possible defenses.<sup>71</sup> As with the federal system, and most state systems other than Oklahoma, an accused military member, except in the matter of capital cases, will be sentenced by a military judge in all special and general courts-martial.<sup>72</sup>

At sentencing, the trial court holds an open and extended sentencing hearing rather than relying on a written presentence report. This extended hearing plays a part in the unique aspect

of the military justice system of how the pretrial agreement (the deal) between the government and the accused is handled. First, the “deal” itself is sealed and not revealed initially to the judge and places a “cap” on the sentence that can be imposed by the judge.<sup>73</sup> In other words, a sentencing hearing becomes a game of “beat the deal” by defense counsel. If the trial judge imposes a lesser sentence than what was agreed upon in the pretrial agreement, the accused gets the benefit of that lesser sentence. If the military judge imposes a more severe sentence than what is contained in the pretrial agreement, then the sentence is limited to what was agreed upon.

### APPEALS AND POST-CONVICTION REMEDIES

Another benefit enjoyed by the military accused is the multiple “bites at the apple” in appellate rights. If an accused is convicted, the Rules for Court-Martial once again provide free military counsel on appeal regardless of indigence.<sup>74</sup> Counsel on appeal is a different individual than the military counsel at trial, thus serving as a check on the effectiveness of the counsel at the trial level. Unlike civilian courts, the military appellate courts have



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the plenary authority to review *de novo* both the findings (legal and factual) and the sentence.<sup>75</sup>

The first opportunity at an appeal is through a request for clemency from the one who authorized the court-martial in the first place, the convening authority at that specific military installation. The convening authority can reduce the punishment or throw out the conviction *in toto*.<sup>76</sup> The service member has one appeal as a matter of right to each of the respective service's Court of Criminal Appeals. After that, the appeal may be taken to the U.S. Court of Appeals for the Armed Forces (CAAF), which is composed of civilian judges.<sup>77</sup> As the court of last resort, the service member may petition the U.S. Supreme Court, on application for writ of certiorari, to hear the case.<sup>78</sup>

## CONCLUSION

"It is the function of the courts to make sure ... that the men and women constituting our Armed Forces are treated as honored members of a society whose rights do not turn on the charity of their military commander ... A member of the Armed Forces is entitled to equal justice under law not as conceived by the generosity of a commander but as written in the Constitution."

– Justice William O. Douglas, 1968

Stepping into a military courtroom is an opportunity that civilian counsel should not shy away from. Oklahoma's military tradition, whether on the battlefield or in a military courtroom, is a proud one. A civilian attorney retained to assist a member of the armed forces at a court-martial is an opportunity to represent our true national treasure, our men and women in uniform serving our country.

## ABOUT THE AUTHOR



Robert Don Gifford II is an Oklahoma City attorney who began his legal career as an active-duty Army judge advocate (JAG Corps) and remained in the Army Reserve until he retired as a colonel in 2019 with 23 years of active and Reserve service. He is a graduate of the OU College of Law and the U.S. Army War College at Carlisle Barracks, Pennsylvania.

## ENDNOTES

1. While allegedly attributed to Julius Henry "Groucho" Marx, the more likely source of the statement is Georges Clemenceau, a late 19th to early 20th century French politician. See Thomas G. Becker, "Military Justice Is to Justice What Military Music Is to Music:" *Anatomy of an Apocryph or How to Get Kicked Out of a Cocktail Party (Assuming You're Invited in the First Place)*, 41 *The Reporter* 21 (2014). cf. L.H. Larue, "What is the Text in Constitutional Law: Does it Include Thoreau," 20 *Ga. L. Rev.* 1137, 1142, n.2 (1986).
2. F. Lee Bailey, *For the Defense*, p. 38, Atheneum (1976) ("The fact is, if I were innocent, I would far prefer to stand trial before a military tribunal governed by the Uniform Code of Military Justice than by any court, state or federal.").
3. Sherman, *Military Laws* (1880), reprinted in *Uniform Code of Military Justice: Hearings on H.R. 2498 Before a Subcomm. Of the House Comm. On Armed Services*, 81st Cong., 1st Sess. 1276 at 780 (1949).
4. Lawrence J. Morris, *Military Justice: A Guide to the Issues* at 2 (2010).
5. In *Solorio v. United States*, 483 U.S. 435 (1987), the Supreme Court held that jurisdiction of a court-martial depends solely on the accused's status as a member of the armed forces.
6. See *Preamble, Manual for Courts-Martial*, United States, (2023 ed.); see also, U.S. Dep't of Army, Army Reg. 600–20, *Army Command Policy* ¶14-12 (July 24, 2020) ("It is the commander's responsibility to maintain good order and discipline in the unit. Every commander has the inherent authority to take appropriate actions to accomplish this goal."); U.S. Air Force Instruction No. 1-1, *Air Force Culture*, (Aug. 18, 2023), ("Maintaining good order and discipline is paramount for mission accomplishment.").
7. Created by an executive order (EO) of the president of the United States, the MCM sets out the Rules for Courts-Martial, Military Rules of Evidence, Non-Judicial Punishment, the Punitive Articles of the Uniform Code of Military Justice (UCMJ) and commentary. The most recent edition is the MCM, 1984 (1998 edition).
8. Article I, Section 8, Clause 14 ("The Congress shall have Power ... [t]o make Rules for the Government and Regulation of the land and naval Forces"); Article II, Section 2 ("The President shall be Commander in Chief of the Army and Navy of the United States.").

9. R.C.M. 201-204.

10. See Knox, *A Statement of the Troops in the Service of the United States* (1789), in 16 *American State Papers*, Class V – 1 Mil. Aff. 6 (W. Lowrie and M. Clarke eds. 1832), as quoted in "Military Justice and Article III," 103 *Harv. L. Rev.* 1909 (1990).

11. The Marine Corps became part of the Navy by virtue of the Act of June 30, 1834. Thus, the Marine Corps was governed by the *Articles for the Government of the Navy* (also referred to as "Rocks and Shoals") until the enactment of the UCMJ. The Navy JAG Corps was established in 1967. The Coast Guard, established in 1790 as the "Revenue Cutter Service" within the Department of the Treasury, later under Department of Transportation, and currently the Department of Homeland Security and is the smallest of the Armed Forces, was governed by a system modeled after the Navy.

12. 10 U.S.C. §§801-946.

13. Each branch of service has its own appellate court. For example, an Army court-martial would first be appealed to the Army Court of Criminal Appeals (ACCA), which consists of three Army judges (senior active-duty judge advocates); an Air Force court-martial to the Air Force Court of Appeals; and for both the Navy and Marine Corps, to the Navy-Marine Corps Court of Appeals.

14. A subsequent appeal from one of the service's appeal courts may be made to the Court of Appeals for the Armed Forces (CAAF), which is made up of five *civilian* judges who serve 15-year terms with no more than three judges from any political party and selected by the president of the United States and the Supreme Court. Prior to October 1994, this court was known as the United States Court of Military Appeals (CMA or COMA).

15. See, e.g., Army Regulation (AR) 27-10, *Military Justice*, provides the policies and procedures for the Army; likewise, Dep't of Air Force, Reg. No. 111-1, *Military Justice, Military Justice Guide*; Dep't of Navy, *Manual of the Judge Advocate General (JAGMAN)*; Dep't of Transportation, Coast Guard, *Military Justice Manual*, COMDTINST M5810.1A; as well as each military installation may also have a "local regulation" with supplemental guidance.

16. The Army's Judge Advocate General's School and Learning Center in Charlottesville, Virginia, publishes *The Army Lawyer*, as well as *The Military Law Review*; the Naval Justice School publishes the *Naval Law Review* and the Air Force has the *Air Force Law Review*. *The Journal of Military and Veterans Law* is published by the Judge Advocates Association and is available online at [www.jaa.org](http://www.jaa.org).

17. Military court decisions are published in the *Military Justice Reporter* (cited as "MJ") and are available through online research services such as Lexis and Westlaw.

18. *Weiss v. United States*, 510 U.S. 163, 194 (1994) ("a system of military justice that is notably more sensitive to due process concerns than the one prevailing through most of our country's history") (concurrency, J. Ginsburg).

19. U.S. Const. amend. VI.

20. UCMJ, Article 27; 10 U.S.C. 827.

21. R.C.M. 503(c); R.C.M. 506; Mil. R. Evid. 305(d)(2).

22. The Army's "public defenders" fall under Trial Defense Service, the Air Force's defenders are referred to as "Area Defense Counsel," and

the Navy/Marine Corps has the “Legal Services Command.” See *United States v. Davis*, 20 M.J. 61 (C.M.A. 1985); *United States v. Nicholson*, 15 M.J. 436 (C.M.A. 1983).

23. Robert Don Gifford, “A Military Primer for the Oklahoma Attorney: Groucho was Wrong About Military Justice,” *OBJ*, Vol. 82, No. 31, p. 2711 (Nov. 19, 2011); see also Robert Don Gifford, “Stepping Onto the Battlefield: A Military Justice Primer for the Oklahoma Attorney,” *OBJ*, Vol. 71, No. 29, p. 2479 (Oct. 7, 2000).

24. *Harvard Journal of Law and Public Policy* 1 (1980).

25. Air Force Regulation 51-201.

26. 18 U.S.C. §13. Applicable state crimes not codified in the UCMJ may be incorporated through the Assimilated Crimes Act and Article 134 of the UCMJ.

27. The legal basis for the military justice system originates from the U.S. Constitution, Article I, Section 8, Clause 14: “The congress shall have the power ... [t]o make Rules for the Government and Regulation of the land and naval Forces.”

28. Army Regulation 27-10, Chapter 5, para 5-2 proscribes the policy not to try retirees unless extraordinary circumstances are present.

29. 10 U.S.C. §672.

30. 44 O.S. §3112, *et al.*

31. Due to reasons of double jeopardy and the military’s need for “good order and discipline,” the Department of Defense and the Department of Justice entered into a memorandum of understanding (MOU) in 1984 that discusses who would normally handle criminal prosecutions of active-duty service members, with the Department of Defense addressing the majority of offenses. See DOJ Criminal Resource Manual (CRM) 669, 938, 1629; DOJ Justice Manual (JM) 9-42.530; and DoD Instruction 5525.07 (March 5, 2020).

32. In 1950, Congress exercised its power to provide one statute to govern the armed forces. It is currently codified at 10 U.S.C. §§801-946. There are 145 articles in the UCMJ. The individual sections are commonly referred to by their enumerated article, *e.g.*, Article 134.

33. There is a 1984 memorandum of understanding between the Department of Justice (DOJ) and the Department of Defense (DoD), implemented at DoD Directive 5525.7, that spells out that the military courts will assume primary jurisdiction over a service member who commits a crime within the military confines.

34. Jonathan Lurie, *Military Justice in America: The U.S. Court of Appeals for the Armed Forces, 1775-1980* at p. 3 (rev. and abr. ed., University Press of Kansas 2001) (1992).

35. The drafters of the UCMJ recognized a commander’s necessity to punish minor offenses by promulgating a means to adjudicate offenses quickly without going to court-martial. Also known as “Captain’s Mast,” “NJP” and “Office Hours” in the other armed services, Article 15 of the UCMJ and its provisions are located in the MCM at Part V, 10 U.S.C. §815, as well as Chapter 3 of AR 27-10 for the Army.

36. Army administrative actions include, but are not limited to, formal and informal counseling (AR 600-20 and 635-200), para 1-18), corrective training (AR 600-20, para 4-6b), revocation of pass privileges (AR 600-8-10, chap 5, section XIV), letters of reprimand (AR 600-37, AR 25-400-2, para B-80), bar to reenlistment (AR 601-280), removal from the promotion list (AR 600-8-19,

para 3-28 and 4-18), administrative reduction of rank (AR 600-8-19, chap 6) and personnel separations-enlisted personnel (AR 635-200).

37. As well as the adverse administrative and nonjudicial punishments that service members are subject to, there are also summary courts-martial (no punitive discharge and limit on confinement), special court-martial (also known as a “straight special”) and bad conduct discharge (“BCD” aka “Big Chicken Dinner”) special court-martial (limited to a BCD and six months confinement). The GCM can award any authorized punishment, including death in capital cases. The GCM requires a military judge, at least five panel (JCY) members, trial and defense counsel. See UCMJ Art. 16 and 18, 10 U.S.C. §§816 and 818.

38. A “commander” is the commanding officer of certain military units. See 10 U.S.C. §822 (1988).

39. The military has many different forms of punishment – administrative, judicial and nonjudicial. The civilian practitioner should be aware of these lesser forms to effectively plea bargain if necessary to help prevent a conviction on the servicemember’s record.

40. The Coast Guard uses the term “law specialists,” but it is the equivalent of the JAG officers in the other services. The exception is that Coast Guard law specialists are all line officers and are not part of a separate “corps.”

41. The Air Force created an Area Defense Counsel program, the Army has a Trial Defense Service, and the Navy has a Legal Services Command. See *United States v. Davis*, 20 M.J. 61 (C.M.A. 1985); *United States v. Nicholson*, 15 M.J. 436 (C.M.A. 1983).

42. UCMJ, Article 37(b), 10 U.S.C. §837(b).

43. The SJA is usually a senior military attorney with extensive and broad experience and usually supervises a large staff of attorneys and serves as the legal advisor to the convening authority. Although similar to a district attorney or the U.S. attorney, final decisions to go forward to a GCM or to grant clemency are made by the convening authority. Though usually the senior attorney at any given military installation, the SJA does not supervise or have the authority to influence the military defense counsel stationed there. See UCMJ Art. 34 and 60(d), 10 U.S.C. §§834 and 860(d).

44. Military Justice Act of 1968, Pub. L. No. 90-632, 82 Stat. 1335 (1968).

45. See generally, Wayne L. Friesner, “Military Justice and the Military Justice Act of 1968: How Far Have We Come?” 23 Sw. L.J. 554, 568–69 (1969).

46. The military judge is usually a senior military attorney appointed by and working directly for the judge advocate general and thus independent of any local military chain of command. See UCMJ Art. 1 and 26, 10 U.S.C. §§801 and 826.

47. U.S. Const. Amend. V. “No person shall be held to answer for ... (a) crime, unless on a presentment or indictment of a Grand Jury except in cases rising in the land or naval forces, or in the Militia, when in actual service in time of War.”

48. *Hurtado v. California*, 110 U.S. 516 (1884).

49. An accused servicemember can waive their right to an Article 32 investigation for strategic purposes and/or as a tool in plea negotiations.

50. Okla. Const. Art. II, §18, 22 O.S.A. §351, *et al.*, Rule 6 of the Federal Rules of Criminal Procedure.

51. 22 O.S. §258.

52. *Talbot v. Toth*, 215 F.2d 22 (D.C. Cir. 1954); See Gaydos, “A Comprehensive Guide to the Military Pretrial Investigation,” 111 *Mil. L. Rev.* 49 (1986).

53. *United States v. Roberts*, 10 M.J. 308 (C.M.A. 1981); R.C.M. 405(a) discussion.

54. In the Army, Air Force and Coast Guard, the judges wear black judicial robes, although the Navy and Marine judges still appear in their military uniform.

55. R.C.M. 802 governs these meetings in chambers.

56. UCMJ, Art. 39(a).

57. *United States v. Anderson*, No. 22-0193 (C.A.A.F. June 29, 2023), citing *Ex parte Milligan*, 71 U.S. 2, 123 (1866); *Ex parte Quirin*, 317 U.S. 1, 40 (1942); and *Whelchel v. McDonald*, 340 U.S. 122, 127 (1950).

58. *The Articles of War of 1920*, art. 4 (June 4, 1920) reprinted in *Manual for Courts-Martial, United States* (1921 ed.), app. 1, at 494, available at [www.loc.gov/item/2011525334](http://www.loc.gov/item/2011525334).

59. *Report of the Military Justice Review Group*, Part I 252 (Dec. 22, 2015) [MJRG Report].

60. See also *United States v. Youngblood*, 47 M.J. 338, 346 (C.A.A.F. 1997)(Crawford, J., dissenting) (citations omitted).

61. *The Jury Selection and Service Act of 1968* (JSSA) codified at 28 U.S.C. §§1861-1878 (1994), is to implement the Sixth Amendment’s fair-cross-section requirement.

62. UCMJ 25(d)(2), 10 U.S.C. §825(d)(2).

63. “Panel” is a military term of art for a jury.

