

ALSO INSIDE: OBA & Diversity Awards • New Members Admitted • JNC Elections
Legislative Update • New Member Benefit • Solo & Small Firm Conference

THE OKLAHOMA BAR Journal

Volume 92 — No. 5 — May 2021



Black Legal History in Oklahoma

FIND THESE TITLES IN OUR
CLE ONLINE ANYTIME
CATALOG

MCLE 1/0 EACH

COMING IN MAY 2021
**MEDICATION
MISHAPS**



Allison A. Muller,
PharmD, D.ABAT, FAAC

Stay up-to-date and follow us on



TO REGISTER GO TO WWW.OKBAR.ORG/CLE



THE BASICS OF TOXICOLOGY

This program will give a broad overview of what attorneys need to know about the effects of alcohol as well as common street and prescription drugs on the body, interpreting drug screens, how alcohol absorption can be delayed or increased, and the connection between drug levels and impairment. There is so much to know about the science behind drug and alcohol-related impairment but this one-hour program will establish useful basic principles.

Learning objectives:

1. List the expected effects on the body from common street and prescription drugs
2. Differentiate between drug/alcohol levels obtained from blood, urine, breath
3. Identify common false positives when interpreting drug screen results

AN ATTORNEY'S GUIDE TO OPIOIDS AND NALOXONE

Attorneys not only encounter opioids in everyday news. Criminal attorneys hear of these drugs on a much too regular basis when it comes to impairment, fatalities, and street drug dealings. What pearls of science do attorneys need to know about these drugs? How do they work? How do they poison and take the lives of so many? Where do they fit into postmortem cases? Where is fentanyl found? How does naloxone work and when does it work and when does it not? These questions and more will be answered during this one-hour crash course on the science of opioids for attorneys.

ABOUT OUR SPEAKER:

Dr. Allison Muller is a board-certified toxicologist (D.ABAT), fellow of the American Academy of Clinical Toxicology (FAACT), and registered pharmacist with over 20 years' experience in the field of clinical toxicology. After a nearly 20-year career leading the Poison Control Center at The Children's Hospital of Philadelphia, which included consulting on toxicology cases from 21 counties in Pennsylvania and Delaware, Dr. Muller is presently an independent consultant specializing in medical communications and providing expert witness testimony on cases involving medications, alcohol, chemicals, and environmental toxins. She is also adjunct faculty, teaching pharmacology and toxicology to second-year veterinary medicine students, at the University of Pennsylvania School of Veterinary Medicine.

LAWPAY[®]

AN AFFINIPAY SOLUTION

POWERING PAYMENTS FOR THE LEGAL INDUSTRY

The easiest way to accept credit,
debit, and eCheck payments

The ability to accept payments online has become vital for all firms. When you need to get it right, trust LawPay's proven solution.

As the industry standard in legal payments, LawPay is the only payment solution vetted and approved by all 50 state bar associations, 60+ local and specialty bars, the ABA, and the ALA.

Developed specifically for the legal industry to ensure trust account compliance and deliver the most secure, PCI-compliant technology, LawPay is proud to be the preferred, long-term payment partner for more than 50,000 law firms.



**OKLAHOMA BAR
ASSOCIATION** SINCE
1904

ACCEPT MORE PAYMENTS WITH LAWPAY

866-275-2206 | lawpay.com/oba



LawPay is a registered agent of Wells Fargo Bank N.A., Concord, CA and Synovus Bank, Tallahassee, FL.

NEED A COURT BOND?

OAMIC offers both court fiduciary and court judicial guarantee bonds. We make purchasing a court bond quick, simple and cost-effective.

Visit oamic.com/court-bonds.



OKLAHOMA ATTORNEYS
MUTUAL INSURANCE COMPANY

800.318.7505 | OAMIC.COM

THE OKLAHOMA BAR Journal contents

May 2021 • Vol. 92 • No. 5

THEME: **BLACK LEGAL HISTORY IN OKLAHOMA**

Editor: Melissa DeLacerda

Cover Art: *Ada Lois Sipuel Fisher* by Mitsuno Reedy from the Oklahoma State Capitol Art Collection, used with permission, courtesy of the Oklahoma Arts Council

FEATURES

- 6 **BLAZING THE TRAIL: OKLAHOMA PIONEER AFRICAN AMERICAN ATTORNEYS**
By JOHN G. BROWNING
- 12 **'AS SOON AS' THREE SIMPLE WORDS THAT CRUMBLED GRADUATE SCHOOL SEGREGATION: ADA LOIS SIPUEL V. BOARD OF REGENTS**
By CHERYL BROWN WATTLEY
- 18 **GUINN V. U.S.: STATES' RIGHTS AND THE 15TH AMENDMENT**
By ANTHONY HENDRICKS
- 24 **THE TULSA RACE MASSACRE: ECHOES OF 1921 FELT A CENTURY LATER**
By JOHN G. BROWNING
- 30 **OKLAHOMA'S EMBRACE OF THE WHITE RACIAL IDENTITY**
By DANNE L. JOHNSON AND PAMELA JUAREZ

PLUS

- 36 **OBA AWARDS: LEADING IS A CHOICE, LET US HONOR IT**
By KARA I. SMITH
- 39 **NEW MEMBER BENEFIT: OBA NEWSSTAND**
- 40 **CELEBRATE DIVERSITY WITH AN AWARD NOMINATION**
- 42 **NEW LAWYERS TAKE OATH IN ADMISSIONS CEREMONY**
- 44 **LEGISLATIVE MONITORING COMMITTEE REPORT: SESSION WINDING DOWN**
By MILES PRINGLE
- 45 **SOLO & SMALL FIRM CONFERENCE**
- 46 **JUDICIAL NOMINATING COMMISSION ELECTIONS**

DEPARTMENTS

- 4 **FROM THE PRESIDENT**
- 50 **FROM THE EXECUTIVE DIRECTOR**
- 52 **LAW PRACTICE TIPS**
- 58 **ETHICS & PROFESSIONAL RESPONSIBILITY**
- 60 **BOARD OF GOVERNORS ACTIONS**
- 64 **OKLAHOMA BAR FOUNDATION NEWS**
- 68 **YOUNG LAWYERS DIVISION**
- 73 **FOR YOUR INFORMATION**
- 74 **BENCH AND BAR BRIEFS**
- 80 **IN MEMORIAM**
- 82 **EDITORIAL CALENDAR**
- 88 **THE BACK PAGE**



PAGES 36 and 40 –
OBA & Diversity Awards



PAGE 42 –
New Lawyers Take Oath

Words, Life of Frederick Douglass Are Inspiring

By Mike Mordy

THE THEME OF THIS BAR JOURNAL, “BLACK Legal History,” reminded me of Frederick Douglass, who was not an attorney but had all the attributes that we as attorneys strive for and admire – being a great orator and writer. His writings and teachings are extremely relevant today. He stood for the proposition that all people are created equal and deserve the freedom to pursue happiness in our country. He was committed to the principles set forth in the Declaration of Independence that all people are born free and equal, with inherent rights which no one may violate. He taught himself to read, taught himself a political philosophy, and then by his own efforts, he became one of our nation’s most important and historical intellectuals through his own hard work and perseverance.