64. UCMJ Art. 25(c), 10 U.S.C. 825(c).

65. The federal rules are applied in all civilian federal trials and in at least 27 state courts.

66. While the U.S. Supreme Court has stated that juries of fewer than six members are unconstitutional, see *Ballew v. Georgia*, 435 U.S. 223, 245 (1978), and that six-person juries must return unanimous verdicts, see *Burch v. Louisiana*, 441 U.S. 130 (1979), it has not reconsidered its 1942 validation of military panels in *Ex Parte Quirin*, 317 U.S. 1 (1942).

67. 10 U.S.C. §829(b) (1988).

68. UCMJ, Art. 52, 10 U.S.C. §852.

69. 10 U.S.C. §852.

70. *North Carolina v. Alford*, 400 U.S. 25 (1970).

71. R.C.M. 910(c).

72. National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81 [FY22 NDAA], §539E, 135 Stat. 1541 (2021).

73. R.C.M. 705(b).

74. R.C.M. 1202, 1204(b)(1) and 1110(b).

75. UCMJ Article 66(c), 10 U.S.C. §866(c).

76. UCMJ Art. 61, 66-67a, 10 U.S.C. §§861, 866-867a.

77. This three-member judiciary is nominated by the president and confirmed by the Senate, however, not tenured because the CAAF is an Article I court in contrast with the civilian Article III courts.

78. This right was initiated with the *Military Justice Act of 1983* and codified at UCMJ art. 67(h); see also R.C.M. 1205.

# When Johnny Comes Marching Home: Employment Protection for the Citizen-Soldier

By Robert Don Gifford II

**“When we assumed the Soldier we did not lay aside the Citizen.”**

**– Gen. George Washington<sup>1</sup>**

The citizen-soldier, those civilians who also serve part time in the Reserve and National Guard, is a foundational part of our nation going back to 1636 when the first militia was formed at the Massachusetts Bay Colony.<sup>2</sup> After Sept. 11, 2001, the United States workforce went through an adjustment as thousands of employees who were members of the military Reserve and National Guard components were called to active duty. What many may not realize is that 40% of the United States fighting force is comprised of the Reserve and/or National Guard.

For the past 70 years, there has been some form of federal protection for those who have, as Abraham Lincoln stated, “laid aside his civilian pursuits to serve his country in its hour of need.” To further mitigate any hardship, Congress enacted the Uniformed Services Employment and Reemployment Rights Act

(USERRA).<sup>3</sup> It is the guarantee from Congress that members of the uniformed services will not suffer negative employment repercussions based on their military service,<sup>4</sup> and it protects members of the Reserve and National Guard from unlawful employment discrimination.<sup>5</sup> USERRA enables citizens to serve by guaranteeing reemployment upon returning from active duty back to civilian life,<sup>6</sup> and it not only covers reemployment rights but also health insurance, pension and any usual fringe benefits following military service.<sup>7</sup>

## HISTORY

Workers having trouble with employers is not a new concept and has arisen whenever the country has beckoned its part-time military members.<sup>8</sup> The first legislation by Congress was the Selective Training and Service Act of 1940<sup>9</sup> and later the Military Selective Service Act of 1967,<sup>10</sup> the Vietnam

Era Veterans’ Readjustment Assistance Act of 1974<sup>11</sup> and the Veterans’ Reemployment Rights Act (VRRRA).<sup>12</sup> These USERRA predecessors had become cumbersome given the greater responsibilities of reservists in “every phase of military preparedness.”<sup>13</sup>

President George H.W. Bush ordered the first large-scale call-up of reservists, with 228,000 reservists ordered to active duty and an additional 132,000 authorized during the first Gulf War.<sup>14</sup> This substantial mobilization of reservists brought the concern of job protection to the forefront. With concerns regarding those Gulf War veterans returning home and reentering the civilian workforce, Congress proposed USERRA,<sup>15</sup> and it was signed into law by President Bill Clinton on Oct. 13, 1994.<sup>16</sup>

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## DISCRIMINATION BASED ON MILITARY SERVICE

USERRA prohibits discrimination based on an individual's military service. Specifically, an employer cannot take any action based on a person's current obligations as a member of the uniformed services, prior service in the uniformed services or intent to join the uniformed services. Title 38, United States Code, Chapter 43, §4311 states, "[A] person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation." In addition, when Congress proposed USERRA, it made it clear that any prior case law interpreting the predecessors to USERRA would be applied to current law<sup>17</sup> and noted that previous courts had called for a liberal construction of the statute.<sup>18</sup>



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## THE LEGAL CONCEPT AND STRUCTURE

“[F]or the benefit of he who has laid aside his civilian pursuits to serve his country in its hour of need.”<sup>19</sup>

The U.S. Department of Labor’s Veterans and Training Service (VETS) enforces cases arising under USERRA. A wronged employee may be entitled to not only reinstatement to their job but also to receive back pay, attorney’s fees and even double damages for a willful violation. Furthermore, the employee servicemember may also seek a private civil action.

A burden-shifting framework is used by the courts to determine whether an employer has violated the statute by discriminating against the “dual-hatted” employee. Under this structure, an employee first bears the burden of proving by a preponderance of the evidence that their military duties were the “substantial or motivating factor” in the employer’s actions.<sup>20</sup> In other words, military duty needs to be only one of the reasons for an employment action that is adverse to the employee. The burden then shifts to the employer to prove and rebut, also by a preponderance of the evidence, the adverse action (or inaction) would have been taken in the absence of military service.<sup>21</sup> If the employer meets this burden, the servicemember claimant can only prevail if they establish that the action, or inaction, would not have happened but for the military obligation.<sup>22</sup>

## RETALIATION AGAINST NONMILITARY EMPLOYEES FOR ASSISTING

The act also prohibits civilian employers from retaliating against an employee solely because they

are trying to enforce those protected rights under USERRA. USERRA also protects those nonmilitary employees from retaliation for assistance in an investigation under the statute. The same burden-shifting framework used to prove discrimination applies to retaliation cases.

## ADVANCE NOTICE

The act also specifies certain obligations of the military member as well to invoke its protections. It further mandates that if reasonably possible, an employee called to military service must give advance notice to the civilian employer of activation.<sup>23</sup> The employee (or an appropriate officer from the employee’s military branch) must give advance written or verbal notice to the employer of the employee’s intended absence due to military service.<sup>24</sup> In giving this advance notice, the employee does not have to indicate the expected length of service or whether the servicemember intends to return to their position after service. The employee must inform that civilian employer that they are leaving for military service to have reemployment rights upon completion of that service. Advance notice is not required if giving notice was precluded by military necessity or if giving notice was otherwise unreasonable or impossible.<sup>25</sup>

## LENGTH OF SERVICE

The employee’s cumulative length of military service generally cannot exceed five years per employer, and the clock is reset with a new civilian employer. Naturally, there are exceptions to the rule – usually those matters that are beyond the control of the employee. The five-year limitation

period also does not include the period of military absence before or after military duty to allow for training, counseling or transition of equipment and supplies.

## TIMELY APPLICATION FOR REEMPLOYMENT

Upon returning to civilian life, the employee must report or submit a written or oral application for reemployment in a reasonably timely manner. An employee’s application for reemployment is deemed timely, depending upon the length of service.

If an employee has served up to 30 days of military duty, the member must report to their employer by the beginning of the first regularly scheduled work period that begins on the next calendar day after allowance for reasonable and safe travel home. If the military duty lasted 31 days to six months, the employee must submit a reemployment application (verbal or written) within 14 calendar days upon completion of military service. If the military service exceeds six months (181 days or more), the application for reemployment must be submitted no later than 90 calendar days after completion of military service. In any event, if the resubmission of a “timely” application is impossible for one reason or another, the application must be submitted as soon as it becomes reasonably possible.

Once these requirements are met, the employee must be promptly reinstated to their employment. While “prompt reemployment” is not defined by statute, USERRA regulations indicate that employment within two weeks of the reapplication is expected. In addition, an

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employee's rights are not necessarily and automatically forfeited if the employee does not timely return to work or properly apply for reemployment within the time constraints. In those circumstances, reemployment is not by USERRA, and an employer's rules governing unexcused absences will apply to the employee.

Furthermore, an employee who is reemployed has certain protections from subsequent firing. The employee who served 31 days to six months cannot be discharged within six months of reemployment without cause. The servicemember who was mobilized for more than six months may also not be fired for up to one year of reemployment except "for cause." This protection concept allows the returning military employee to readjust to civilian employment after a long military mobilization. Cause for removal may be based on two things: an employee's misconduct or the application of the so-called "escalator principle."

Regardless of the situation, the burden of proving a lawful firing during this grace period falls upon the civilian employer.

### REEMPLOYMENT POSITION

As a general principle, the "escalator principle" provides that the citizen-soldier employee must be allowed to be reemployed back to a position where they would have been employed for not the break due to military duty or given the opportunity to be in another position of similar seniority, status and pay. This principle, as by the U.S. Supreme Court in *Fishgold v. Sullivan Drydock and Repair*, states that the military employee "does not step back on the seniority escalator at the point [the employee] stepped off" but "steps back on at the precise point [the servicemember] would have occupied had [the military member] kept his [civilian] position continuously during [military duty]."<sup>26</sup>

It is worth noting that while the employment escalator may go up,

it also may go down. Therefore, the returning servicemember is also subject to any pay or benefit decreases they would have suffered if they had not been on military leave. Also, an employer is not required to reemploy a servicemember in a position they are not qualified to perform. The employer, however, must make "reasonable efforts" to enable the returning servicemember to qualify for the position. Reasonable efforts have included providing training that does not cause an undue hardship on the employer.

This principle also applies to missed promotional opportunities. An employee coming home from military duty must be elevated with a promotion if there is "reasonable certainty" that it would have occurred but for the obligated absence. A servicemember is not automatically entitled to receive a promotion based on some measure of performance, but the member must be allowed a fair opportunity to compete for a promotion missed because of military service. Any missed promotion must be retroactive to the date it would have occurred had the member's employment not been interrupted by service.

### EXCEPTIONS TO THE RULE

There are three statutory exceptions to USERRA's reemployment requirement that are considered affirmative defenses, with the employer bearing the burden of proof. If the employer's circumstances have so changed as to make reemployment impossible or unreasonable (*i.e.*, reduction in force), USERRA does not apply. Also, if reemployment would impose an undue hardship on the employer, the employer is exempt.



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Congress has provided a tool so that the citizen-soldier does not have to choose between serving in uniform and keeping their job when ‘Johnny comes marching home.’<sup>34</sup>

The “hardship” is limited in scope, and employers must be cautious and sure when claiming this exemption. Finally, an employer is not required to bring back the employee whose employment was limited in nature for a brief, nonrecurring period with no reasonable expectation of continued employment. To clarify, this does not necessarily mean that a part-time or seasonal employee who is also a member of the National Guard or Reserve is without USERRA protections.

### COMPENSATION

Employers are not required to continue their employees on military leave. However, an employee does have the right to use any accrued vacation (paid) leave instead of unpaid military leave.<sup>27</sup> The employer, however, cannot require that the employee use their accrued vacation leave. In addition, an employer is prohibited from reducing the pay of a salaried employee for less than a week’s military leave in accordance with the Fair Labor Standards Act.<sup>28</sup>

### BENEFITS

In addition, the National Guard or Reserve military member employee who is covered under a health plan may continue that same health care coverage for themselves and family members for up to 24 months after they are called into military service.<sup>29</sup> The military member and their family will also have coverage from the military medical facilities through TRICARE.

Retirement plans are also covered under USERRA. Those plans cannot treat returning servicemember employees as having a break in time by sole reason of military service and are not required to reapply to qualify for participation.<sup>30</sup> The act requires employers to treat servicemember employees called to military duty as if they were merely on leave and, accordingly, must also provide all other benefits enjoyed by similarly situated employees on leave.<sup>31</sup> Once the employee is reemployed to the civilian job after activation, employers must also provide for a make-up contribution for plan service periods during which the servicemember employee was on active military service.<sup>32</sup>

### CONCLUSION

USERRA is meant for “the benefit of he who has laid aside his civilian pursuits to serve his country in its hour of need.”<sup>33</sup> Without the citizen-soldier to answer the call of duty, it would be impossible for the United States to maintain a substantive military force. Congress has provided a tool so that the citizen-soldier does not have to choose between serving in uniform and keeping their job when “Johnny comes marching home.”<sup>34</sup> In the defense of this nation, everyone should make sacrifices. While nonmilitary employers may have their own challenges with losing an employee to a deployment, Congress and the courts have prioritized job security for our citizen-soldiers while trying to do so and being as fair as possible to an employer. As it was when Frederick Douglas told President Abraham Lincoln during the Civil War regarding allowing former slaves to fight, the United States without the Reserve and the National Guard components would be “fighting with [its] right hand behind [its] back.”

For more information and additional resources, visit the Department of Labor website, [www.dol.gov](http://www.dol.gov).

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### ABOUT THE AUTHOR



Robert Don Gifford II is an Oklahoma City attorney who began his legal career as an active-duty Army judge advocate (JAG Corps) and remained in the Army Reserve until he retired as a colonel in 2019 with 23 years of active and Reserve service. He is a graduate of the OU College of Law and the U.S. Army War College at Carlisle Barracks, Pennsylvania.

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## ENDNOTES

1. Jared Sparks, ed., *The Writings of George Washington* 13 (1834) (from Answer to an Address of the New York Provincial Congress, June 26, 1775).

2. *Id.* (Males between the ages of 16 and 60 were obligated to possess arms, “drill” every week, perform guard duty and defend the colonists against attacks from the Pequot tribe.).

3. 38 U.S.C. §§4301-4333 (2006 & Supp. 2008).

4. See *id.* §4301(a)(1).

5. See 38 U.S.C. §4301(a)(1)-(3) (individuals who serve in the armed services “shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of” their membership in the uniformed services.).

6. See *id.* §4311(a).

7. “Uniformed services” is not limited only to those serving in the Army, Air Force, Marines and Navy but also the Army and Air National Guard, Coast Guard and Public Health Service commissioned corps, as well as any other category designated by the president in time of war or emergency.

8. Lucy G. Barber, *Marching on Washington: The Forging of an American Political Tradition*, (California Press, 1971), p. 75 (2002) (Toward the end of World War I, the “Bonus Marchers,” who were unemployed after serving in the war effort,

protested in an attempt to receive an early payment of a promised “bonus” to the veterans for their service – but not yet due for over a decade.).

9. See H.R. Rep. No. 103-65, at 18-19 (1993), as reprinted in 1994 U.S.C.C.A.N. 2449, 2451-52.

10. Pub. L. No. 90-40, 81 Stat. 100 (1967) (codified as amended at 50 U.S.C. app. §§451-471 (2006)).

11. Pub. L. No. 93-508, 88 Stat. 1578 (1974) (codified as amended in scattered sections of 38 U.S.C.); *Nichols*, 11 F.3d at 162.

12. Pub. L. No. 93-508, 88 Stat. 1594 (1974).

13. H.R. Rep. No. 103-65, at 18-19.

14. Stephen M. Duncan, *ROA National Security Report: Gulf War Was a Test of Reserve Components and They Passed*, Officer, June 1991, available at <https://apps.dtic.mil/sti/tr/pdf/ADA352895.pdf>.

15. See Pub. L. No. 103-353, §2(a), 108 Stat. 3150 (1994) (codified as amended at 38 U.S.C. §§4301-4333 (2006 and Supp. 2008)).

16. Alexei Oreskovic, “On the Home Front: Call up of Reservists Raises Questions for Employment Bar,” *Recorder*, Oct. 18, 2001, at 4.

17. See H.R. Rep. No. 103-65, at 19 (“[T]he Committee wishes to stress that the extensive body of case law that has evolved over that period, to the extent that it is consistent with the provisions of this Act, remains in full force and effect in interpreting these provisions. This is

particularly true of the basic principle established by the Supreme Court that the Act is to be ‘liberally construed.’” *Fishgold v. Sullivan Drydock & Repair Corp.*, 328 U.S. 275, 285 (1946); *Ala. Power Co. v. Davis*, 431 U.S. 581, 584 (1977).

18. *Id.*

19. *Fishgold v. Sullivan Drydock & Repair Corp.*, 328 U.S. 275, 285 (1946).

20. 38 U.S.C. §4311(c)(1).

21. *Sheehan v. Dept. of the Navy*, 240 F.3d 1009, 1013-1014 (Fed. Cir. 2001).