It is incredible to me that Frederick Douglass was born into slavery and was abused and beaten yet came to write that all people were entitled to the pursuit of happiness and self-reliance and to peace, security and freedom. I think it is important to note that his

background and upbringing did not create in him animosity toward society. He was born in his grandmother’s log cabin, separated from his mother as an infant and raised by his maternal grandparents until the age of 6, when he was “given” to a couple in Baltimore, Maryland. The wife taught him the alphabet and made sure he was fed and slept in a bed with sheets and a blanket; however, her husband disapproved. He believed if the slave could read, he would become unmanageable and ultimately sad because of his predicament. Douglass understood from this rhetoric at a young age the importance of reading and writing. He was sent to a poor farmer

who was known as a “slave breaker,” and I have read he beat Douglass so regularly that his wounds did not heal between beatings. Douglass would later write the beatings broke his body, soul and spirit.

Douglass ultimately escaped in 1838, at the age of 20 and made his way to New York City. He later wrote to a friend, “I felt as one might feel upon escaping from a den of hungry lions. Anguish and grief, like darkness and rain, may be depicted; but gladness and joy, like the rainbow, defied the skill of pen or pencil.”

I note Frederick Douglass’ travails as a slave because it is hard to imagine a man born into slavery in America, separated from his mother as an infant and beaten unmercifully, but then came to support the Constitution and to become a historical giant in the legacy of our country. Even though he was treated with unimaginable degradation, he did not hold a grudge against society, but rather opposed separatism and sought equality for all.

Writer Timothy Sandefur notes in his recent book, *Frederick Douglass: Self Made Man*, that “at a time of increasing cynicism and racial animosity, it’s worthwhile to remember that in an era when race relations were far worse than they are now, Frederick Douglass stood for the proposition that all people are created equal and deserve the freedom to pursue happiness in the United States.” We need to familiarize ourselves with Douglass’s teaching and his beliefs as to individualism, private property, capitalism, free enterprise and constitutionalism. It is important to remember all of the guaranties granted to us and be assured that we, as attorneys, protect the constitutional rights of others in need, in whatever manner that we can, big or small.



A handwritten signature in black ink that reads "Mike Mordy". The signature is written in a cursive, slightly slanted style.

President Mordy practices
in Ardmore.
mmordy@mordylaw.com
580-223-4384

THE OKLAHOMA BAR JOURNAL is a publication of the Oklahoma Bar Association. All rights reserved. Copyright© 2021 Oklahoma Bar Association. Statements or opinions expressed herein are those of the authors and do not necessarily reflect those of the Oklahoma Bar Association, its officers, Board of Governors, Board of Editors or staff. Although advertising copy is reviewed, no endorsement of any product or service offered by any advertisement is intended or implied by publication. Advertisers are solely responsible for the content of their ads, and the OBA reserves the right to edit or reject any advertising copy for any reason. Legal articles carried in THE OKLAHOMA BAR JOURNAL are selected by the Board of Editors. Information about submissions can be found at www.okbar.org.

BAR CENTER STAFF

John Morris Williams, *Executive Director*; Gina L. Hendryx, *General Counsel*; Jim Calloway, *Director of Management Assistance Program*; Craig D. Combs, *Director of Administration*; Janet K. Johnson, *Director of Educational Programs*; Beverly Petry Lewis, *Administrator MCLE Commission*; Carol A. Manning, *Director of Communications*; Dawn Shelton, *Director of Strategic Communications and Marketing*; Richard Stevens, *Ethics Counsel*; Robbin Watson, *Director of Information Technology*; Loraine Dillinder Farabow, Peter Haddock, Tracy Pierce Nester, Katherine Ogden, Steve Sullins, *Assistant General Counsels*

Les Arnold, Julie A. Bays, Gary Berger, Debbie Brink, Jennifer Brumage, Melody Claridge, Cheryl Corey, Ben Douglas, Johnny Marie Floyd, Matt Gayle, Suzi Hendrix, Debra Jenkins, Kiel Kondrick, Rhonda Langley, Jamie Lane, Durrel Lattimore, Edward Maguire, Renee Montgomery, Whitney Mosby, Lauren Rimmer, Tracy Sanders, Mark Schneidewent, Kurt Stoner, Krystal Willis, Laura Willis & Roberta Yarbrough

Oklahoma Bar Association 405-416-7000
Toll Free 800-522-8065
FAX 405-416-7001
Continuing Legal Education 405-416-7029
Ethics Counsel 405-416-7055
General Counsel 405-416-7007
Lawyers Helping Lawyers 800-364-7886
Mgmt. Assistance Program 405-416-7008
Mandatory CLE 405-416-7009
Board of Bar Examiners 405-416-7075
Oklahoma Bar Foundation 405-416-7070

www.okbar.org

THE OKLAHOMA BAR Journal

Volume 92 — No. 5 — May 2021

JOURNAL STAFF

JOHN MORRIS WILLIAMS
Editor-in-Chief
johnw@okbar.org

CAROL A. MANNING, Editor
carolm@okbar.org

LAUREN RIMMER
Advertising Manager
advertising@okbar.org

BOARD OF EDITORS

MELISSA DELACERDA, Stillwater, Chair

LUKE ADAMS, Clinton

AARON BUNDY, Tulsa

CASSANDRA L. COATS, Vinita

VIRGINIA D. HENSON, Norman

C. SCOTT JONES, Oklahoma City

TONY MORALES, Shawnee

ROY TUCKER, Muskogee

DAVID E. YOUNGBLOOD, Atoka



OFFICERS & BOARD OF GOVERNORS

MICHAEL C. MORDY, President, Ardmore;
CHARLES E. GEISTER III, Vice President, Oklahoma City; JAMES R. HICKS, President-Elect, Tulsa; SUSAN B. SHIELDS, Immediate Past President, Oklahoma City; MICHAEL J. DAVIS, Durant; TIM E. DECLERCK, Enid; JOSHUA A. EDWARDS, Ada; AMBER PECKIO GARRETT, Tulsa; BENJAMIN R. HILFIGER, Muskogee; ANDREW E. HUTTER, Norman; DAVID T. MCKENZIE, Oklahoma City; MILES T. PRINGLE, Oklahoma City; ROBIN L. ROCHELLE, Lawton; KARA I. SMITH, Oklahoma City; MICHAEL R. VANDERBURG, Ponca City; RICHARD D. WHITE JR., Tulsa; APRIL J. MOANING, Chairperson, OBA Young Lawyers Division, Oklahoma City

The Oklahoma Bar Journal (ISSN 0030-1655) is published monthly, except June and July, by the Oklahoma Bar Association, 1901 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105. Periodicals postage paid at Oklahoma City, Okla. and at additional mailing offices.

Subscriptions \$60 per year. Law students registered with the OBA and senior members may subscribe for \$30; all active members included in dues. Single copies: \$3

Postmaster Send address changes to the Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152-3036.