22. *Id.*

23. 20 CFR §102.85.

24. *Id.*

25. 38 U.S.C. §4312.

26. 328 U.S. 275, 284-85 (1946).

27. 38 U.S.C. §4316(d).

28. WH Admin. Op. (Feb. 26, 1965).

29. 38 U.S.C. §4317(a)(1)(A).

30. 38 U.S.C. §§4312, 4316(a), 4318; 20 C.F.R. §1002.191.

31. *Id.*

32. 20 C.F.R. §1002.262(c).

33. *Fishgold v. Sullivan Drydock & Repair Corp.*, 328 U.S. 275, 285 (1946).

34. “When Johnny Comes Marching Home Again” was a popular Civil War-era song.



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# A Home for the Brave in the Land of the Free

A Discussion About Unique Housing  
Challenges and Resolutions for  
Service Members and Veterans

By *Teressa L. Webster*

**A** BRAHAM MASLOW INTRODUCED THE WORLD to his “hierarchy of needs.” It is a pyramid that illustrates basic human needs, with the most important needs forming the base of the pyramid. Dr. Maslow identified shelter as a physiological need. Physiological needs are essential to human survival. When basic survival needs are unmet, most other human needs are unfulfilled.

As of September 2023, the population of the United States consisted of 2.86 million service members.<sup>1</sup> In 2020, roughly 18 million veterans lived in the U.S.<sup>2</sup> As of 2022, 244,334 veterans lived in Oklahoma.<sup>3</sup> As of December 2023, 18,737 active-duty service members and 20,300 National Guard and Reserve members call Oklahoma home. Excluded from those numbers are thousands of spouses and children who share in the sacrifices of the service members.

Undeniably, heroes live among us in large numbers and in plain sight. They beat insurmountable odds, and many bear visible and invisible scars from those victories. Yet, many battle housing challenges, including homelessness

or the threat of homelessness. This is such an unequal return for their great sacrifices. “No person who has served this country should ever experience homelessness,” said U.S. Department of Veterans Affairs Secretary Denis McDonough.<sup>4</sup> Although they “should never have that experience,” unfortunately, many do.

## THE SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

*50 U.S.C.A. §3901, et seq.*

In 2003, President George W. Bush signed into law the Servicemembers Civil Relief Act (SCRA). The SCRA is an extension of the Sailors’ and Soldiers’ Civil Relief Act, which Congress enacted in 1940. The stated purpose of the SCRA is:

1) to provide for, strengthen, and expedite the national defense through protection extended by this chapter to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and 2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

*50 U.S.C.A. §3902 (1)-(2)*

The SCRA protects service members<sup>5</sup> and their dependents. Service members are individuals who are currently enlisted for

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service, reservists and veterans who are called to active duty and citizens who are serving with allied forces. The SCRA provides protections for mortgages and leases (as well as other contracts). The protections extend to obligations incurred before the service member entered active-duty military service and for a brief period after the active-duty service ends.

For mortgages, the SCRA requires courts to stay foreclosure proceedings in the interest of justice when a service member applies to the court and informs the court that the “servicemember’s ability to comply with the obligation is materially affected by military service.”<sup>6</sup> The SCRA also authorizes the court to adjust the mortgage obligation “to preserve the interests of all parties.”<sup>7</sup> Additionally, during military service, for mortgage obligations, the service member may request that a creditor limit the interest rate on the loan to 6% for all periods of military service and for one year



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after military service ends. When this occurs, the creditor must forgive any annual interest that exceeds 6% for all covered periods.<sup>8</sup> The creditor may not accelerate the loan for the forgiven interest.

For leases, the SCRA permits service members to terminate leases into which they entered before entering military service or after military service if there is a permanent change of station (PCS) order in effect. The SCRA also prohibits landlords from evicting service members and their dependents from their primary residences if the monthly rent does not exceed the housing price inflation adjustment, as established by the U.S. Department of Defense.<sup>9</sup> The SCRA also authorizes the court to adjust rental rates during covered periods to preserve the interests of all parties involved.

The U.S. attorney general and private individuals may enforce the rights guaranteed by the SCRA. Additionally, violators of the SCRA could be subject to misdemeanor consequences, including imprisonment and/or fines.

## THE CHALLENGES

In her article, “The Financial Impact of Military Service,” Susan Keating wrote:

For veterans, there is a significant connection between financial problems and post-deployment adjustment issues including homelessness, incarceration, drug or alcohol abuse, physical aggression, and suicidal ideation. Money mismanagement (e.g. writing bad checks) is strongly associated with homelessness. Lack of resources to cover basic needs, as well as diagnoses of PTSD, MDD, or TBI can exacerbate these challenges.<sup>10</sup>

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For many service members and veterans, housing problems are not always the result of money management problems.

For many service members and veterans, housing problems are not always the result of money management problems. Consider the operation of the SCRA with respect to the cancellation of a residential lease. Under the SCRA, a service member may terminate a residential lease when that service member receives a PCS order or a deployment order for at least 90 days. However, the written notice is effective 30 days after the first date after the next rent due date. Depending on when the service member receives the order, they could be trapped in a residential lease with a rent obligation for 30 days longer than they can afford. Further complicating the situation are landlords who require waivers of SCRA rights. If enforceable, the waiver could trap a service member in a residential lease for months beyond their change order or deployment. This could impact the ability to obtain housing in their new location.<sup>11</sup> There are also landlords who refuse to honor SCRA lease terminations.

Similarly, many veterans face unique challenges with their housing resulting from service-related disabilities. Housing choices may be limited based on their disability-related needs. They are often victims

of pretextual denials and evictions simply because landlords are unwilling to grant necessary accommodations – such as adjusting rent due dates to correspond with the receipt of disability benefits or adjusting pet policies to permit service and assistance animals.

Foreclosures equally present challenges for veterans. In her article, “Foreclosures Rates for All 50 States in March 2024,” Nora Epstein identified Nowata, Caddo, Garfield, Custer and Murray as the counties with the highest eviction rates in Oklahoma as of March 2024.<sup>12</sup> A combined total of 7,875 veterans are projected to live in these five counties.<sup>13</sup> In the article “Thousands of veterans face foreclosure and it’s not their fault,” Chris Arnold and Robert Benincasa reported about the Queens, an Oklahoma veteran family who was threatened with foreclosure after accepting a COVID forbearance for their VA-backed loan.<sup>14</sup> The report cited Kristi Kelly, a Virginia consumer lawyer, who stated, “The Department of Veterans Affairs has really let people down. The homeowners entered into COVID forbearances, they were made certain promises, and there were certain representations that

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were made, [a]nd the VA essentially pulled the rug out from under everybody.”<sup>15</sup> This is not just a national problem. It is an Oklahoma problem.

## THE RESOLUTIONS

### *Education Is Key*

Sometimes, landlords do not follow the law because they do not know it. Each year, Legal Aid Services of Oklahoma Inc. partners with one of the military bases in Oklahoma to provide training to private landlords about their duties arising under the SCRA, the Oklahoma Residential Landlord and Tenant Act (ORLTA)<sup>16</sup> and the Fair Housing Act (FHA),<sup>17</sup> 42 U.S.C.A. §3601, *et seq.* Some of the topics discussed include lease terminations under the SCRA, returning security deposits for service-related lease terminations and granting reasonable accommodations for disabled veterans. Knowledge is power, and these trainings equip landlords with the information they need to avoid costly penalties for violating these laws. Many Oklahoma housing advocacy organizations offer comparable free training.

Mortgage professionals should equally be aware of their duties arising under the SCRA. The SCRA applies to preservice mortgage obligations. Mortgage professionals should be trained to recognize to whom the SCRA applies, how to recognize a request made pursuant to the SCRA and the procedures of their organizations for processing SCRA requests. For example, when an active-duty service member requests an in-service interest rate reduction, a mortgage professional should recognize that the request is an SCRA request and know what steps to instruct the borrower to take to accomplish the goal.

### *Efforts by the Department of Veterans Affairs*

In response to the veteran foreclosure crisis, the VA extended its moratorium on foreclosures through Dec. 31, 2024, to implement the Veterans Affairs Servicing Purchase (VASP) program. The VA estimates the VASP program will assist 40,000 veterans with avoiding homelessness. According to the VA:

Through VASP, VA will purchase defaulted VA loans from mortgage servicers, modify the loans, and then place them in the VA-owned portfolio as direct loans. This will empower VA to work directly with eligible Veterans to adjust their loans – and their monthly payments – so they can keep their homes. With VASP, these borrowers will have a fixed 2.5% interest rate, which will provide a consistent, affordable payment for the remainder of their loan.<sup>18</sup>

Legal practitioners who advocate for veterans facing foreclosure can assist their clients with accessing the VASP program.

The VA is also taking steps to assist homeless veterans with obtaining housing. The VA's National Call Center for Homeless Veterans assists homeless and at-risk for homelessness veterans and provides solutions and agency connections to prevent veteran homelessness.<sup>19</sup> The VA, working with the U.S. Department of Housing and Urban Development (HUD), administers the HUD-Veterans Affairs Supportive Housing (HUD-VASH) program – a voucher program exclusively for veterans who are low income and at risk for homelessness. The

HUD provides vouchers, while the VA provides supportive services and case management. The VA has a threefold mission statement for ending veteran homelessness:

- Conducting coordinated outreach to proactively seek out Veterans in need of assistance.
- Connecting homeless and at-risk Veterans with housing solutions, health care, community employment services and other required supports.
- Collaborating with federal, state and local agencies; employers; housing providers, faith-based and community nonprofits; and others to expand employment and affordable housing options for Veterans exiting homelessness.<sup>20</sup>

These are the beginning of efforts.

### *Enforcement*

The Department of Justice (DOJ) has embarked upon enforcing the SCRA against noncompliant housing providers. The DOJ is committed to ensuring that service members may exercise their rights guaranteed by the SCRA without undue burdens.

In January 2024, the DOJ initiated *United States v. McGowan Realty, LLC, d/b/a RedSail Property Management* (E.D. Va.).<sup>21</sup> In that case, the U.S. alleged that the landlord violated the SCRA by refusing to honor the service member's residential lease termination notice, charging him early lease termination fees and additional rent. The consent order, which must be approved by the court, requires the landlord to pay the

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service member \$10,225.65, a civil penalty of \$3,000 and to provide SCRA training to all of its employees.

In October 2023, the DOJ initiated *United States v. JAG Management Company LLC* (D.N.J.) to enforce the SCRA for nine service members whose landlord required them to repay rent concessions they received at the initiation of their rentals.<sup>22</sup> The consent order requires the landlord to pay \$41,581.95 to the service members and a \$20,000 civil penalty, to adopt new SCRA policies and to obtain SCRA training.

In 2019, the DOJ initiated *United States v. PRG Real Estate Management* (E.D. Va.), asserting that the landlord violated the SCRA by obtaining default judgments against 127 service members without filing affidavits of military service and charging early termination fees for SCRA-related lease terminations to 10 service members.<sup>23</sup> The resulting settlement required the landlord to pay \$1,490,000 to 127 service members as compensation for

the unlawfully obtained default judgments and \$34,920 to 10 service members who were charged early termination fees. The settlement agreement also required credit repair for the aggrieved service members, policy changes for the landlord and monitoring by the DOJ to ensure the landlord complied with the requirements of the SCRA.

In 2021, the DOJ and the Consumer Financial Protection Bureau made a joint statement. Assistant Attorney General Kristen Clarke of the DOJ Civil Rights Division stated: “The Department of Justice takes seriously its responsibility to safeguard the rights of servicemembers and veterans. While servicemembers carry the great burdens of this nation, they should not have to worry that their sacrifices will result in economic harm to their families. Mortgage servicers and landlords must ensure that they are in full compliance with federal laws intended to protect servicemembers and their families during military service.”<sup>24</sup>

The joint statement reminds mortgage professionals of their duties to comply with the requirements of the SCRA.

The HUD enforces the FHA, which protects disabled veterans (among others) from housing discriminatory practices related to their disabilities. The HUD administratively investigates complaints of housing discrimination and may work with the DOJ to judicially enforce the rights of disabled veterans to fair rental and lending opportunities.

### **PRACTICE TIPS FOR ASSISTING VETERANS WITH HOUSING DEFENSES**

#### *Always Do an SCRA Analysis*

If the case involves a financial claim, find out if the veteran qualifies for protection under the SCRA for their own active-duty military service or as a dependent of a service member. Military service is often multigenerational. “Veterans are more than twice as likely as members of the general public to say they have a son or daughter



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who has served (21% vs. 9%).”<sup>25</sup> Also, do an SCRA analysis to determine if the veteran has tried to exercise rights under the SCRA without success. This analysis may result in a voluntary change in the housing provider’s position or judicial enforcement.

### *Analyze Rental Cases Under the ORLTA*

The ORLTA has specific notice requirements that are conditions precedent to the termination of a lease. Regardless of whether the SCRA applies, the ORLTA applies to every lease in Oklahoma. The ORLTA requires all parties to act in good faith and mitigate their damages. Counterclaims that arise under the ORLTA are among the very few claims that may be raised in a forcible entry and detainer action.

### *Analyze All Housing Cases for Discrimination*

The fair housing laws regulate most housing transactions. Disability housing discrimination has been unlawful since 1988 under federal law. Therefore, it is important for housing advocates to have a good grasp of these laws. Advocates should analyze cases to determine when to request reasonable accommodations, when to file an administrative complaint and when to file judicial actions.<sup>26</sup>

### *Be Aware of Other Resources*

Know who your community allies are. If the veteran does not have a defense against nonpayment of rent, where in the community can you turn to assist the veteran with obtaining funds? The Department of Veterans Affairs may be a great resource for making good community connections to resolve rental and mortgage challenges.

## CONCLUSION

Those who fight abroad for our freedoms should not fight at home for their homes. As legal professionals, we should work together to ensure that our bravest heroes have access to homes where they can peacefully access the freedom they sacrifice for all of us to enjoy.

## ABOUT THE AUTHOR



Teresa L. Webster is the director of litigation for Legal Aid Services of Oklahoma Inc. (LASO). She received her J.D.

from the Regent University School of Law in 2010 and her LL.M. from the Temple University Beasley School of Law in 2018. As a LASO attorney, Ms. Webster has devoted more than a decade to civil rights enforcement and housing defense. She also educates the public about housing rights and responsibilities.

23. *United States v. PRG Real Estate Management*, 2:19-cv-00125 (E.D. Va.).  
24. <https://bit.ly/3BVlvhw>.  
25. <https://bit.ly/3W2FYrm>.  
26. The federal Fair Housing Act, 42 U.S.C.A. §3601, *et seq.*, prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, familial status and handicap (disability). Oklahoma’s Discrimination in Housing Act, 25 Okla. Stat. §1451, *et seq.*, protects individuals on all bases provided for in the federal law but additionally protects individuals on the basis of age, beginning at age 18. Both laws provide a private right of enforcement for aggrieved persons and also prohibit acts of retaliation for exercising protected rights.

## ENDNOTES

1. <https://bit.ly/3Pmc1yQ>.
2. <https://bit.ly/3BOBhuB>.
3. <https://bit.ly/3W3Jn9q>.
4. <https://bit.ly/4gXO90i>.
5. The SCRA defines service member as “a member of the uniformed services, as that term is defined in section 101(a)(5) of Title 10 ... (Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard).” 50 U.S.C.A. §3911.
6. 50 U.S.C.A. §3953 (b) (1)-(2).
7. *Id.*
8. 50 U.S.C.A. §3937 (a) (1)-(2).
9. This information is available at <https://bit.ly/3PIUSFx>. For 2024, the monthly rental rate is \$9,812.12.
10. <https://bit.ly/40j76VG>.
11. <https://bit.ly/3VZey5V>.
12. <https://bit.ly/3BUxyeU>.
13. <https://bit.ly/3W5bfKx>.
14. <https://bit.ly/4fP5EPf>.
15. *Id.*
16. 41 Okla. Stat. §101, *et seq.*
17. 42 U.S.C.A. §3601, *et seq.*
18. <https://bit.ly/3BRJ3Uw>.
19. 877-4AID-VET (877-424-3838).
20. [www.va.gov/homeless](http://www.va.gov/homeless).
21. *United States v. McGowan Realty, LLC, d/b/a RedSail Property Management*, Case 2:24-cv-00016 (E.D. Va.).
22. *United States v. JAG Management Company LLC*, Case 1:23-cv-20809 (D.N.J.).

# Peace of Mind With Involuntary Commitment for Veterans

*By Matthew R. Price*



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**L**IFE TAKES A VETERAN THROUGH MANY EXPERIENCES both during and after their service. Those experiences can take a toll on the mental health of a veteran. Sometimes, they come in contact with concerned family members, police or social services. These contacts may involve the veteran going to a Veterans Affairs hospital. When it does, the legal system is there to help. The Oklahoma City VA Medical Center treats roughly 75,000 veterans per year, with two-thirds of their patients having a mental health diagnosis.<sup>1</sup> Oklahoma veteran suicide rates were significantly higher than the national general population suicide rates and higher than the national average veteran suicide rates.<sup>2</sup>

Sometimes, the issues the veteran is dealing with are at a level of harm to themselves or others. At this point, hospital staff consider inpatient treatment. When a veteran requires inpatient mental health treatment and is either unable or unwilling to undergo treatment, physicians at the veteran's local VA hospital will petition the state district court in the county where the hospital is located for involuntary commitment of the veteran.<sup>3</sup>

In determining if the veteran is to be involuntarily committed, the court could find a program other than hospitalization, such as an assisted outpatient treatment program, adequate to meet the treatment needs of the veteran and sufficient to prevent injury to the veteran or others.<sup>4</sup> This is the preferred method and is usually

attempted by hospital staff prior to the request for hospitalization.

A physician will attach to the petition a mental evaluation containing the circumstances that brought the veteran to the facility, the issues the veteran is dealing with while at the facility and the ways in which less restrictive means have been tried to treat the veteran.<sup>5</sup>

The veteran, if they are able, may request a family member, friend or guardian be made aware of their detention.<sup>6</sup> Unfortunately, in many instances, the veteran – due to the nature of their condition – won't be able to give this information. This makes the role of the attorney for the veteran an important position as a voice for the veteran's rights and best interests.

The veteran is usually held at the facility by a prehearing detention

order after the physician requests the veteran be detained prehearing and immediately sets the date, place and time for the veteran's hearing.<sup>7</sup>

The veteran possesses several rights in regard to the hearing on the petition, including the right to notice; counsel at no expense to the veteran if determined to be indigent; a closed hearing; a jury trial; the right to be present at the hearing; and the right to cross-examine witnesses. The veteran is either represented by their own counsel they have hired, a public defender or an attorney specifically contracted with that county to represent individuals in involuntary commitment hearings.<sup>8</sup> The Department of Veterans Affairs is represented by a member of the U.S. Attorney's Office or an in-house attorney for the VA.

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At the hearing, the court must determine by clear and convincing evidence whether the veteran is a person requiring treatment. To do so, the court will take evidence and make findings of fact concerning the veteran's competency to consent to or refuse the treatment that may be ordered, including but not limited to the veteran's right to refuse medication.<sup>9</sup>

The attorney's role is an advocate for the best interest of the veteran. Sometimes, that means the veteran needs mental health inpatient treatment. Other times, it means the veteran can make treatment decisions for themselves. The attorney for the veteran makes these determinations and advocates for what is in the veteran's best interest at that hearing.

Individuals determined by the court to need treatment and be detained will be reviewed by the Department of Mental Health and Substance Abuse Services at least once every three months and, at any time, can have a hearing within 30 days if requested by the veteran.<sup>10</sup>

While the statutes used for these commitments are the same for nonveterans, veterans have access to significant resources through the VA. The VA hospital staff's priority is to help these veterans attain competency and secure services through the VA to discharge them from the hospital safely and get them back on their feet as soon as possible. Due to the availability of resources, even after involuntary commitment, veteran stays tend to only be a few days. The veteran is often assisted through these services, including payees for finances, long-term care facilities and prescribed medications that can assist the veteran in managing their conditions.

Access to these services is statewide in Oklahoma, with various clinics in a number of locations – Oklahoma City and Muskogee are able to handle more severe cases and treatment.<sup>11</sup> If a client is at significant risk for self-harm or harm to others, petitions will need to be filed within Oklahoma County or Muskogee County by the district attorney's office or with the assistance of the district attorney's office. Veterans in need of a higher level of care are typically sent to those two locations, with petitions following thereafter.

Involuntary commitments require attorneys to be advocates for clients who typically cannot make decisions for themselves in their best interest. Communicating with your client in a way that makes them understand their rights and feel safe is paramount. If treatment is in their best interest, help your client understand how the medication, therapy and other treatments will help them reach their goals, which is often to be discharged from the facility and to return to a normal life.

A person's freedom is a sacred right and is enshrined in our Constitution and statutes. It is of the utmost importance that those who have served to protect those rights are themselves protected. An involuntary commitment can be a scary thing for anyone, but with an attorney speaking for the veteran's best interests, the veteran will receive the help they need while the liberty they have fought for is preserved by the bar.

## ABOUT THE AUTHOR



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

## ENDNOTES

1. <https://bit.ly/3Wb8reF>.
2. <https://bit.ly/3C4iThI>.
3. 43A O.S. §5-410.
4. 43A O.S. §5-416.
5. 43A O.S. §5-410.
6. 43A O.S. §5-209(C).
7. 43A O.S. §5-413.
8. 43A O.S. §5-411.
9. 43A O.S. §5-415.
10. 43A O.S. §5-420.
11. <https://bit.ly/3PARUgE>.

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*– Ann E. Murray, Oklahoma Bar Association Member*

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# 2025 OBA Officers and New Board Members Sworn in

**O**N FRIDAY, JAN. 17, OBA officers and new board members took their oaths of office during a swearing-in ceremony held in the Supreme Court Courtroom at the state Capitol. Those taking their oaths were joined by friends, family and colleagues. Administering the oath of office was Oklahoma Supreme Court Chief Justice Dustin P. Rowe.

Officers sworn in were:

- President D. Kenyon Williams Jr., Sperry

- President-Elect Amber Peckio, Tulsa
- Vice President Richard D. White Jr., Tulsa

Also taking oaths as members of the OBA Board of Governors were:

- Immediate Past President Miles Pringle, Oklahoma City
- Cody J. Cooper, Oklahoma City, District 3 (three-year term)
- Benjamin J. Barker, Enid, District 4 (three-year term)

- Lucas M. West, Norman, District 5 (three-year term)
- Kate N. Dodoo, Oklahoma City, Member at Large (three-year term)
- Taylor C. Venus, Enid, Young Lawyers Division Chairperson (one-year term)

OBA leadership roles are voluntary positions in which lawyers serve while continuing to practice law.



*From left Cody J. Cooper, Lucas M. West, Taylor C. Venus, Benjamin J. Barker and Kate N. Dodoo take their oath of office, administered by Chief Justice Dustin P. Rowe.*





*Above: OBA President D. Kenyon Williams Jr. is joined by his wife, Teresa, as he takes his oath of office.*

*Left: President Williams' wife, Teresa, places his presidential lapel pin.*



*Top: President Williams speaks to the ceremony attendees, briefly discussing his goal to address access to justice and expressing his gratitude and optimism for the year ahead.*

*Bottom: Oklahoma Supreme Court Chief Justice Dustin P. Rowe (second from right) was joined by other Supreme Court justices as he administered the oath to new OBA officers and board members. From left Justice M. John Kane IV, Justice Noma Gurich, Vice Chief Justice Dana Kuehn, Chief Justice Rowe and Justice Douglas L. Combs.*



Top left: *Immediate Past President Miles Pringle takes his oath of office. He said this is his seventh and final year on the Board of Governors.*

Top right: *President-Elect Amber Peckio takes her oath of office.*

Right: *Vice President Richard D. White Jr. takes his oath of office.*

# 2024 OBA Leadership Academy Concludes

**T**HE EIGHTH CLASS OF THE OBA Leadership Academy graduated on Jan. 16. Throughout the year, participants learned about OBA governance, special considerations for attorneys in public service, networking skills and effective communication. They attended the 2024 OBA Annual Meeting, volunteered

at Palomar and the Law Day Ask A Lawyer program, heard from several inspirational Oklahoma leaders and much more.

The graduates are Alyssa Amundsen, Norman; Timothy D. Beets, Oklahoma City; Melissa Brooks, Oklahoma City; Brian Candelaria, Norman; Courtney Driskell, Tulsa; Sherry Erb,

Muskogee; Thomas Grossnicklaus, Oklahoma City; Rachel Hartman, Norman; Melissa Martin, Yukon; Calandra McCool, Norman; Kinder Shamhart, Bartlesville; Brett Stavin, Edmond; Elissa Stiles, Tulsa; Shannon Taylor, Oklahoma City; and Taylor Wallner, Oklahoma City.



*Graduates receive awards to celebrate their achievements. From left (back row) Sherry Erb, Taylor Wallner, Timothy D. Beets, Alyssa Amundsen, (front row) Brett Stavin, Melissa Martin, Rachel Hartman, Kinder Shamhart, Shannon Taylor and OBA Director of Educational Programs Gigi McCormick.*



*Educational Programs Director Gigi McCormick gives an overview of the past year and discusses how the class has developed and grown, both professionally and personally.*



*Leadership Academy graduates are joined by friends and family for the ceremony in Emerson Hall at the Oklahoma Bar Center.*

# New OBA Member Benefit: Smokeball Bill

## New Free Software Benefit Offers Streamlined Solution To Manage Trust Accounts More Effectively While Simplifying Billing Processes

**M**ANAGING CLIENT TRUST accounts is a critical responsibility for Oklahoma attorneys that requires strict adherence to regulatory requirements. Many small firms still rely on manual processes for trust accounting, which can lead to compliance risks and inefficiencies.

Through this new member benefit, all OBA members will receive free access to Smokeball Bill, a comprehensive trust accounting and billing software solution for solo practitioners and small law firms. This new benefit officially launched in January.

“We’re committed to providing our members with innovative tools

that enhance their capabilities to practice law,” said OBA Executive Director Janet Johnson. “Oklahoma lawyers have a professional duty to safeguard their clients’ money and property. By providing this benefit with Smokeball, we’re offering our members greater peace of mind in managing sensitive client trust account information. This allows them to focus more on what matters most – serving their clients and communities.”

Other recent state bars launching this free product offer include the State Bar of Texas and the Alabama State Bar.

“Smokeball and the OBA are dedicated to serving Oklahoma

lawyers and their local communities,” said Jane Oxley, CRO and co-founder of Smokeball. “By providing OBA members with free access to Smokeball Bill, we’re helping ensure that lawyers across Oklahoma have the tools they need to maintain compliance and grow their practices.”

To learn more about Smokeball’s free product offering with the OBA and to sign up, please visit [www.smokeball.com/oklahomabill](http://www.smokeball.com/oklahomabill).



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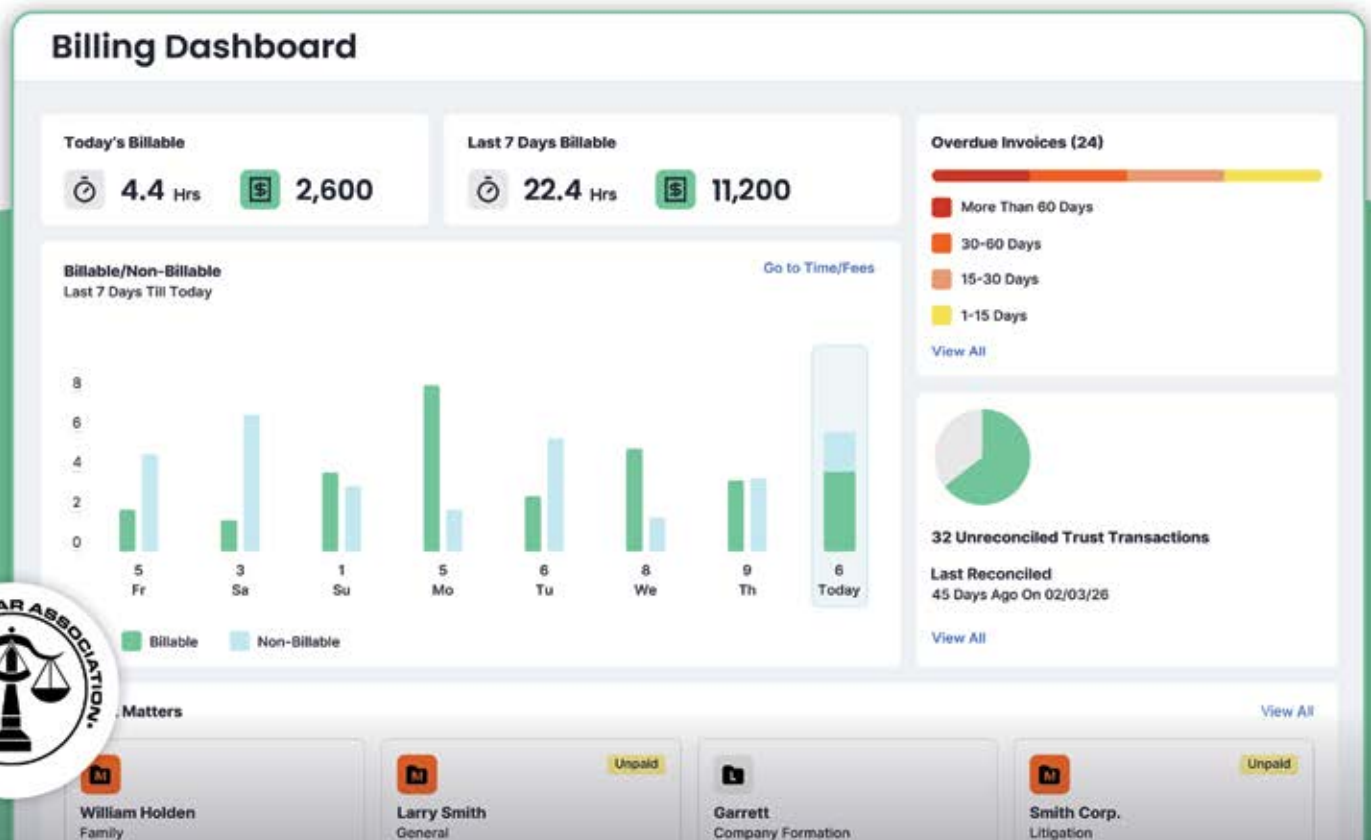
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## Applicants for February 2025 Oklahoma Bar Exam

**T**HE OKLAHOMA RULES OF PROFESSIONAL CONDUCT impose on each member of the bar the duty to aid in guarding against the admission of candidates unfit or unqualified because of deficiency in either moral character or education. To aid in that duty, the following is a list of applicants for the bar examination to be given Feb. 25-26.

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

### EDMOND

Jayne Michelle Altemus  
Rehma Kamal Amil  
Samuel Paul Davis  
Amy M. Keller  
Jennifer NC Ly  
Alexa Elyse Old Crow  
Claudia Alejandrina  
Sanchez-Zavaleta

### NORMAN

Bailey Danielle Barber  
William Andrew Church  
Jennifer Redding Finley  
Coty Skylar Goetzinger  
Thomas Willis Taylor

### OKLAHOMA CITY

Eric Masterson Alspaugh  
Kennedy Brooke Baker  
Amanda Michelle Barlow  
Britnee Ashley Branch  
Melisa Guadalupe Castillo  
Sofia Cigarroa Salazar  
Katelyn Marie Conner  
Alec De La Garza  
Joseph Edward Fetterman  
Amanda Nicole Hall  
Chase Hunter Harvick  
Joshua Darnell Hillard  
Jonathan Lawrence Hupp  
Daniel Terah Eliakim Kines

Mitchell Blake Longacre  
Lisa Leigh Lopez  
Julisa Amalia Martinez  
Elizabeth Opuko-Afrifa Mintah  
El Fairo Antonio Mitchell  
McKenna Riley Murphy Brooks  
Poonam Bhupendra Patel  
MacKenzie Sue Stallings  
Sean Anthony Stonecipher  
John Allee Switzer  
Kiaralexis Wood

### TULSA

Anthony Michael Agostino  
Kyle Christopher Allison  
Brett Edward Boone  
Alexander Stewart Bratton  
Jordan Lee Clapp  
Jeffrey Blake Foshee  
Sadie Jayne Gardner  
Addison Paige Gaut  
August Robert Hadwiger  
Emily Susan Hall  
Nicholas Nathaniel Hartman  
Zachary Dale Kincanon  
Katlyn Marie Lantrip  
Brant Joseph Larsen  
Andrea Marie Lartigue  
Kaylee Ann Lewis  
Paige Elizabeth LoVoi  
Jose Andreas Molina Maas  
Anita Kathleen O'Daniel

Jennifer Lyn Schooley  
Sydney Denise Scott  
Austin Jason Short  
Kylie Nicole Smith  
Jamie Ann Stewart  
Hannah Elizabeth Summy  
Victoria Elizabeth Maxine Terry  
Chase Lee Weems  
Zane Michael Wilkinson  
Clifford Allan Wright Jr.