Blazing the Trail: Oklahoma Pioneer African American Attorneys

By John G. Browning

THE STORY OF OKLAHOMA'S EARLIEST African American attorneys is inextricably intertwined with the state's roots as a multiethnic land of opportunity. Perhaps its first African American lawyer, Sugar T. George, embodied this more than any of his trailblazing counterparts. George (sometimes identified as "George Sugar") was born into slavery in 1827 in what was then the Muskogee Nation of Georgia. George and his family were among those removed along with their Native American owners in 1828.

When the Civil War broke out, George joined with the "Loyal Creeks" and Seminoles under Opothle Yahola, who fought Confederate forces in Kansas. It is unclear whether George escaped from slavery or purchased his freedom, but it is known from Union Army records that while in Kansas, he enlisted in the First Indian Home Guard. There, his literacy and leadership skills stood out, and George soon achieved the rank of first sergeant.

After the war, George and his family settled near North Fork Town on the Canadian River, where he soon took on leadership positions in the Creek Nation. In 1868, he represented North Fork Town in the House of Warriors and House of Kings as an elected member of the Muskogee National Tribal Council. Although it is unclear where he received his legal training, Sugar George became both a lawyer and a judge. In

addition to assisting other freedmen with legal matters, in 1875 George earned the then-handsome sum of \$25 serving as prosecuting attorney for the Arkansas District of the Creek Nation (at the time, all criminal cases involving U.S. citizens in the Indian and Oklahoma territories were under the jurisdiction of federal court, the nearest of which was located at Fort Smith, Arkansas). Later, he served as a judge in the Muskogee District. Buoyed by his prominence in the community and his legal acumen, George accumulated land and, at the time of his death on June 30, 1900, was known as one of the wealthiest men in the territory.

For many African Americans seeking to escape racial violence and restrictions that accompanied the end of Reconstruction in the South, the opening of former Native American lands in the Oklahoma Territory represented more than just a homesteading

opportunity. It also represented a chance to create towns where Black people would be free to exercise their political rights without interference. Even prominent leaders of the "Exoduster" movement that led to thousands of African Americans migrating to Kansas, such as Edwin P. McCabe, turned their attention to Oklahoma as the new promised land. As a result, Black settlement in rural Oklahoma was much more extensive than in Kansas. By 1900, African American farmers in the territory owned 1.5 million acres valued at \$11 million.¹ And while many were freed people or those married to former slaves who acquired allotments in Indian Territory under the Dawes Act, many were African Americans from other states who gained homesteads in the various land runs in Oklahoma between 1889 and 1895. African American migration to the "Twin Territories" (Indian and Oklahoma) produced

32 all-Black towns, including Boley, Taft and Langston City.² Black farmers, merchants and business owners naturally attracted Black professionals, including doctors, dentists and lawyers.

Some of Oklahoma's first African American lawyers were among those who had started careers in other states but migrated to Oklahoma for better opportunities. One prime example was George Napier Perkins. Born into slavery in 1842 in Williamson County, Tennessee, Perkins was moved at the age of 15 along with the family that owned him to Little Rock, Arkansas. Perkins had received some education. Although it is unclear how he gained his freedom, Perkins joined the Union Army during the Civil War. He served for three years, ultimately achieving the rank of first sergeant in the 57th Colored Infantry. After marrying Maggie Dillard in 1867, Perkins gained his legal education by attending a night law school.³ He was admitted to the Arkansas bar in 1871.⁴

Perkins thrived in Arkansas. He served as a justice of the peace for Campbell Township for six years, as well as two terms as an alderman on the Little Rock City Council. Perkins was also



George Napier Perkins was an African American lawyer, a newspaper publisher and a civil rights activist. Photo courtesy of the Oklahoma Historical Society.

one of eight African American delegates to the 1874 Arkansas Constitutional Convention, where he witnessed the first of multiple attempts by white Democrats to limit Black citizens' rights. Those efforts only intensified after the end of Reconstruction. With the passage in 1890 of the Separate Coach Act (which Perkins had publicly opposed) and other Jim Crow legislation, he decided to head west to Oklahoma.

In Oklahoma, as he did in Arkansas, Perkins quickly

immersed himself in the practice of law as well as civic life. He became an alternate delegate to the territory's 1891 Republican convention soon after moving to Guthrie. He served as a justice of the peace in Guthrie and also served eight years on its city council from 1894 - 1902.⁵ However, Perkins found his other political ambitions thwarted. He ran unsuccessfully for police judge in Guthrie in 1896 and quickly found that despite their growing numbers and occasional success in winning offices, African Americans were being largely shut out of territorial politics.

To amplify the voice of the territory's African Americans, Perkins ventured into the world of journalism. He purchased a Guthrie newspaper, the *Oklahoma Guide*. Not only was it the Oklahoma Territory's first African American newspaper, it soon became the longest continuously published Black-owned weekly newspaper in the territory.⁶ Under Perkins' leadership, the *Oklahoma Guide* not only served as a platform for encouraging Black migration to Oklahoma, it also staunchly defended African Americans' civil rights and spoke out against white fears of Black domination.

With African Americans being excluded from early statehood conventions, Perkins and others sought a Black statehood convention to send a delegation to Washington, D.C., in order to lobby for a single statehood bill rather than the twin-state bill being urged. By now, his vocal advocacy for civil rights had earned him the nickname “The African Lion.” He and other Black leaders in both territories formed the Negro Protective League, which was designed to protect the civil rights of the African American community by advocating for a single statehood bill that would ensure these rights in the face of a white Democratic majority pressing Jim Crow legislation. With prominent opponents like 1906 Oklahoma Constitutional Convention president, future governor and avowed racist William H. “Alfalfa Bill” Murray opposing these efforts, Perkins had his work cut out for him. Although President Theodore Roosevelt insisted on the deletion of white supremacist and segregationist provisions from Oklahoma’s proposed constitution before it could be admitted to statehood in 1907, Murray continued pressing for Jim Crow legislation as the first speaker of the Oklahoma House of Representatives. He said, among other things:

We should adopt a provision prohibiting the mixed marriages of negroes with other races in this State, and provide for separate schools and give the Legislature power to separate them in waiting rooms and on passenger coaches, and all other institutions in the State As a rule they are failures as lawyers, doctors, and in other professions.⁷

Despite the efforts of George Perkins and other Black leaders, Oklahoma did adopt a variety of Jim Crow laws, including a “grandfather clause” law to deny

African Americans’ voting rights. Although he did not act as counsel, Perkins used his unique combination of legal training, newspaper publishing and political leadership to both appeal to whites (including the governor) for repeal of the grandfather clause and to mobilize the African American community to contest it in the courts and fight against disenfranchisement. Although the Oklahoma Supreme Court upheld the grandfather clause,⁸ in 1915, it was struck down by the U.S. Supreme Court.⁹ Unfortunately, George Perkins did not live to see that victory; the “African Lion” died on Oct. 6, 1914.