### OTHER OKLAHOMA CITIES AND TOWNS

Jonathan Blake Balderas,  
Tahlequah  
Kahleah Stephanie Brown, Jenks  
Jaime Erik Calderon, Jenks  
Michael Allen Carson,  
Broken Arrow  
Brett Lassetter Clark, Stillwater  
Weston Sean Cox, Broken Arrow  
Katelynn Jayna Crain, Yukon  
Alexis Russ Draper, Collinsville  
Hunter Mycah Fraley, Vinita  
Mackey Andrews Gammill, Davis  
Efrem Sayon Gibson, Broken Arrow  
Michael Paul Gleason, Fort Sill  
Kailey Ann Griffiee, Lawton  
Justin Adam Hairston, Moore  
Evan Lane Hall, Park Hill  
Sara Leslie Hayman, Broken Arrow  
Jamie Dawn Jagosh, Piedmont



Kendal Ann Johnson, Ada  
Emily Ann Knight, Coalgate  
Misty Dawn LaShomb, Moore  
Jin-Hyung Lyou, Jenks  
Riley Scott McDaniel, Madill  
Kayla Lanette Patten, Ponca City  
Raluca Daniela Pavel, Ardmore  
Mikaela Kathleen Victoria Reuber,  
Healdton  
Morgan Elizabeth Rinner,  
Broken Arrow  
Bryan David Schell, Bixby  
Carlyn Gay Simmons, Hastings  
Preston Alexander Sloan, Stillwater  
Collin Andrew Swander, Blanchard  
Bryce Wade Talsma, Owasso  
Seth Harold Tidwell, Owasso  
Jami Lyn Treantafeles, Bixby  
Brittany Morgan Trent, Durant  
Jacob Osten Vanderslice, Mustang  
McKensi Burks Webb, Hollis  
Daphne Lee Wheat, Bartlesville  
Taryn Nicole Williams, Chickasha  
Megan Leslie Willingham,  
Lone Grove  
Brendan John Willoughby, Guthrie  
Dalton Shane Woodring, Yukon  
Annabelle Lee Yoder, Nichols Hills

#### OUT OF STATE

Steve Tenkamenin Awuyah Addae,  
Bronx, NY  
Kameron Ray Brock, Canton, MS  
Ishaq Saleem Dotani,  
West Hartford, CT  
Crystalle Kida Fry, Irving, TX  
Stephen Lee Hallett, Vallejo, CA  
Krystal Lynn Hanks, Naples, FL  
Patrick Sean Hawkins, Brazoria, TX  
Abigail Evelyn Heath,  
Douglassville, TX  
Michael Edward Joseph Jr.,  
Joplin, MO  
John Cordes Kirchhoefer,  
Lake Geneva, WI  
Addie Marie Martin, Fort Smith, AR  
Jacob Charles Morton,  
Fayetteville, AR  
Emad Habib Siddiqi, Allen, TX  
Amber Allison Davis Smith,  
Katy, TX  
William Bradford Stanford IV,  
Murphy, TX  
Tahj Anthony Walker, Mesquite, TX  
Desiree Lauren Watkins,  
Texas City, TX

# Sweet.



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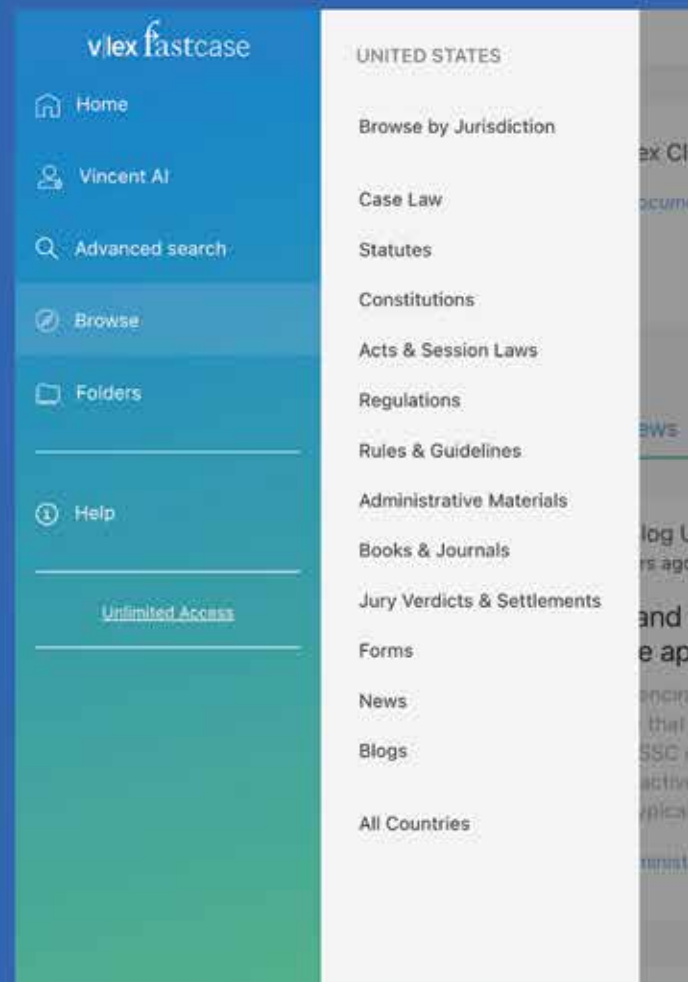
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# NOTICE OF INVITATION TO SUBMIT OFFERS TO CONTRACT

THE OKLAHOMA INDIGENT DEFENSE SYSTEM BOARD OF DIRECTORS gives notice that it will entertain sealed Offers to Contract (“Offers”) to provide non-capital trial level defense representation during **Fiscal Year 2026** pursuant to 22 O.S. 2001, ‘1355.8. The Board invites Offers from attorneys interested in providing such legal services to indigent persons during Fiscal Year 2026 (July 1, 2025 through June 30, 2026) in the following counties: **100% of the Oklahoma Indigent Defense System caseloads in THE FOLLOWING COUNTIES:**

**CADDO / CRAIG / LINCOLN / NOWATA / OSAGE / OTTAWA / PAWNEE  
PAYNE / POTTAWATOMIE / ROGERS**

Offer-to-Contract packets will contain the forms and instructions for submitting Offers for the Board’s consideration. Contracts awarded will cover the defense representation in the OIDS non-capital felony, juvenile, misdemeanor, traffic, youthful offender and wildlife cases in the above counties during FY-2026 (July 1, 2025 through June 30, 2026). Offers may be submitted for complete coverage (100%) of the open caseload in any one or more of the above counties. Sealed Offers will be accepted at the OIDS offices Monday through Friday, between 8:00 a.m. and 5:00 p.m.

**The deadline for submitting sealed Offers is 5:00 PM, Thursday, March 20, 2025.**

**Each Offer must be submitted separately in a sealed envelope or box containing one (1) complete original Offer and two (2) complete copies. The sealed envelope or box must be clearly marked as follows:**

**FY-2026 OFFER TO CONTRACT**  
\_\_\_\_\_ **COUNTY / COUNTIES**

**TIME RECEIVED:**  
**DATE RECEIVED:**

The Offeror shall clearly indicate the county or counties covered by the sealed Offer; however, the Offeror shall leave the areas for noting the time and date received blank. Sealed Offers may be delivered by hand, by mail or by courier. Offers sent via facsimile or in unmarked or unsealed envelopes will be rejected. Sealed Offers may be placed in a protective cover envelope (or box) and, if mailed, addressed to **OIDS, FY-2026 OFFER TO CONTRACT, 111 North Peters, Suite 100, Norman, OK 73069**. Sealed Offers delivered by hand or courier may likewise be placed in a protective cover envelope (or box) and delivered during the above-stated hours to OIDS, at **111 North Peters, Suite 100, Norman, OK 73069**. Protective cover envelopes (or boxes) are recommended for sealed Offers that are mailed to avoid damage to the sealed Offer envelope. **ALL OFFERS, INCLUDING THOSE SENT BY MAIL, MUST BE PHYSICALLY RECEIVED BY OIDS NO LATER THAN 5:00 PM, THURSDAY, March 20, 2025 TO BE CONSIDERED TIMELY SUBMITTED.**

Sealed Offers will be opened at the OIDS Norman Offices on Friday, March 21, 2025, beginning at 10:00 AM, and reviewed by the Executive Director or his designee for conformity with the instructions and statutory qualifications set forth in this notice. Non-conforming Offers will be rejected on Friday, March 21, 2025, with notification forwarded to the Offeror. Each rejected Offer shall be maintained by OIDS with a copy of the rejection statement.

# NOTICE OF INVITATION TO SUBMIT OFFERS TO CONTRACT

Copies of qualified Offers will be presented for the Board's consideration at its meeting on **Friday, March 28, 2025**, at *a place to be announced*.

With each Offer, the attorney must include a résumé and affirm under oath his or her compliance with the following statutory qualifications: presently a member in good standing of the Oklahoma Bar Association; the existence of, or eligibility for, professional liability insurance during the term of the contract; and affirmation of the accuracy of the information provided regarding other factors to be considered by the Board. These factors, as addressed in the provided forms, will include an agreement to maintain or obtain professional liability insurance coverage; level of prior representation experience, including experience in criminal and juvenile delinquency proceedings; location of offices; staff size; number of independent and affiliated attorneys involved in the Offer; professional affiliations; familiarity with substantive and procedural law; willingness to pursue continuing legal education focused on criminal defense representation, including any training required by OIDS or state statute; willingness to place such restrictions on one's law practice outside the contract as are reasonable and necessary to perform the required contract services, and other relevant information provided by attorney in the Offer.

The Board may accept or reject any or all Offers submitted, make counter-offers, and/or provide for representation in any manner permitted by the Indigent Defense Act to meet the State's obligation to indigent criminal defendants entitled to the appointment of competent counsel.

FY-2026 Offer-to-Contract packets may be requested by facsimile, by mail, or in person, using the form below. Offer-to-Contract packets will include a copy of this Notice, required forms, a checklist, sample contract, and OIDS appointment statistics for FY-2021, FY-2022, FY-2023, FY-2024 and FY-2025 together with a 5-year contract history for each county listed above. The request form below may be mailed to **OIDS OFFER-TO-CONTRACT PACKET REQUEST, 111 North Peters, Suite 100, Norman, OK 73069**, emailed to [brandon.pointer@oids.ok.gov](mailto:brandon.pointer@oids.ok.gov) or submitted by facsimile to OIDS at (405) 801-2661.

## REQUEST FOR OIDS FY-2026 OFFER-TO-CONTRACT PACKET

Name \_\_\_\_\_ OBA # \_\_\_\_\_

Street Address \_\_\_\_\_ Phone \_\_\_\_\_

City, State, Zip \_\_\_\_\_ Fax \_\_\_\_\_

County / Counties of Interest \_\_\_\_\_

\_\_\_\_\_

# Staying Motivated as a Lawyer During the Winter Months

By Janet Johnson

**T**HE WINTER MONTHS CAN present unique challenges to maintaining motivation, especially in the demanding profession of law. As the days grow shorter and colder, it can be easy to slip into a pattern of low energy, diminished focus or even burnout. However, staying motivated during this time is essential to maintaining productivity, meeting client expectations and achieving personal career goals. So how can we combat this? How can we stay motivated during the winter months? I propose a few tips and tricks for you to consider.

## SET CLEAR AND ACHIEVABLE GOALS

Winter can sometimes feel like a time for reflection and slowing down. However, it's essential to use this time productively. One way to do so is by setting clear, measurable and achievable goals. Breaking down large projects into smaller, more manageable tasks can keep you on track while preventing you from feeling overwhelmed. Whether it's completing a specific number of billable hours, submitting filings or simply making progress on long-term cases, having a clear direction will keep you engaged.



Having both short-term and long-term goals is important. Short-term goals can help you focus on daily or weekly tasks, while long-term goals provide a larger sense of purpose. Celebrating small wins can give a sense of accomplishment and motivation to push forward.

## MAINTAIN A CONSISTENT ROUTINE

The colder weather can disrupt your routine, particularly when it gets harder to get out of bed or face a long commute. However, establishing and sticking to a consistent routine is critical for maintaining focus and motivation. Start by setting a regular work schedule, even if you're working from home. This could include

designated breaks, set start and end times for the day and time for physical activity.

Routines reduce the mental burden of decision-making, allowing you to focus your energy on more productive tasks. Furthermore, adding personal routines, such as morning coffee or a brief walk during lunch, can help break up the monotony and reenergize you.

## PRACTICE SELF-CARE AND MAINTAIN ENERGY LEVELS

The winter months can sometimes affect your physical and mental well-being. Seasonal affective disorder (SAD) is a common condition during the colder months and can contribute to feelings of lethargy or sadness. To combat this, prioritize self-care,

and maintain healthy habits that help preserve your motivation levels. Regular exercise is crucial for maintaining physical health, boosting mood and reducing stress. Even a short walk outside, when possible, can work wonders for clearing your head and refueling your energy.

Additionally, paying attention to your diet, hydration and sleep is essential. The cold weather often leads to comfort eating or skipping workouts, but maintaining a balanced routine will help keep your body and mind sharp. *Remember, if you or any of your friends or colleagues are struggling, the Lawyers Helping Lawyers Assistance Program is here to help.* Bar members can receive up to six hours of short-term, problem-focused or crisis counseling at no cost. By simply calling the Lawyers Helping Lawyers hotline at 800-364-7886, you can connect with a counselor for help with stress, depression or addiction. And remember, this service is free and confidential. Monthly peer support groups are also an option, and please remember in the event of a crisis, immediate help is available by calling 988, the nationwide suicide prevention hotline.

### **BREAK UP THE WORKDAY**

Sitting at a desk for extended periods, especially in the winter when you may already feel sluggish, can make it harder to maintain motivation. Break up your workday by implementing short, structured breaks every 60-90 minutes. Use these breaks to stretch, take a brief walk, or even practice deep-breathing exercises to reenergize. You can also take breaks to connect with colleagues or clients, which can help alleviate the isolation some may experience during the winter months when work hours are more extended. Sometimes, the workday doesn't allow for these changes. When that is the case, I will often shift to my stand-up desk or my conference table. Small changes can make a difference! I find a change of scenery can stimulate your mind and improve your focus.

### **FOCUS ON PROFESSIONAL DEVELOPMENT**

Winter can be an ideal time to focus on professional growth. When the workload may slow down or become more routine, taking time to sharpen your skills or deepen your knowledge in a specific area of law can reignite your passion for the profession. Consider attending or watching our many on-demand CLE

programs through WebCredenza, the OBA's online learning platform. If you are reading this, you have probably already taken the time to stay current on my favorite legal publication, the *Oklahoma Bar Journal*. Setting aside time for intellectual enrichment not only benefits your career but also helps you feel more engaged and motivated in your daily work.

You could also consider networking with colleagues or mentors to discuss industry trends or challenges. These conversations can help you stay connected with your professional community and may provide new perspectives that refresh your enthusiasm. This is another medium the OBA can assist you with. Join an OBA committee or section that interests you and get to know other members. And don't forget about our Communities platform! Communities provides a great way to stay connected. In fact, it is the main communication hub for our committees and sections, and it automatically links with your MyOKBar account, so your information is synced. Please check out this free online member benefit if you are not already using it!

## EMBRACE THE WINTER MINDSET

Finally, try to embrace the winter mindset rather than resist it. The colder months present an opportunity for reflection, planning and focused work. View the slower pace of the winter season as a chance to get ahead on your tasks, review your goals and take stock of your progress. Use this time to prepare for the busier months ahead by organizing your caseload, tidying up your workspace or completing administrative tasks that have been neglected.

Many of us feel the struggle to maintain motivation during the winter months. It can be challenging, but with the right mindset and strategies, it is entirely achievable. By setting clear goals, maintaining a routine, taking care of yourself and fostering professional growth, you can stay engaged and productive. Embrace the winter season as an opportunity to reflect, recharge and continue progressing in your legal career.

*Janet*



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



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OKLAHOMA BAR ASSOCIATION



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## **MYOKBAR COMMUNITIES**

MyOKBar Communities serves as the main communication tool for OBA committees and sections and automatically links with your MyOKBar account, so your information is synced.

### **DID YOU KNOW?**

1. Communities replaced OBA committee and section electronic mailing lists. If you are a member of a committee or section, you are auto-subscribed to receive a single email each day called a "daily digest" that contains all Communities communications from the previous 24 hours. You can change your preferences to receive an email for any notification or to no email notifications of postings.
2. For critical messages, like a meeting notice or immediate alerts, section officers and select OBA staff are able to send urgent emails to all section members regardless of email notification preferences.
3. All sections and committees have a file library where meeting notices, agendas and minutes, as well as forms, practice aids, CLE presentation materials and other helpful files are stored. Through the upload/download feature, Communities allows for open discussions and file sharing available to every OBA member.
4. Join the optional forums to get the most out of Communities. These include Practice Management Advice with tips from the OBA Management Assistance Program, OBA Water Cooler for general discussions, Mentoring and Young Lawyers Division. They are open to all OBA members, but you will need to affirmatively join and set your email notification preferences.

### **CHECK IT OUT**

Access Communities through the "MYOKBAR Communities" link on your MyOKBar page or by visiting <https://community.okbar.org>.

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# Join Us at ABA TECHSHOW 2025

By Jim Calloway and Julie Bays

**ABA TECHSHOW 2025 WILL** be held April 2-5 at the Hyatt Regency McCormick Place in Chicago. This is a new venue that will allow for an expanded expo hall with even more exhibitors. This year, OBA members can receive a discount on registration by using the code EP2507 when registering.

Given the rapid rise of artificial intelligence tools in the last few years and how these tools are now being incorporated into the software we use daily, this year is a great year to attend TECHSHOW. “Tackling AI’s Complex Legal and Ethical Implications” is one session we predict will be popular.

This year, TECHSHOW features a strong Oklahoma connection. OBA Practice Management Advisor Julie Bays is the co-chair, and several other speakers have Oklahoma ties. Kenton Brice, director of the Donald E. Pray Law Library at the OU College of Law, will be presenting “Defining Technology Competence in the Age of Generative AI,” as well as the cutting-edge program “Practicing Law in an Augmented Reality.” Julie Bays will be teaming up with Microsoft’s Ben M. Schorr, who many of you met at our summer 2024 AI conference, for “Taking Flight with Copilot.” Jim Calloway will present “Setting Tech Priorities for a Small Law Firm” with Reid Trautz, senior director at the American Immigration Lawyers Association Practice and Professionalism Center.

TECHSHOW 2025 features many experts in legal technology with fascinating content. One such session is “Navigating AI-Generated Evidence Including Deep Fakes,” presented by Professor Maura R. Grossman and Judge Scott Schlegel. Judge Schlegel, renowned for his insight into technology’s role in the legal system, has extensively discussed the challenges posed by AI-generated evidence and the ethical considerations of AI in judicial decision-making.

Another compelling session is “Legal Technology Regulation: Lessons Learned in Cloud Technology Innovation,” led

by Jack Newton, CEO of Clio. Mr. Newton, a pioneer in cloud-based legal practice management, will share his experiences and insights into the evolving regulatory landscape surrounding legal technology, offering valuable lessons for practitioners navigating this dynamic field.

Ms. Bays and Mr. Calloway also appreciate the coincidence that Mr. Calloway was chair of TECHSHOW 2005, and Ms. Bays is co-chairing TECHSHOW 2025. This seems to verify the old saying that history doesn’t exactly repeat itself, but it does rhyme.

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Given the rapid rise of artificial intelligence tools in the last few years and how these tools are now being incorporated into the software we use daily, this year is a great year to attend TECHSHOW. ‘Tackling AI’s Complex Legal and Ethical Implications’ is one session we predict will be popular.

There is much more than AI advancement and ethics at TECHSHOW. This year's TECHSHOW is honored to feature Cory Doctorow as the keynote speaker. Mr. Doctorow is a renowned science fiction author, journalist and technology activist, celebrated for his insightful commentary on the intersection of technology and society. As a special consultant to the Electronic Frontier Foundation, he has been a steadfast advocate for digital rights and freedoms. He explores themes of digital rights management, file sharing and post-scarcity economics, resonating deeply with contemporary technological challenges. Attendees can anticipate a thought-provoking keynote address that delves into the evolving landscape of technology and its broader societal implications.

Barron K. Henley, a TECHSHOW planning board member and consultant with Affinity Consulting, will likely once again have a packed house for his observations and customizations about Microsoft Word, a tool most lawyers use daily. Have you ever wondered why Microsoft Word frequently requires multiple steps to do a common task? The answer is that Microsoft built it that way! I defy anyone who uses Word to sit through Mr. Henley's program for the first time without bursting into laughter several times. But then he follows up by showing

how to "fix" the issues. More than once, I've heard a member of the audience comment out loud, "And I thought it was me!"

There are also many litigation-oriented presentations at this year's TECHSHOW, including one that will be very interesting to solo practitioners: "Trial With an iPad." This is a two-part session. We also note the "AI Litigation: Harnessing Generative AI for Trials" session is excellent for litigators.

As mentioned, TECHSHOW is in April this year instead of the usual March setting. So we are hoping for some nice spring Chicago weather. Unlike most conferences, where you may only get to hear and interact with a speaker while they're at the podium, TECHSHOW has, for many years, featured an event called "Taste of TECHSHOW", where attendees are encouraged to sign up for a dinner with some of the speakers. It is great fun, and you get to dine with other TECHSHOW attendees who share similar interests.

This year, TECHSHOW celebrates its 40th anniversary, a remarkable milestone in legal technology innovation and education. To commemorate this occasion, Friday night will feature an '80s-style birthday party, inviting attendees to don their favorite retro outfits and relive the era when TECHSHOW was born. On Saturday morning, the celebration continues with a special

presentation from past chairs of TECHSHOW, "40 Tech Tips in 40 Years." This session promises to blend valuable insights with humor as presenters reflect on the evolution of technology, poke fun at some outdated tools and perhaps even roast a few former chairs for their memorable contributions – or missteps – over the decades.

Visit [www.techshow.com](http://www.techshow.com) to register and for the latest updates and details about ABA TECHSHOW 2025. Don't forget to use your discount code, EP2507, when registering.

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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.

Ms. Bays is the OBA practice management advisor, aiding attorneys in using technology and other tools to efficiently manage their offices.



# TECHSHOW 2025

April 2–5, 2025

Hyatt Regency McCormick Place | Chicago, IL

Now, more than ever, lawyers and legal professionals must seek out the newest advances in technology. Techshow 2025 is your gateway to harnessing AI's true potential, learning all things related to the future of legal tech, and enhancing access to justice.

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**Forty Years** TECHSHOW 1986-2025

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AMERICAN BAR ASSOCIATION  
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### CONTACT

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

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## Meeting Summary

*The Oklahoma Bar Association Board of Governors met Dec. 13.*

### REPORT OF THE PRESIDENT

President Pringle reported his final “From the President” article was published in the *Oklahoma Bar Journal*. He met with the OBA’s legislative liaison to discuss expectations for the spring 2025 legislative session and served as a panelist for the National Conference of Bar Presidents’ program on judicial elections. He attended the budget hearing with the Supreme Court, the OBA staff holiday party and the Board of Governors holiday party. He reviewed outside counsel invoices and received updates on pending litigation, and he reviewed and executed the IOLTA grant for the Oklahoma High School Mock Trial Program.

### REPORT OF THE PRESIDENT-ELECT

President-Elect Williams reported he continued work on appointments and met with Executive Director Johnson and OBA staff to continue planning for the 2025 OBA Annual Meeting. He was interviewed for a “Meet the President” profile feature in the January 2025 *Oklahoma Bar Journal* and wrote his first “From the President” article for the journal. He prepared for the presentation of the 2025 OBA budget to the Supreme Court, and he attended and presented at the Supreme Court budget hearing. He met with Executive Director Johnson to sign certificates for OBA members celebrating

milestone service anniversaries. He attended the OBA staff holiday party, the Board of Governors holiday party and reviewed outside counsel invoices and the status of pending OBA litigation.

### REPORT OF THE VICE PRESIDENT

Vice President Peckio reported she attended the Lawyers Helping Lawyers Tulsa women’s discussion group, the budget hearing before the Supreme Court and the OBA staff holiday party. She presented CLE on 2024 cannabis law updates for OBA CLE and attended the Board of Governors holiday party.

### REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Johnson reported she met with the new OKANA Resort representative to discuss the upcoming 2025 Solo & Small Firm Conference contract details. She met with President-Elect Williams to finalize the 2025 Annual Meeting details and with the Women in Law Section chair to discuss leadership matters. She attended the Bar Association Technology Committee meeting and the Board of Editors meeting. She met with the Awards Committee chair and Communications Director Rasmussen to discuss the 2025 committee schedule and the suggested renaming of the Trailblazer Award. She met with the legislative liaison to discuss expectations for next year’s session, worked on a presentation outlining the history of the

Judicial Nominating Commission and attended the budget hearing before the Supreme Court. She attended the Free Movie Night CLE program, the Government and Administrative Law Practice Section CLE program and the OBA staff holiday party, and she met with the strategic planning consultant to discuss final steps for implementing the strategic plan and attended the Board of Governors holiday party.

### REPORT OF THE IMMEDIATE PAST PRESIDENT

Immediate Past President Hermanson reported he attended the District Attorneys Council Technology Committee meetings, two District Attorneys Council board meetings (one in person and one virtual) and two Oklahoma District Attorneys Association board meetings (one in person and one virtual). He gave a presentation about the Kay County District Attorney’s Office to a Ponca City Chamber of Commerce forum and reviewed outside counsel’s billing request. He attended the OBA holiday party and the Kay County Bar Association’s Christmas party.

### BOARD MEMBER REPORTS

**Governor Ailles Bahm** reported she attended a meeting of the Council on Judicial Complaints and the Board of Governors holiday party. **Governor Bracken** reported he attended the Oklahoma County Bar Association Christmas party and its Board of Directors meeting. He also attended the

OBA Board of Governors holiday party. **Governor Conner** reported he attended the Garfield County Bar Association Christmas Party. **Governor Dow** reported she attended the Oklahoma County Bar Association Family Law Section meeting and the OBA Family Law Section meeting. **Governor Hixon** reported he attended the Tulsa County Bar Association holiday party and its Board of Directors meeting. He attended the OBA Law Day Committee meeting and Gov. Stitt's Christmas celebration party as a plus-one guest. He identified the state House and Senate districts covering parts of Tulsa County with the intention to send a letter of introduction to the representatives and senators after the new year. He updated his biographical information for the January issue of the *Oklahoma Bar Journal* and attended the Board of Governors holiday party. **Governor Knott** reported she attended the Canadian County Bar Association Christmas party. **Governor Locke** reported he attended the swearing-in ceremony for a juvenile judge in Muskogee and the Board of Governors holiday party. **Governor Thurman** reported he attended the retirement ceremony for Pontotoc County Sheriff John Christian.

#### REPORT OF THE GENERAL COUNSEL

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

#### BOARD LIAISON REPORTS

Governor Oldfield reported the **Legal Internship Committee** met recently, and its first 2025 meeting is scheduled. He also said the **Professionalism Committee** is circulating a memo regarding civility between adversarial counsel. Governor Bracken said the **Legislative Monitoring Committee** is looking at dates in 2025 for its events and activities. Governor Hixon said the **Law Day Committee** recently met and is discussing its plans for 2025. Governor Locke reported the **Membership Engagement Committee** has a meeting scheduled in January and is continuing its efforts to update public information brochures.

#### CLIENTS' SECURITY FUND REPORT

The board passed a motion to approve 69 of the 113 claims against the fund in 2024, along with an appropriation from the permanent fund in order to prorate approved claims at 88%, consistent with the 2023 amount. The board also approved a motion to authorize the OBA Communications Department to draft and distribute a press release related to publicizing the payouts of the approved claims.

#### PROPOSED CHANGES TO THE OKLAHOMA RULES OF PROFESSIONAL CONDUCT

The board unanimously passed a motion to approve advancing the changes proposed by the ORPC Committee to the Supreme Court for recommended adoption.

#### PRESIDENT PRINGLE'S APPOINTMENTS

Court on the Judiciary – Appellate Division: The board approved a motion to reappoint President-Elect D. Kenyon “Ken” Williams Jr., Sperry, to a new term beginning March 1, 2025, and expiring March 1, 2027.

#### PRESIDENT-ELECT WILLIAMS' APPOINTMENTS

Oklahoma Indian Legal Services (OILS): The board approved a motion to reappoint Professor Michael A. Pearl, Norman, to a new term beginning Jan. 1, 2025, and expiring Dec. 31, 2027; and to appoint John Morris Williams, Oklahoma City, to a term beginning Jan. 1, 2025, and expiring Dec. 31, 2027.

Board of Editors: The board approved a motion to reappoint Melissa DeLacerda, Stillwater, to a one-year term as chairperson beginning Jan. 1, 2025, and expiring Dec. 31, 2025; and to reappoint Norma G. Cossio, Enid (District 4); Evan A. Taylor, Norman (District 5); and Magdalena A. Way, El Reno (District 9) to three-year terms beginning Jan. 1, 2025, and expiring Dec. 31, 2027.

#### NEXT BOARD MEETING

The Board of Governors met in January, and a summary of those actions will be published in the *Oklahoma Bar Journal* once the minutes are approved. The next board meeting will be held Friday, Feb. 21, in Oklahoma City.

# From the OBF President

## What Lawyers Get Right: Partnering To Make a Difference Through the OBF

*By Jim Dowell*

**I**RECENTLY SAW A SURVEY that indicated the majority of law school students choose to attend law school because they want to advocate for social justice and help others. If we asked nonlawyers what they think of the legal profession, we would likely find that the perception of lawyers does not align with the goals of law students. Instead, we might hear a lot of unflattering jokes about lawyers.

Often, the negative societal perception of lawyers is based on a misunderstanding of what we do. When a prior OBF president asked me several years ago to serve on the OBF board, one statement he made caught my attention. He said the OBF is “something that lawyers

get right.” At the time, I had no idea how true that statement was.

Every year, the OBF awards grants to numerous nonprofits throughout the state that provide a variety of law-related services to people in need. In 2024, the OBF awarded \$2 million in grants to more than 50 nonprofits. I am repeatedly struck by the incredible work of these grantees and their passion for helping others.

One of the OBF grantees I am most familiar with is Western Plains Youth & Family Services, which is headquartered in my hometown of Woodward. In addition to operating a youth and family shelter and providing many other community services, Western Plains also operates

juvenile detention centers in western Oklahoma. I know from my experience in law enforcement many years ago that these juvenile detention centers used to be cold, harsh jails for kids who often ended up in these facilities repeatedly. Western Plains, with the assistance of OBF grants, has transformed these facilities so they provide troubled children, who are in this program pursuant to court order, with counseling, education and tools to give them a real chance at a new life. Their goal is to never see these children in detention again.

There are similar stories from across the state, both in urban and rural areas. Some OBF grantees provide services for abused children and victims of domestic abuse. Some provide diversion services to help people get out of the criminal justice system and lead productive lives. Others provide legal services to people who have no ability to hire a lawyer. Still others provide crucial services for refugees and immigrants. For a full list of grantees, I encourage you to visit the OBF website, [www.okbarfoundation.org](http://www.okbarfoundation.org). I have seen employees of many of these grantees with tears in their eyes, describing the lives they impact, and each of them is enormously

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The legal community can do great good if we work together, and there is much work to be done. So please partner with us as we continue to be something lawyers get right.



grateful for the grants they receive from the OBF.

In addition to nonprofit grants, the OBF is working to address the shortage of court reporters in rural areas by awarding grants to court reporters willing to work in communities where they are most needed. The OBF also provides grants to courts for technology upgrades, which have been awarded in all 77 counties of the state. In an effort to make a legal education more affordable for some students, the OBF provides scholarships to students at each of the three Oklahoma law schools. In fact, a new scholarship was created just this past year.