Completing our triumvirate of early African American legal pioneers in Oklahoma is “the Black Tiger,” William Henry Twine. Twine was born Dec. 10, 1864, in the community of Red House in Madison County, Kentucky. Unlike George Perkins, he was born free, the son of Thomas J. Twine (a wheelwright and runaway slave of mixed African American and Native American ancestry) and Lizzie Twine (a baker described as a “straight born African”).¹⁰ Shortly after the Civil War, the family moved to Xenia, Ohio. Young William graduated from Blackburn High School there

and then furthered his education at Xenia’s Wilberforce University – the first private historically Black university owned and operated by African Americans. Although Twine briefly pursued a teaching career in Richmond, Indiana, he soon moved to Mexia, Texas, for another teaching position. While in Texas, Twine “read the law” and successfully sought admission to the Texas bar – becoming the “first colored man [who] ever took examination as [a] lawyer in Limestone County” in 1888.¹¹

Twine practiced law in Groesbeck, Texas, for approximately three years. He married Mittie Almira Richardson in 1889, and their marriage would eventually produce six sons. On Sept. 22, 1891, Henry Twine and his growing family were among the 20,000 future Oklahomans who participated in the Sac and Fox Land Run in the Oklahoma Territory. They settled near Chandler on a 160-acre homestead. Twine continued to teach school as a steady source of income but, on Oct. 31, 1891, he was admitted to the Oklahoma Territory Bar. In 1897, he moved to Guthrie and organized the territory’s first African American-owned law firm with two partners, G.W.F. Sawner and E.I. Saddler.¹² The firm

Although he did not act as counsel, Perkins used his unique combination of legal training, newspaper publishing and political leadership to both appeal to whites (including the governor) for repeal of the grandfather clause and to mobilize the African American community to contest it in the courts and fight against disenfranchisement.

specialized in criminal practice. Twine was the first African American attorney admitted to practice in the United States Courts in Indian Territory.¹³

In 1897, Twine made history with his defense of George Curley, a man accused of murder, in the U.S. Court for the Northern District of the Indian Territory sitting at Vinita, Oklahoma. Curley was convicted and sentenced to death. On Feb. 11, 1898, Twine filed a petition for writ of error before the U.S. Supreme Court, but the case was dismissed for lack of jurisdiction. Twine's appearance before the Supreme Court was noteworthy because it marked the first appearance by a Black lawyer from Oklahoma or any western state before the nation's highest court.¹⁴

Twine soon moved to Muskogee, in Indian Territory. The work of the Dawes Commission had created a need for lawyers in the territory. There he expanded his work to include not only his law practice but the newspaper business as well. He eventually built a brick office building, housing not only his law practice and his newspaper but other law offices, a doctor's office, a realtor and a tailor shop. From 1898 to 1904, Twine edited the *Pioneer Paper*.

His second and more successful newspaper, the *Muskogee Cimeter*, was published from 1904 to 1921. Twine's family grew as well; of his six sons, three would go on to become lawyers, including Harry Thomas Twine (a 1928 graduate of Harvard University Law School) and Pliny R. Twine (a 1929 Howard Law graduate).¹⁵

Twine was active in the Republican Party, and his work as a lawyer, newspaper editor/owner and community organizer was critical to the fight for civil rights for the African American community in Oklahoma. He received numerous death threats from racists, including the Ku Klux Klan; in defiance of one such threat, he printed it in his



The *Muskogee Cimeter*, a weekly newspaper published by William Henry Twine, included local, territorial and national news. Photo courtesy of the Oklahoma Historical Society.

newspaper along with a response that he and his six sons would be ready for a fight.¹⁶ Twine's editorials attacking discriminatory treatment of Blacks in education, transportation and by law enforcement provided a powerful voice for the community. Ridiculing the racist sentiments of "Alfalfa Bill" Murray during the constitutional convention, Twine wrote:

If the Savior of mankind should come to Oklahoma today and go before the constitutional Convention and the color of his

cuticle should show the dark tinge of one who had lived in the tropics, the curses would crucify him anew and Alfalfa Bill would provide the crown of thorns.¹⁷

Twine and his editorials also bemoaned the fact that white politicians courted the Black vote when it was needed but ignored African Americans seeking a more prominent role in representing themselves. When no Blacks were selected for the July 1905 Single Statehood Convention in Oklahoma City, Twine and other African

American lawyers called for a separate convention, held in Muskogee on April 21, 1905. A second convention was held on Dec. 5, 1906, with 300 Black delegates attending and demanding that the main, all-white Constitutional Convention make no laws restricting African American rights and enfranchisement. When the all-white Constitutional Convention adopted a Constitution laden with Jim Crow provisions, Twine and other African American leaders not only condemned this at a third Black convention in 1907, they traveled to Washington, D.C., to meet with President Roosevelt and urge him to overrule Oklahoma statehood because of the Constitution's disregard for civil rights. Despite Roosevelt's sympathizing (and insistence on removal of the offending language from the draft Constitution), after Oklahoma became a state, the very first law passed by the newly minted Oklahoma Legislature was a Jim Crow law establishing segregation on railway cars.

Twine filed a lawsuit challenging this Jim Crow statute soon after it became law. Twine's civil rights battles were not just waged in courtrooms and in newspaper editorials, where Twine had famously pledged, "We are opposed to Jim Crow no matter where it comes up."¹⁸ Twine was also a key organizer and helped found not only the Negro Protective League of Oklahoma and Indian Territories but also the Oklahoma Anti-Lynching Bureau in 1905.¹⁹ He also fought for the acceptance of Black lawyers by the legal profession as a whole. In the early days, a license to practice law did not automatically mean membership in the bar association, and African American lawyers were routinely excluded from bar activities. Twine's frustration with this is evident in one of his editorials, saying, "The Bar Association reminds us of the Roosevelt club [supporters of

Theodore Roosevelt]. They were too busy for any of the colored members of the bar to join at this time."²⁰ By 1912, with the avid support of Twine and his newspaper, the state's African American lawyers would form their own group, the Oklahoma Negro Bar Association (largely supplanted by the Southwestern Bar Association by 1941).²¹

Twine eventually retired from the newspaper business in 1921, but he continued practicing law and advocating for civil rights until his death in Muskogee on Oct. 8, 1933.²² Twine, along with George Perkins and other early Black legal trailblazers, played a critical role in the development of Oklahoma's African American community and the protection of its civil rights.

As the twin territories and later as a state, Oklahoma provided unheard-of opportunities for African American attorneys – with its "pioneering all-Black communities, the need for legal resolution of countless land disputes, and opportunities to profit in the oil industry development."²³ This unparalleled chance for social and economic mobility led to Oklahoma having more than 60 African American attorneys in 1910 – a figure greater than any other state.²⁴ Oklahoma's early African American lawyers were leaders in the struggle to extend democracy on local and state levels, yet with the pervasive discriminatory effect of Jim Crow laws, racial violence and other factors, pursuing a legal career became both more difficult and less attractive for African Americans. By 1940, the number of Black lawyers had declined so sharply that it wasn't practical to have a group composed solely of Black Oklahoma-licensed attorneys, leading to what would become the Southwestern Bar Association opening up its membership to African American attorneys in other states. As the ongoing concerns over the lack of diversity

in the legal profession reflect, the impact of systemic racism echoes even today.