So what do we need from you? The obvious answer is we need you to contribute money. The OBF can not do its work without funds. But we need more than that. We need you to inform people of the OBF's work. There are undoubtedly nonprofits around the state that need and would qualify for an OBF grant but do not know to ask. If you know of such a nonprofit, tell them about the OBF. If you see a need that no organization is available to address, perhaps you can take the lead in starting a nonprofit to address such a need.

The work of the OBF brings to life some of the idealism that young law students have, and that, unfortunately, is all too easy to lose in the practice of law. I encourage you to partner with us in doing what law students say motivated them to go to law school in the first place: helping people and improving society.

The legal community can do great good if we work together, and there is much work to be done. So please partner with us as we continue to be something lawyers get right.



Mr. Dowell practices in Woodward and serves as the 2025 OBF president.

# Partners Programs

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



## Partners

You can join as a Partner for Justice. Support starting at \$100/year.

## Legacy Partners

Join as a Legacy Partner by making a planned gift to the OBF.

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Contact Candice Pace at 405-416-7081 or candicej@okbar.org for more information.

## MORE WAYS TO support THE OBF

### 1. CY PRES

Leftover monies from class action cases can be designated to the OBF's Court Grant Fund or General Fund.

### 2. MEMORIALS AND TRIBUTES

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

### 3. UNCLAIMED TRUST FUNDS

Contact the OBF if you have unclaimed trust funds in your IOLTA Account. (405) 416-7070 or foundation@okbar.org.

## Thank you TO OUR COMMUNITY PARTNERS

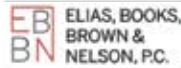
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# FOR YOUR INFORMATION

## REPORT YOUR 2024 MCLE CREDITS BY FEB. 18

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

## SAVE THE DATE: OBA DAY AT THE CAPITOL

On Tuesday, March 25, join us for this year's OBA Day at the Capitol. The morning will kick off with speakers covering bills of interest, how to talk to legislators, legislative updates and more. Attendees will then have the opportunity to visit with legislators. Be sure to save the date and keep your eye out for more information on how to register!



## OBA DUES ARE DUE

The deadline to pay your 2025 OBA membership dues without a late fee is Tuesday, Feb. 18. Paper statements were mailed to those who had not yet paid. Please make your dues payment today! Visit your MyOKBar page to remit dues online.

## LHL DISCUSSION GROUPS TO HOST MARCH MEETINGS

The Lawyers Helping Lawyers monthly discussion group will meet Thursday, March 6, in Oklahoma City at the office of Tom Cummings, 701 NW 13th St. The group will also meet Thursday, March 13, in Tulsa at the office of Scott Goode, 1437 S. Boulder Ave., Ste. 1200. The Oklahoma City women's discussion group will meet Thursday, March 27, at the first-floor conference room of the Oil Center, 2601 NW Expressway.

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

## IMPORTANT UPCOMING DATES

The Oklahoma Bar Center will be closed Monday, Feb. 17, in observance of Presidents Day.

## LET US FEATURE YOUR WORK

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





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**STUART I. TEICHER, ESQ.**

*The CLE Performer & Ethics Educator*



# WHAT OVERRATED Rock Bands TEACH ABOUT ATTORNEY ETHICS

## **COURSE DESCRIPTION:**

The name says all. Stuart Teicher (the CLE Performer) thinks that some iconic bands are overrated. And he also believes that the reasons explaining why they're overrated provide good ethics lessons for lawyers. The bands (and ethics issues) we'll address are...

...Bruce has been terrible since the 80s (Competence, Rule 1.1, Comment [8])

...Led Zeppelin stole their best stuff (Misconduct, Rule 8.4(b))

...Metallica has one good song. That's it. And their drummer annoys me (Professionalism vs. ethics in the law)

...The Foo Fighters are leaps and bounds better than Dave Grohl's old band (Former conflicts, Rule 1.9)

## **ABOUT OUR SPEAKER:**

Stuart I. Teicher, Esq. is a professional educator who focuses on ethics law and writing instruction. A practicing attorney for 30 years, Stuart's career is now dedicated to helping fellow attorneys survive the practice of law and thrive in the profession. He also helps all professionals navigate the areas of anti-corruption regulations, corporate compliance issues, and improve their writing skills. Mr. Teicher teaches seminars, provides training to law firms, legal departments and businesses, provides CLE instruction at law firm client events, and also gives keynote speeches at conventions and association meetings. His highly informative seminars are delivered in a uniquely entertaining manner, earning him the nickname "the CLE Performer."

***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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## ON THE MOVE

**LeeAnn Littlejohn** has joined the Oklahoma City office of Spencer Fane LLP as an associate. She previously served as a summer associate at the firm. Ms. Littlejohn practices in the areas of estate planning, probate, labor and employment and complex litigation. She received her J.D. from the OU College of Law, where she held officer roles in the Black Law Students Association and the American Constitution Society, served as secretary for the Student Bar Association, competed nationally as a member of the BLSA Negotiations Team and served as research editor and assistant managing editor of the *American Indian Law Review*.

**Todd L. Grimm** and **Thomas R. Showman** have joined the Oklahoma City office of Doerner, Saunders, Daniel & Anderson LLP as of counsel. They are both involved in the litigation and transactional practice groups. Mr. Grimm has experience representing public and private clients as an in-house attorney and outside counsel. His primary areas of focus include civil litigation and commercial transactions. He received his J.D. from the OU College of Law. Mr. Showman has more than 15 years of legal experience, and he practices in the areas of business, oil and gas, trusts, estates and probates, civil litigation, real estate and Native American law. He received his J.D. from the OU College of Law.

**Ryan J. Ellis** has been named partner at the Tulsa law firm of Atkinson, Brittingham, Gladd, Fiasco & Edmonds. She received her J.D. with honors from the TU College of Law in 2011. While in law school, she earned a Sustainable Energy and Resources Law Certificate and received CALI awards in Administrative Law and Taxation of Estates, Trusts and Gifts. Ms. Ellis practices civil litigation with an emphasis on research and writing.

**Michael D. McClintock** has joined the Oklahoma City office of Spencer Fane LLP as a partner in the Litigation and Dispute Resolution Practice Group. Mr. McClintock has more than 20 years of experience advising and representing clients as trial counsel and serving as a trusted advisor in all aspects of business litigation. His practice includes experience across a variety of industries and legal areas, including antitrust, banking, corporate investigations and white-collar defense, environmental, health care, intellectual property, mergers and acquisitions, product liability, real estate, securities and tax, trust and family wealth litigation. Early in his career, Mr. McClintock worked for two federal judges at the trial and appellate level, including as a law clerk for Judge Robert H. Henry, U.S. Circuit Court judge for the 10th Circuit and former Oklahoma attorney general. He received his J.D. from the OCU School of Law.

**Daniel G. Couch**, **Dr. J. Kirk McGill** and **Aaron C. Tifft** have been elected shareholders at the law firm of Hall Estill. Mr. Couch is a litigation and business attorney. He assists businesses and families with a variety of legal needs, including litigation, construction, real estate, business services, probate and trusts, as well as homeowners association matters. He works out of the Denver and Oklahoma City offices. Dr. McGill assists clients routinely with federal and state appeals, litigation, constitutional law and civil rights defense, tax, estates and trusts, business law, administrative law and regulatory compliance, contracts, commercial transactions and cybersecurity. He is based in the Denver office but practices throughout the country. Mr. Tifft is a litigation attorney who assists clients in a variety of areas, including real estate, oil and gas, eminent domain and landlord/tenant disputes. His practice also includes representing clients in numerous aspects of federal and state marketing regulations, including defending claims brought under the Telephone Consumer Protection Act. He is based in the Tulsa office.

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**Jacqueline Hale** has been named partner at the Austin, Texas, office of McCall, Parkhurst & Horton LLP. She serves as bond counsel, disclosure counsel and underwriters' counsel in tax-exempt debt transactions for various special districts throughout Texas. She also serves as bond counsel and disclosure counsel to cities, counties, school

districts, navigation districts and other governmental entities in central Texas. Ms. Hale is a member of the State Bar of Texas, the National Association of Bond Lawyers, the American Bar Association and the Texas Chapter of Women in Public Finance. She received her J.D. from the OU College of Law.

## KUDOS

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**Timothy Michaels-Johnson** has been appointed by Gov. Stitt to serve as a commissioner representing the OBA at the Oklahoma Commission on Children and Youth. He received his J.D. with honors from the TU College of Law in 2011. He has prosecuted child welfare cases and led Tulsa Lawyers for Children as executive director. He also serves as the Region 5 managing attorney for child representation at the Oklahoma Office of Family Representation while teaching juvenile law.

**Dwight L. Smith** has been inducted into the National Academy of Distinguished Neutrals (NADN). The NADN is a professional association whose membership consists of alternative dispute resolution professionals distinguished by their hands-on experience in the field of civil and commercial conflict resolution. Membership is by invitation only through a rigorous selection process. Mr. Smith was selected for his experience mediating disputes and arbitrating cases for more than

15 years. He was appointed of counsel at the Tulsa law firm of Robinett, Swartz & Duren in July 2022. Since January 2023, he has limited his practice to the exclusive provision of alternative dispute resolution services.

### HOW TO PLACE AN ANNOUNCEMENT:

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

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

Submit news items to:

Hailey Boyd  
Communications Dept.  
Oklahoma Bar Association  
405-416-7033  
barbriefs@okbar.org

*Articles for the April issue must be received by March 1.*

## IN MEMORIAM

**Walter Benton Ashabranner** of Edmond died Nov. 22. He was born June 1, 1954. Mr. Ashabranner received his J.D. from the OCU School of Law in 1994.

**Arthur S. Bay** of Oklahoma City died Aug. 2, 2023. He was born March 1, 1927, in Windsor, Ontario. Mr. Bay received his J.D. from the OCU School of Law and began his career as an attorney in 1957. He was passionate about gardening, birding and traveling.

**Patricia L. Carroll** of Mesquite, Texas, died Dec. 13. She was born Oct. 15, 1926, and grew up on a farm near Arapaho, graduating from Arapaho High School in 1944. Ms. Carroll studied at Southwestern Oklahoma State University and OCU. She received her J.D. from the OCU School of Law in 1956. While in law school, she worked for Judge John Jarmon and was among his most trusted staff in his Oklahoma office when he became a U.S. representative. Upon graduation, she and her husband practiced together at the law firm of Carroll & Carroll until his death in 1982, and she continued the practice by herself until 2018. Ms. Carroll received her 60-year milestone anniversary pin. She was a member of the Tulakes Baptist Church in Bethany and enjoyed teaching Sunday school classes to adults. For many years, she crocheted a large number of small hats for a children's home and tracheostomy covers for veterans.

**Murray Cohen** of Oklahoma City died April 29, 2024. He was born Feb. 22, 1932, in Harlem, New York, and graduated from DeWitt Clinton High School in the Bronx at 16 years old. Mr. Cohen earned a bachelor's degree in pharmacy in 1953 from OU. **After graduation, he served as a second lieutenant in the U.S. Army. Although trained as a forward observer for the Korean War, he served his tour of duty as the chief hospital administrator of the U.S. Army hospital in Nuremberg, Germany, during the Nuremberg war trials. He served in the U.S. Army Reserve until 1961.** Mr. Cohen received his J.D. from the OU College of Law in 1959. He practiced law from 1959 until approximately 2000 and continued to counsel friends and clients for years afterward. He earned national recognition in the '70s and '80s as a gifted turnaround artist, reorganizing distressed businesses. Memorial contributions may be made to Emanuel Synagogue in Oklahoma City, St. Jude Children's Research Hospital in Memphis, Tennessee, or a charity of your choice.

**Stephen A. Collinson** of Tulsa died June 21, 2024. He was born Dec. 27, 1942, in Wichita, Kansas. He graduated from Classen High School in 1961 and received a bachelor's degree in political science from OSU, where he was a member of Sigma Nu. **After college, Mr. Collinson joined the Army National Guard and was awarded the Combat Infantryman Badge for his participation in armed ground conflict in the Central Highlands of Vietnam.** He received his J.D. from the OU College of Law in

1971 and worked at the Oklahoma Corporation Commission before moving to Tulsa to work for Texaco in 1977. He was a lifelong Episcopalian and a member of St. John's Episcopal Church, where he served as an acolyte master, lay reader and a member of the Brotherhood of St. Andrew. He supported his community and was a regular season ticket holder for TU sports, the Tulsa Drillers, the Tulsa Shock, the Tulsa Ballet and the Tulsa Opera. He also ran multiple Tulsa Runs and the New York City Marathon four times. Memorial contributions may be made to a nonprofit of your choice.

**Adam Lee Haselgren** of Tulsa died Dec. 11. He was born May 25, 1976, in Denver and spent his childhood in Broomfield, Colorado. In 1991, he moved to Sidney, Nebraska, and graduated from Sidney High School in May 1994. He attended the University of Nebraska at Kearney to begin the pursuit of his lifelong dream of becoming a lawyer. He received his J.D. from the TU College of Law in 2004. After passing the bar, he began his career with the Tulsa County Public Defender's Office. Mr. Haselgren was adamant about providing public defense for clients who needed legal assistance. He was highly regarded and respected for his knowledge, devotion and compassion by those in Tulsa's judicial system. Memorial contributions may be made to the family for the Adam Haselgren Memorial Scholarship at the TU College of Law to be awarded to a law student committed to public defense.



**Eric H. Hermansen** of Oklahoma City died Dec. 17. He was born Feb. 5, 1944, in Atlanta. Mr. Hermansen received a Bachelor of Business Administration in 1968 and a Master of Arts in political science in 1973 from Midwestern State University, where he was a member of Kappa Sigma. He received his J.D. from the OCU School of Law in 1981. During law school, he taught government and political science courses at Oklahoma City Community College. He returned to teaching in the late 2000s for several years. Mr. Hermansen practiced law in the Oklahoma City area for more than 40 years and took pride in being an attorney of the people. Memorial contributions may be made to Inheritance Adoptions or Mr. Hermansen's funeral expenses at Vondel L. Smith & Sons Mortuaries.

**Stephen Pendaries Kerr** of Tulsa died July 15. He was born Nov. 10, 1944. Mr. Kerr graduated with his bachelor's degree from OU. He received his J.D. from the OU College of Law in 1969 and his LL.M. from the George Washington University Law School. He also pursued further postgraduate study at the Fletcher School of Law and Diplomacy in Boston and the Hague Academy of International Law in the Netherlands. Early in his career, he practiced law in Washington, D.C. He also became an adjunct professor of public international law and human rights. Memorial contributions may be made to the Tulsa Knights of Columbus.

**Eric Russell Schelin** of Portland, Oregon, died March 18, 2024. He was born May 5, 1976, in Butte, Montana. He attended Butte High School and Montana Technological University, where he graduated with honors. Mr. Schelin moved to Tulsa in 2000, where he worked full time as a contract negotiator at Williams Communications while attending the TU College of Law. He received his J.D. with honors in 2002 and was awarded the Student Bar Association President's Award. He began his legal career at the Tulsa law firm of Frederic Dorwart, Lawyers PLLC and had recently moved to Oregon and joined a new start-up firm in Portland before his death.

**Ronald Stephan Willdigg** of Floral Park, New York, died Aug. 14. He was born Oct. 13, 1942. Mr. Willdigg received his J.D. from the OU College of Law.

**Bert Randolph Willert** of Columbia, Tennessee, died Nov. 22. He was born June 15, 1962, in La Jolla, California. Mr. Willert graduated from La Jolla High School in 1980. He took an interest in music at a young age and started playing the drums in junior high. He played the drums for more than four decades and performed with several bands, including Army of Love, The Voices, The Greasy Petes, Red Truck and Billy Bacon & The Forbidden Pigs. He could also sing and play multiple instruments by ear. Mr. Willert graduated from the University of Southern California with a bachelor's degree in business administration in 1990. He received his J.D. *cum laude* from the Thomas Jefferson School of Law in 2004, where he was an editor

of the *Thomas Jefferson Law Review* and the Legal Writing II honors course, and his LL.M. from the University of San Diego School of Law. His career as a probate attorney included practice in the areas of tax, business, real estate, bankruptcy, entertainment law and corporate law. For 15 years, he taught graduate-level courses in business law as an online instructor for Liberty University. He was an active member of Calvary Chapel, where he served as an instructor for the School of Ministry.

**Richard D. Winzeler** of Edmond died Oct. 15. He was born Feb. 10, 1935, in Gridley, Kansas. Mr. Winzeler graduated from Gridley Rural High School in 1953, a class of 22 students, and from Kansas State University with a bachelor's degree in accounting in 1957. He was president of the Tau Kappa Epsilon fraternity. Mr. Winzeler began working for Pan American Petroleum and Transport Co. and later for Moak, Hunsaker and Rouse CPAs. During this time, he attended night classes at the OCU School of Law, where he received his J.D. in 1965. He became a trust officer at Liberty Bank Trust Department. Afterward, he worked as a tax partner with Robinson, DeCordova & Billups CPAs, which eventually became Grant Thornton CPAs, where he retired after 43 years in public accounting. Mr. Winzeler also served on the board of Nichols Hills Bank, now RCB Bank. He was a member of Crossings Community Church and enjoyed his men's bible study at Oak Tree. Memorial contributions may be made to Crossings Community Church.

**M**ichael Grey Wolf of Tulsa died Nov. 5. He was born July 1, 1951. Mr. Wolf received his J.D. from the TU College of Law in 1988.

**D**uane A. Woodliff of Edmond died Oct. 1. He was born Nov. 7, 1941, in Norman. He graduated from Henryetta High School in 1959 and earned his bachelor's degree from OU, where he was a member of the Delta Upsilon fraternity. He received his J.D. from the OU College of Law in 1966, where he served as an editor of the *Oklahoma Law Review* and *The Advocate*. **After graduation, Mr. Woodliff proudly served as a captain in the U.S. Army Judge Advocate General's Corps, Army Security Agency in Asmara, Eritrea, Ethiopia and Fort Ord, California, until 1970.** His career included teaching business law at the University of Maryland Global Campus – European Division, maintaining a general practice in Henryetta and serving as the Henryetta municipal judge, Okmulgee County special judge and associate district judge. He retired in 2014 and served as a volunteer attorney for Legal Aid Services of Oklahoma (LASO). He was recognized as one of the Oklahoma Outstanding Pro Bono Attorneys of 2016. As an ancillary duty, he established and presided over the Okmulgee County Drug Court, the Anna McBride Mental Health Court and the Family Drug Treatment Court. He was involved with the OBA Board of Governors, the Professional Responsibility Tribunal, the Oklahoma Bar Foundation, the Henryetta Chamber of Commerce, the Henryetta Education Foundation

and the Henryetta Medical Foundation, the latter two of which he was a founding officer. He was a member of St. Michael Catholic Church in Henryetta and served many years on the parish board. Memorial contributions may be made to the Okmulgee County Drug Court, the Henryetta Education Foundation or the Regional Food Bank of Oklahoma.

**J** Thornton Wright Jr. of Oklahoma City died July 6. He was born Oct. 25, 1930, in Bowie, Texas. He graduated from Classen High School in 1948 and proudly served as vice president of the school and his senior class. He graduated from OU with his bachelor's degree in business administration and received his J.D. from the OU College of Law in 1954. He was a member of Kappa Sigma and the Phi Alpha Delta legal fraternity. **Mr. Wright served in the U.S. Air Force as a judge advocate from 1954 to 1956.** Afterward, he practiced law in Oklahoma City from 1956 to 2008, except for eight years spent as an Oklahoma County District Court special judge. He was a member of the Oklahoma County Bar Association and received his 70-year milestone anniversary pin from the OBA in May. He was a commercial pilot and enjoyed golfing, fishing and quail hunting. He previously served as president of the Oklahoma Society to Prevent Blindness, Golf Inc. and Twin Hills Golf & Country Club. He was confirmed in the Episcopal Church on April 25, 1954, and maintained his faith through life. Memorial contributions may be made to a charity of your choice.



## 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).



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**Alternative Dispute Resolution**  
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tay1256@gmail.com

### APRIL

**Constitutional Law**  
Editor: Melanie Wilson Rughani  
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### MAY

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

### AUGUST

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

### SEPTEMBER

**Torts**  
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### NOVEMBER

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Editor: Roy Tucker  
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### DECEMBER

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

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**Health Law**

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**Taxation**

### SEPTEMBER

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### EXAMINER OF QUESTIONED DOCUMENTS

Board Certified State & Federal Courts  
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## POSITIONS AVAILABLE

DISTRICT 10 DISTRICT ATTORNEY'S OFFICE, located in Pawhuska, Oklahoma, has an immediate opening for an assistant district attorney. While preference is for individuals with prosecution experience, we will also consider new attorneys as well as those with criminal defense experience who are genuinely interested in serving our citizens and protecting the public. The salary range is from \$60,000 to \$90,000 depending on experience. State benefits include paid sick leave, annual leave, health insurance (for the employee and family) and retirement. Anyone truly interested in making a difference in the lives of others can email a letter of interest and a resume to [mike.fisher@dac.state.ok.us](mailto:mike.fisher@dac.state.ok.us).

### OKLAHOMA INDIGENT DEFENSE IS HIRING

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

OIDS provides a comprehensive benefits package including:

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

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

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

## POSITIONS AVAILABLE

### OKLAHOMA INDIGENT DEFENSE SEEKING ATTORNEYS

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

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

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

OIDS provides a comprehensive benefits package including:

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

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

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

## POSITIONS AVAILABLE

OKLAHOMA CITY MEDICAL MALPRACTICE AND INSURANCE DEFENSE FIRM seeks an associate attorney for immediate placement. Applicants must have excellent verbal and writing skills and be highly motivated to work a case from its inception through completion. Competitive salary with excellent benefits including health insurance, 401(k), and an incentive bonus plan. Team atmosphere and great work-life balance. Send your cover letter, resume, writing sample and transcript (optional) to [hcoleman@johnsonhanan.com](mailto:hcoleman@johnsonhanan.com).

BARBER & BARTZ, P.C., AN AV-RATED DOWNTOWN TULSA LAW FIRM, is seeking an attorney looking for new opportunities to practice in a family-friendly work environment. The candidate must have 5-10 years civil litigation experience. This position includes a competitive salary, health insurance, 401K benefits, and performance-based compensation. Experience in business litigation and federal court experience is preferred. Send resume via email to [jgere@barberbartz.com](mailto:jgere@barberbartz.com).

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

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## POSITIONS AVAILABLE

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

THE DISTRICT SIX DISTRICT ATTORNEY'S OFFICE is accepting resumes for the position of Assistant District Attorney. The District is looking to enhance services to its citizens by adding three (3) additional Assistant District Attorneys. The location of the service will be determined based upon the needs of the District, along with the preference of the candidate(s) for the positions. District Six includes the following counties in Southwest Oklahoma: Caddo, Grady, Stephens, and Jefferson. The District is diverse in that it encompasses areas just outside of Oklahoma City south to the Red River as well as west on a portion of I-40 just past the community of Hinton. Communities within the District include Anadarko, Hinton, Tuttle, Bridge Creek, Blanchard, Chickasha, Rush Springs, Marlow, Duncan, Comanche, Waurika, Ryan, and Ringling to name a few municipalities.

Successful candidates, based upon experience level, will be given the opportunity to prosecute a wide variety of cases including, drug offenses, all types of violent crime, child sexual abuse, driving under the influence, domestic abuse, and/or juvenile deprived/delinquent among other types of offenses. The District offers attorneys the opportunity to appear in court on a regular basis, and to appear as lead counsel in a wide variety of jury trials. The successful candidate(s) should desire to appear in trial on a regular basis.

Successful candidates will be rewarded with competitive salaries, holidays off, health insurance, retirement, and other benefits. Salaries will be based upon experience level and location of service.

Interested candidates should forward a resume to Human Resources Director, Karen Boatman at [karen.boatman@dac.state.ok.us](mailto:karen.boatman@dac.state.ok.us) or District Attorney Jason Hicks at [Jason.hicks@dac.state.ok.us](mailto:Jason.hicks@dac.state.ok.us).

## POSITIONS AVAILABLE

**Position:** Attorney – Litigation (full-time, on-site) to fill an Associate or Of Counsel position

**Location:** Oklahoma City, OK

**Firm:** Cheek & Falcone, PLLC

**Key Responsibilities:**

- Represent clients in all phases of civil litigation cases.
- Conduct legal research and prepare detailed legal memoranda.
- Draft and review pleadings, motions, discovery requests, and other legal documents.
- Provide strategic advice and counsel to clients.
- Manage a caseload and interact directly with clients, opposing counsel, and courts.
- Negotiate settlements and manage alternative dispute resolution processes.

**Qualifications:**

- Juris Doctor (J.D.) from an accredited law school and licensed to practice law in Oklahoma.
- At least 6 years of experience in civil litigation.
- Strong knowledge of litigation procedures, rules of civil procedure, and local court rules.
- Excellent research, writing, and oral advocacy skills.
- Ability to manage and prioritize a caseload effectively.
- Exceptional attention to detail and strong analytical thinking.
- Ability to work independently and as part of a collaborative team.

**Benefits:**

- Competitive base salary (\$100k+).
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- On-site covered parking at NW Oklahoma City offices in Waterford Complex.
- Genuine opportunity for advancement within the firm.
- A collaborative and supportive work environment.

Please send your resume, cover letter, and a writing sample to [officeadmin@cheekfalcone.com](mailto:officeadmin@cheekfalcone.com).

# A Courthouse Memoir

By Travis Pickens

**I'VE BEEN AT THE SAME** corner since I was finished in 1937 as a Public Works Administration project. I have a light gray exterior of Indiana limestone and concrete, with steep dark granite steps leading up to the main doors. Inside, there are rich marbles and cast plaster, and the courtroom doors and trim are made with solid black walnut. I've had a few changes over time. We had to move the entrances and add metal detectors. My snack bar was taken out a few years ago, and it's just vending machines now. Some of my elegance was lost, but I can still turn heads with my art deco design, fixtures, ornate touches and murals. A courthouse has a unique place – it's meant to look imposing and beautiful at the same time. But the most interesting thing to me has been what has happened inside my walls. The same story can probably be told in other courthouses across our state.

Many more women now use my courtrooms as lawyers and judges than in the old days, and the number is still trending up. I never saw that gender made a difference in either arguments or verdicts. The obstacles must have been man-made.

Lawyers act the same. The older lawyers wander around my halls with files under their arms, but they often spend time talking to other lawyers or the judges' bailiffs. A few may not be as busy



as they used to be but still like to have somewhere important to go and things to do as if they were. I don't blame them for that. The younger lawyers walk faster and talk faster, and their eyes are still bright with nervous energy and excitement. Some use laptops or iPads, but most still lug around manilla files in brown folders or cardboard boxes and three-ring binders. Lawyers have always loved three-ring binders.

Jurors haven't changed either. A few are glad to be here, excited to be immersed in the drama. Of course, there are others who tried mightily to avoid serving and are especially frustrated if they get selected for a long trial. Most of them just want to do their duty in the shortest possible time and leave.

Spectators still come through my doors daily. I call some of them "frequent flyers." They want to see

if life will imitate television or a movie they've seen. They hope to feel the same dramatic atmospherics; sometimes they get that, but usually not. It may just be people fighting over what seems like relatively little. But the stakes may be high – a person's life savings or freedom or a company's survival. The criminal cases can be more interesting to watch because they're more like what they've seen or read about, and the lawyers can be more theatrical.

I've been here every day for almost 90 years, and what I've seen are well-educated and honest women and men working hard and doing their best to keep the truth and seek a just result. Important issues are being resolved, and the process that keeps order in a civilized society is grinding away. It may not always be newsworthy or worth millions of dollars or celebrities fighting, but it's important to the people involved. It could change or even save their lives. And sometimes, the result affects the rest of us.

This is a special place where the truth is everyone's duty, and justice for all is everyone's goal. I hope it always will be.

---

Mr. Pickens is an ethics and civil litigation lawyer practicing in Oklahoma City.



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# **A COMEDIC DEBRIEFING OF THE LAW**

### **COURSE DESCRIPTION:**

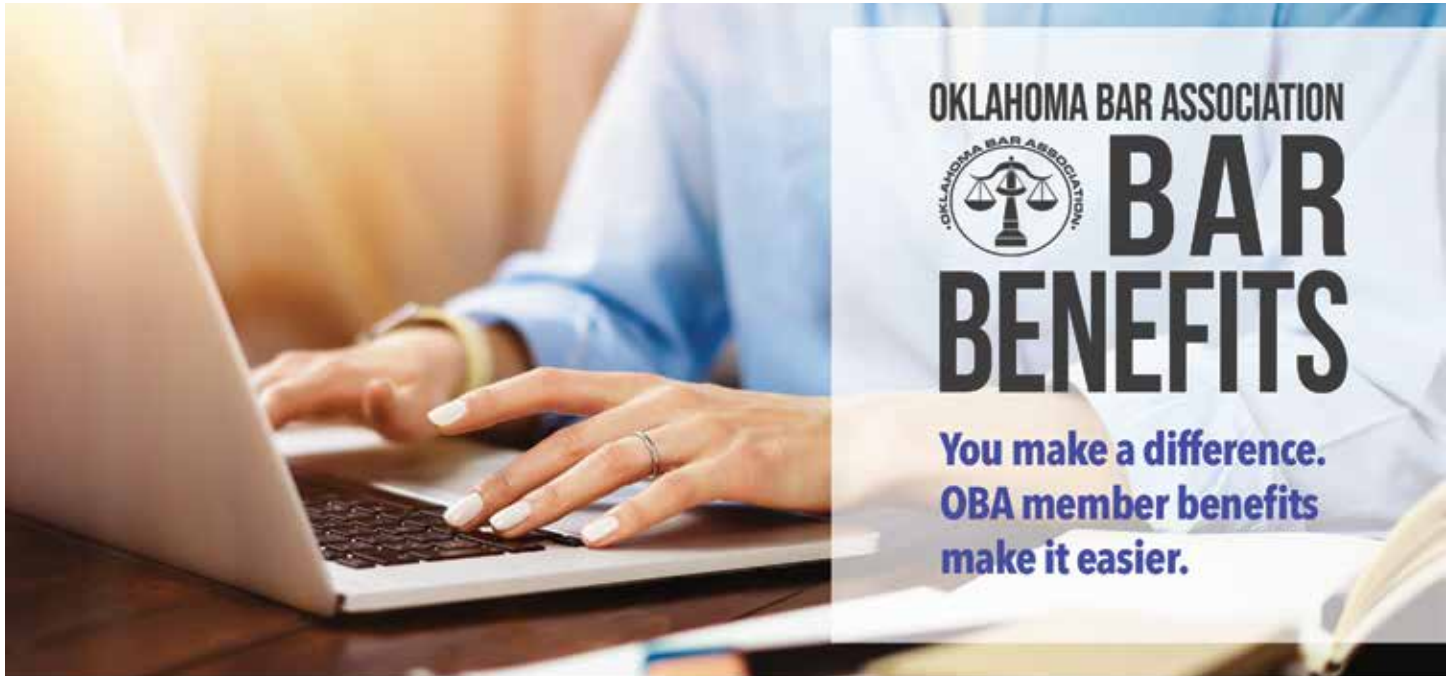
This class is a comprehensive debriefing of the law. Starting with ethics, we review the crazy predicaments some ethically challenged attorneys have found themselves in. You will have to decide based on the severity of the facts and the relevant model rule, would you take a deal for that violation. While Hollywood might not be setting the finest examples when it comes to actual morals and ethics, they do a good job of exhibiting legal ethics. We will explore the Model Rules through the eyes of Hollywood. From Hollywood, it's not a long journey to our legal rock stars – the Nine! The Supreme Court, aka, the Real League of Justice, has been busy exerting their superhero legal powers. We will review recent landmark Supreme Court cases. For example, Masterpiece Cakeshop and stale white wedding cake: discrimination or a valid excuse to skip your cousin's wedding? Finally, we will take a countdown of the Top 10 Wacky cases.

### **ABOUT OUR SPEAKER:**

Joel Oster has spoken to thousands of attorneys across the United States and has learned from their successful and unsuccessful legal practices. Joel brings this practical perspective to all his seminars. Oster earned his J.D. in 1997 from the University of Kansas School of Law. Oster is admitted to the bar in Kansas, Missouri, Florida, and numerous federal courts. Joel is a seasoned litigator and regular speaker to attorneys and non-attorneys alike. He currently is in private practice in Kansas City, specializing in constitutional litigation, campaign finance, sports law and appellate advocacy.

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