ABOUT THE AUTHOR



John Browning is a partner in the Plano, Texas, office of Spencer Fane and is a former justice on Texas' 5th

Court of Appeals. He is the author of five law books and numerous articles, including many on African American legal history and has received Texas' top awards for legal writing, legal ethics and contributions to CLE.

ENDNOTES

1. Quintard Taylor, *In Search of the Racial Frontier: African Americans in the American West, 1528–1990*, at 147 (1998).
2. *Id.* at 148–49.
3. Judith Kilpatrick, "(Extra) Ordinary Men: African-American Lawyers and Civil Rights in Arkansas Before 1950," 53 *Ark. L. Rev.* 299, 327 (2000).
4. *Id.* at 328–29.
5. George Napier Perkins (1842–1914), *Encyclopedia of Okla. Hist. & Culture, Okla. Historical Soc'y*, www.okhistory.org/publications/enc/entry.php?entry=PE016.
6. Nudie Williams, *The Black Press in Oklahoma: The Formative Years, 1889–1907*, LXI,3 *Chronicle of Okla.* (Fall 1982).
7. Timothy Egan, *The Worst Hard Time: The Untold Story of Those Who Survived the Great American Dust Bowl* 271 (2006).
8. *Atwater v. Hassett*, 27 *Okla.* 292, 111 P. 802 (1910).
9. *Guinn v. United States*, 238 U.S. 347, 360 (1915). The *Guinn* case is discussed in detail elsewhere in this issue.
10. William Henry Twine (1864–1933), *Encyclopedia of Okla. Hist. & Culture, Okla. Historical Soc'y*, [okhistory.org/publications/enc/entry.php?entry=TW006](http://www.okhistory.org/publications/enc/entry.php?entry=TW006).
11. Frank L. Mather, *Who's Who of the Colored Race: A General Biographical Dictionary of Men and Women of African Descent* 269–70 (1915).
12. R.O. Joe Cassity, Jr., "African American Attorneys on the Oklahoma Frontier," 27 *Okla. City U. L. Rev.* 245 (Spring 2002).
13. Orben J. Casey, *And Justice For All: The Legal Profession in Oklahoma, 1821–1989*, at 121 *Okla. Heritage Ass'n* (1989).
14. *Curley v. United States* 171 U.S. 631 (1898) (consolidated with *Brown v. United States*).
15. "Oklahoma Pioneer is Dead," *Pittsburgh Courier*, Oct. 21, 1944, at 2.
16. William Henry Twine (1864–1933), *supra* note 10.
17. Casey, *supra* note 13, at 121.
18. Arthur L. Tolson, *The Negro in Oklahoma Territory, 1889–1907: A Study of Racial Discrimination*, 109 (unpublished Ph.D. dissertation, University of Oklahoma).
19. Cassity, *supra* note 12, at 258.
20. *The Muskogee Cimeter*, Feb. 16, 1905, at 4.
21. "Lawyers Organize," *The Muskogee Cimeter*, Feb. 24, 1912, at 1.
22. *Obituary, The Black Dispatch*, Oct. 10, 1933, at 1.
23. Cassity, *supra* note 12, at 250.
24. *Id.*

ATTORNEYS, GET THE INSURANCE YOUR PERSONAL ASSETS NEED!



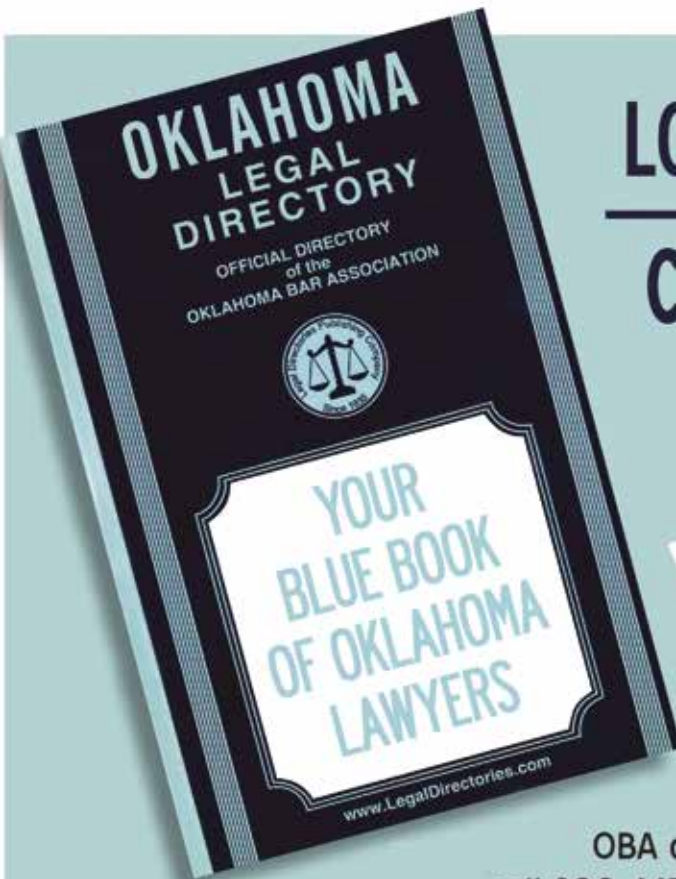
EVALUATE YOUR
PERSONAL ASSETS HERE!

Scan for a surprise!



*As OBA's endorsed and
preferred Insurance Provider,
we are here to help you find
the right coverage!*

405-521-1600
3000ig.com



LOOKING FOR SOMETHING? CHECK YOUR BLUE BOOK!

It's all in here!

The Oklahoma Legal Directory is the official OBA member directory and includes a guide to government offices and a complete digest of courts, professional associations including OBA committees and sections. To order a print copy, call 800-447-5375 ext. 2 or visit www.legaldirectories.com.

‘As Soon As’ Three Simple Words That Crumbled Graduate School Segregation: *Ada Lois Sipuel v. Board of Regents*

By Cheryl Brown Wattlely

IT WAS ONLY A SINGLE PAGE *PER CURIAM* OPINION issued by the United States Supreme Court in *Ada Lois Sipuel v. Board of Regents*.¹ The pronouncement of Sipuel’s rights were contained in a single paragraph:

The petitioner is entitled to secure legal education afforded by a state institution. To this time, it has been denied her although during the same period many white applicants have been afforded legal education by the State. The State must provide it for her in conformity with the equal protection clause of the Fourteenth Amendment and provide it *as soon as* it does for applicants of any other group.

It was a deliberately crafted order that avoided any constitutional pronouncement ending segregation in graduate education. It was an order that gave the state of Oklahoma sufficient ambiguity and opportunity to go through the pretextual motions of establishing a law school within just days that could be farcically heralded as “substantially equal” to the then 40-year-old University of Oklahoma College of Law. It was an order that caused the legal battle

to gain Ada Lois Sipuel admission to the OU College of Law [hereinafter OU law school] to continue for yet another year and a half.²

At the same time, it was a ruling that reached beyond the territorial boundaries of Oklahoma and touched all states with segregated graduate education programs. It was an edict that furthered the disintegration of the fiction of separate but equal education and helped to pave the precedential pathway to *Brown v. Board of Education*. It crushed states’ arguments that African American citizens desiring to pursue graduate studies had to give advance notice to allow the state time to create a separate educational institution. It denied states of the evasive and obstructionist tactic of pleading for time to fund and establish alternate educational offerings for its African American citizens.

The Supreme Court’s frustration with state antics and delays was foretold by the questions

posed to the attorneys representing Oklahoma in the oral argument before the Supreme Court. Maurice Merrill, acting dean of the OU law school and one of the state’s attorneys, was immediately asked questions. Justice Robert Jackson began:

“The state has known for two years she wanted to go to law school. What steps has the state taken? ... Not one step. We are one of 17 states with a public policy of segregation. We feel Miss Sipuel is not willing to recognize that policy.” Justice Jackson’s response, “a scorching rejoinder, ... [w]hy should she be required to abide by anything more than a white person? Why should she be called upon to waive her constitutional rights?”³

“What if the Board of Regents decided to set up a separate law school for black students, what type of legal education would that provide?” Merrill provided his opinion that such a school

would be more like studying in the lawyer's office. The faculty would most likely not be very large. It would certainly be different from the education at the University of Oklahoma law school. ... "If we were to issue an order that [Miss Sipuel] be admitted to the law school this coming semester, can the state do that, will the state do that?" Merrill, as the attorney for the state and as the acting dean of the law school, answered simply "yes."⁴

Based upon the representations made at oral argument, the Supreme Court could have expected its order would cause Sipuel's immediate admission to the OU law school. Just weeks earlier, Oklahoma officials had declined to establish a separate law school because funding was not available. That decision was made despite the impending Supreme Court argument and the express opinion of counsel that such a step would improve the state's position before the Supreme Court.⁵ Based upon that position, the only way for the state to provide Sipuel with a legal education "as soon as"

it was afforded to white citizens would require her admission to the OU law school.

Instead, the Oklahoma State Regents for Higher Education

passed a resolution on Jan. 19, 1948, that established the Langston School of Law and declared that it "shall be substantially equal to the course of study" at the OU law



Dean Jerome E. Henry attaches a cardboard sign to the door of room 428 at the state Capitol on Jan. 26, 1948, signaling the opening of Langston University School of Law. Photo courtesy of the Oklahoma Historical Society.

school.⁶ Predictably, when white students started classes at OU just a mere seven days later, on Jan. 26, 1948, Sipuel was again denied admission. This time, however, the denial was based upon the assertion that a “substantially equal law school” now existed for African American students: Langston School of Law.

The Langston School of Law consisted of three rooms rented in the state Capitol, including a classroom that was a converted storage closet. Resolutions were passed adopting the OU law school bulletin and course descriptions. An

agreement was made that Langston Law School students would be allowed access to the state Capitol law library. A part-time dean and two part-time professors had been hastily hired. The Oklahoma Board of Bar Examiners issued a letter affirming that graduates of the law school would be eligible to sit for the Oklahoma bar exam. All of this was funded by an emergency gubernatorial allocation of \$15,000 – money that had not been available just a few weeks earlier.⁷

Despite telegrams notifying her to enroll, Sipuel refused to attend Langston School of Law. Instead,

she applied again to the OU law school and continued her legal battle with the state. A trial was held in May 1948 to determine whether the newly established Langston School of Law with its part-time faculty, rented rooms in the Oklahoma Capitol and no students was substantially equal to OU law school with its highly respected, full-time faculty, established physical facility and robust student body and alumni base. The NAACP called expert witnesses from across the nation, including the deans of Harvard Law School, University of Pennsylvania Law School, Boalt



Over 1,000 students gather at the University of Oklahoma North Oval on Jan. 29, 1946, to support Sipuel. At the rally, they burned a copy of the 14th Amendment and mailed the ashes to President Truman. Photo courtesy of the Oklahoma Historical Society.



Ada Fisher signs the Registrar of Attorneys in 1952. Photo courtesy of the Oklahoma Historical Society.

Hall Law School, University of Chicago School of Law and OU, who testified that Langston School of Law was not substantially equal to OU. Despite that testimony, Cleveland County District Judge Justin Henshaw found the rejection of Sipuel's application was "legal and proper" and not a denial of the 14th Amendment because the state "had made available to [Sipuel] at the school of law of Langston University a course of instruction for first year law students which offered advantages for legal education substantially equal" to OU.⁸

But while Oklahoma was building its sham law school and

defending it in court, other states were assessing the impact of the order on their educational systems.⁹ The University of Delaware Board of Trustees unanimously adopted a resolution directing the admission of any qualified Black student for a course of study that was not offered at the segregated school. The resolution was based upon the binding effect of the rulings in *Sipuel* and *Gaines*. As a result, Benjamin C. Whitten was admitted to the University of Delaware.¹⁰

On Jan. 30, 1948, University of Arkansas officials announced that African Americans would be admitted to graduate and

professional schools. Silas Hunt filed an application and was subsequently admitted.¹¹ The Alabama State Board of Education was ordered to assess the impact of the *Sipuel* order.¹² In Georgia, the Board of Regents called upon university educational officials to study the impact of the order.¹³

The "as soon as" mandate was felt most sharply when six African American students applied on the last day of registration for the spring 1948 semester to graduate programs offered at OU. Roscoe Dunjee, head of the Oklahoma NAACP and publisher of *The Black Dispatch*, had recruited these



Sipuel poses with the OU College of Law Class of 1951. Photo courtesy of the Western History Collections, University of Oklahoma Libraries, OU 1163B.

students and strategically waited until the state would not have time to create yet another bogus course of study. The applicants sought immediate admission to graduate programs in social work, commercial education, architectural engineering, school administration and zoology.¹⁴ Dr. George Lynn Cross, OU's president, had been instructed to request an opinion letter from Mac Williamson, the state attorney general, if any African American residents applied to OU. Williamson, in an astounding interpretation, informed Dr. Cross the applicants were not to be admitted; they had not given the state notice of their interest to study their respective fields. Based upon the attorney general's opinion, all six applicants were denied admission.

But this time, litigation would not take years to secure the admission of the six applicants. Filing a lawsuit in

Oklahoma federal court on behalf of Dr. George McLaurin, the NAACP argued the *per curiam* opinion in *Sipuel* demanded his immediate admission. It was an argument that resonated with the three-member panel of federal judges.

'The State must provide it [legal education] for Sipuel ... and provide it as soon as it does for applicants of any other group.' To me that is unmistakably plain. I can consider that statement in the context of what I consider a living law. They are entitled to it before they are too old to receive it. [Under the criterion read into the decision by the attorney general] the state would be entitled to two years on the application of any Negro. I question whether a delay of two years affords the equal protection of the law.

If that is true the fourteenth amendment is a farce.¹⁵

"As soon as." "Unmistakably plain." The panel ultimately issued its opinion. "We hold, in conformity with the equal protection clause of the Fourteenth Amendment, that the plaintiff is entitled to secure a postgraduate course of study in education leading to a doctor's degree in this State in a State institution, and that he is entitled to secure it *as soon as* it is afforded to any other applicant."¹⁶ Within weeks, Dr. George McLaurin became the first African American to enroll in and attend the University of Oklahoma.

Before the one-page *per curiam* decision, only one court order had led to the admission and enrollment of an African American student. In 1936, the Maryland Court of Appeals ordered that

Donald Murray be admitted to the University of Maryland School of Law.¹⁷ In the intervening 12 years, despite lawsuits filed by the NAACP, no other Black students had been ordered admitted to a segregated graduate program.¹⁸

This mandate of “as soon as” in the *Sipuel* decision changed that reality because states could not financially afford to maintain dual systems of graduate education. Those words caused the admission of Black graduate students in schools across the South, in Oklahoma, Arkansas and Delaware. They forced the Oklahoma Legislature to amend its statutes to allow the education of African Americans at state-supported institutions, albeit on a segregated basis. They were the first paving stones in a path that led to the matriculation and graduation of trailblazers, such as former Oklahoma Supreme Court Justice Tom Colbert, Oklahoma Court of Criminal Appeals Judge David Lewis, former OU Regent Melvin Hall and countless other African Americans now practicing law.

Those three words caused, as Sipuel described in her autobiography, “the University of Oklahoma [to] come a long way ... thousands of African Americans have attended, graduated from, and excelled at the University of Oklahoma. They have also done that at every public college in every southern state.”¹⁹ They did not lead to her immediate admission, but they financially crippled segregated systems of education and served to crumble the walls of segregated graduate education, a key steppingstone to *Brown v. Board of Education*.

ABOUT THE AUTHOR



Cheryl Brown Wattley has practiced law for over 40 years. In 2006, she went into teaching at the OU College of Law and while there, wrote an award-winning book, *A Step Toward Brown v. Board of Education: Ada Lois Sipuel Fisher and Her Fight to End Segregation*. In 2014, she returned to Dallas as a founding faculty at UNT Dallas College of Law, where she continues to teach.

ENDNOTES

1. *Ada Lois Sipuel v. Board of Regents of the University of Oklahoma*, 332 U.S. 631 (1948).
2. *Ada Lois Sipuel* was finally admitted to the OU law school on June 20, 1949. Despite Sipuel's refusal to enroll and the absence of any other students, Oklahoma had kept Langston School of Law open from January 1948 through June 1949. Once Langston's closure was definite, Sipuel was admitted to OU because the state no longer offered a course of legal study in a separate institution.
3. “NAACP Wins: O.U. Ordered to Admit Miss Sipuel,” *The Black Dispatch*, Jan. 17, 1948, 1, 2.
4. *Id.*
5. State officials had twice decided that the Oklahoma state budget could not provide funding for a separate law school for African American students. The Board of Regents for Higher Education met just weeks before the Supreme Court oral argument; however, it declined to take any action to establish a separate law school. Minutes, Board of Regents for Higher Education, 66th Meeting, Dec. 15, 1947, p. 508.
6. Oklahoma State Regents for Higher Education, Resolution No. 142, Jan. 19, 1948. This declaration blatantly ignored the reality that Langston University, the state university for African Americans, had not been able to achieve accreditation by the North Central Association of Colleges. The accrediting agency informed state officials that, “Langston University has not at this time sufficient strength to justify approval of a program which includes graduate work.” W.D. Little, A Memorandum by Mr. W.D. Little, undated, Papers of George Lynn Cross, 12.
7. Minutes of First Meeting, Regents' Committee on Langston University School of Law, Jan. 19, 1948; Certificate, Board of Bar Examiners, Feb. 2, 1948; Certificate of Authority No. 9, Office of the Governor, State of Oklahoma, Jan. 22, 1948.
8. *Ada Lois Sipuel No. 14807*, Transcript of Oral Proceedings, May 24, 1948; Minute of the Court, *Sipuel v. Board of Regents*, No: 14807, Aug. 2, 1948
9. Henry Foster, an OU College of Law professor, testified at the evidentiary hearing about Langston School of Law and whether it was

“substantially equal” to OU law school. Foster testified that Langston was “a fake, it is a fraud, and it is a deception, and to my mind [it] is an attempt to avoid the clear-cut mandate and orders of the Supreme Court of the United States. It is indecent.” *Ada Lois Sipuel No. 14807*, Transcript of Oral Proceedings, May 24, 1948, 141.

10. *Parker v. University of Delaware*, 75 A.2d 225 (1950).
11. Judith Kilpatrick, Desegregating the University of Arkansas School of Law: L. Clifford Davis and the Six Pioneers, *The Arkansas Historical Quarterly*, Vol. 68, No. 2 (summer 2009).
12. “Alabama Makes Training Plans for Professions,” *New Journal and Guide*, Jan. 24, 1948, p. 9A.
13. “Oklahoma Court Order Hits White Students,” *The Chicago Defender*, Jan. 24, 1948, p.1.
14. Attorney General Mac Q. Williamson letter to Dr. G. L. Cross, President, University of Oklahoma, Jan. 29, 1948.
15. OU Regents Minutes, Jan. 29, 1948, 2589-2596.
16. *McLaurin v. Oklahoma State Regents for Higher Education*, (W.D. Okla. 1948).
17. *Murray v. Pearson*, 169 Md. 478 (1936).
18. *State of Tennessee ex. rel. Joseph M. Michael v. Henry B. Witham et al.* Dec. 4, 1941; *Bluford v. Canada*, 32 F. Supp. 707 (D.C. Mo 1940); Affidavit of Charles L. Eubanks, Jan. 18, 1945, NAACP Papers, Part 3, Reel 11:1120.
19. *Ada Lois Sipuel Fisher, A Matter of Black and White: The Autobiography of Ada Lois Sipuel Fisher*, University of Oklahoma Press, 1996, p. 185.

Guinn v. U.S.: States' Rights and the 15th Amendment

By Anthony Hendricks



The first Oklahoma Legislature signs the first Jim Crow law on Dec. 18, 1907. Photo courtesy of the Oklahoma Historical Society.

ON WEDNESDAY, JAN. 20, 2021, JOSEPH BIDEN was sworn in as the 46th president of the United States of America.¹ While several factors have been attributed to his victory, commentators have pointed to the high turnout of Black voters in states that were won in 2016 by former President Trump.² The number of Black voters who were eligible to vote in the 2020 election was a record high of 30 million,³ and President Biden won 87% of the votes cast by Black voters.⁴ President Biden acknowledges Black voters' role in his win in his victory speech, stating, "You've always had my back, and I'll have yours."⁵

While many are familiar with the role of the 15th Amendment and the 1965 Voting Rights Act in providing access to the ballot for African Americans, the importance of the U.S. Supreme Court's 1915 decision in *Guinn v. United States*⁶ cannot be understated when examining the history of the Black vote. This little talked about appeal out of the state of Oklahoma may be even more relevant now.

While the 2020 presidential election again pointed to the Black vote's importance in American politics, it also renewed conversations about the fear of voter suppression in the Black community. Oklahoma Senator James Lankford, in an open letter to constituents regarding his decision to request an audit of the 2020 presidential election, acknowledged as much, writing:

What I did not realize was all of the national conversation about states like Georgia,

Pennsylvania, and Michigan, was seen as casting doubt on the validity of votes coming out of predominantly Black communities like Atlanta, Philadelphia, and Detroit. After decades of fighting for voting rights, many Black friends in Oklahoma saw this as a direct attack on their right to vote, for their vote to matter, and even a belief that their votes made an election in our country illegitimate.⁷

Any debate about election security and integrity should come from an understanding of our country's suffrage movement, including the legacy of *Guinn*.

OKLAHOMA STATEHOOD AND THE SUPPRESSION OF THE BLACK VOTE

On Nov. 16, 1907, Oklahoma was admitted into the Union as the 46th state. President Roosevelt was reluctant to approve Oklahoma statehood based on fears that the

democrat-led state Legislature would enact Jim Crow laws.⁸ Jim Crow takes its name from derogatory slang used to refer to Black men and were sets of laws used to maintain segregation and discriminate against African Americans.⁹ To combat this, as part of its admission requirement, Oklahoma adopted a state Constitution that allowed men of all races to vote, as required under the 15th Amendment to the U.S. Constitution.¹⁰ However, President Roosevelt's fears came true. From 1890 to 1957, Oklahoma passed 18 Jim Crow laws that restricted education, marriage, travel, access to libraries and voting.¹¹

Shortly after statehood, the Oklahoma Legislature proposed an amendment to the state Constitution that would require voters to satisfy a literacy test.¹² The amendment provided that:

No person shall be registered as an elector of this State or be allowed to vote in any election held herein, unless he be able to read and write any section of the Constitution of the State of Oklahoma; but no person who was, on January 1, 1866, or any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation, and no lineal descendant of such person, shall be denied the right to register and vote because of his inability to so read and write sections of such Constitution. Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this section at the time of registration, provided registration be required. Should registration be dispensed with, the provisions of this section shall be enforced by the precinct election officers when electors apply for ballots to vote.¹³

The amendment required potential voters to be able to read and write “any section of the state Constitution as a condition to voting.”¹⁴ However, this voting restriction was not applied to all Oklahomans. A voter could be exempt from the literacy requirement if he could prove either that his grandfathers had been voters or had been citizens of some foreign nation before 1866.¹⁵ This “grandfather clause” meant that white illiterate men could vote, but Black voters, who were primarily the descendants of slaves, were required to take literacy tests.

The impact of this law was felt immediately. A.C. Hamlin, the first African American member of the Oklahoma Legislature, was elected in 1908 before the Oklahoma constitutional amendment was approved.¹⁶ He represented a



A.C. Hamlin became the first African American member of the Oklahoma Legislature in 1908. Photo courtesy of the Oklahoma Historical Society.

predominately Black community in Logan County. However, after the Oklahoma literacy requirement, Hamilton lost reelection.¹⁷ This voting restriction and other Jim Crow laws also led to the decline in all-Black towns. Early Oklahoma was home to 50 Black towns and settlements, but many African Americans left Oklahoma in response to the state’s Jim Crow laws.¹⁸

CHALLENGES TO OKLAHOMA’S GRANDFATHER CLAUSE

Oklahoma’s grandfather clause was quickly challenged in state court. The Oklahoma Supreme Court in *Atwater v. Hassett* ultimately held the provision did not violate the 14th or 15th Amendments of the U.S. Constitution or Section 3 of the Enabling Act.¹⁹ The court started its analysis by arguing that both the Oklahoma Legislature and Oklahoma electors approved the amendment, and the law was not discriminatory on its face.²⁰ While true, the voting restriction did not explicitly limit African Americans’

rights, the law aimed to exclude Black voters without excluding whites. The law accomplished this without having to say the bad parts out loud.²¹

The Oklahoma Supreme Court next pointed to the other states that enacted restrictions on voting.²² However, Oklahoma’s amendment was considered “the most sweeping attempt yet made constitutionally to include all whites and exclude all blacks from the privilege of voting.”²³ The Oklahoma Supreme Court also took issue with any claim that the constitutional amendment was about discrimination, arguing, “It is a matter of common knowledge that the population of this state is cosmopolitan, embracing people of every creed and race from practically every state in the Union.”²⁴ The Oklahoma Supreme Court’s decision in *Atwater* stood for five years.

GUINN V. U.S. – STATES RIGHTS’ AND THE 15th AMENDMENT

On Nov. 8, 1910, the day of the Oklahoma general election, C.W. Stephenson, Alfred M. Keel, Green Baucom, Sam Fort, Fred McCann, Oliver Andrews, Thomas Pettis and W.T. Smith attempted to vote.²⁵ However, each of these African American voters, and several others, were turned away by election officials Frank Guinn and J.J. Beal.²⁶ All these men were eligible to vote under Oklahoma’s original state Constitution. However, the election officials, relying on the constitutional amendment, turned these voters away and, in some instances, did not allow them even to take the literacy test, even though Guinn and Beal knew several of these voters could have read or written the state Constitution.²⁷ Unfortunately, even if Black voters were allowed to take the literacy test, they still

may not have been able to vote because the literacy tests that states used were often difficult and, in some instances, described as impossible.²⁸

June 13, 1911, prosecutors indicted Guinn and Beal for conspiracy “to deprive certain negro citizens, on account of their race and color, of a right to vote at a general election held in that state in 1910, they being entitled to vote under the state law, and which right was secured to them by the 15th Amendment to the Constitution of the United States.”²⁹ Guinn and Beal were sentenced and then appealed to the 8th Circuit (the 10th Circuit Court of Appeals was not created until 1929) and then the U.S. Supreme Court.

The Supreme Court considered two questions. First, did Oklahoma’s grandfather clause, which unfairly singled out Black voters, violate the 15th Amendment? Second, if the grandfather clause language was removed, can Oklahoma require literacy tests?³⁰ Guinn and Beal argued states could create requirements and standards for voting, and nowhere in the Oklahoma amendment does it discriminate based on race, color or past servitude.³¹ Instead, the federal government is alleging the Oklahoma Legislature had a sinister motive to violate the 15th Amendment when it drafted the grandfather clause.³²

The solicitor general did not dispute that states had the right to create rules related to voting and did not challenge the literacy test’s validity.³³ Instead, the U.S. argued the grandfather clause, because it singles out Black voters, “re-creates and perpetuates the very conditions which the [15th] Amendment was intended to destroy.”³⁴ As a result, the Oklahoma amendment is void.

Chief Justice White, writing the unanimous decision for the court, pointed out what the Oklahoma Supreme Court in *Atwater* ignored when examining the Oklahoma amendment:

It is true it contains no express words of an exclusion from the standard which it establishes of any person on account of race, color, or previous condition of servitude, prohibited by the 15th Amendment, but the standard itself inherently brings that result into existence since it is based purely upon a period of time before the enactment of the 15th Amendment, and makes that period the controlling and dominant test of the right of suffrage.³⁵

Because the grandfather clause picked a period before the 15th Amendment existed, the clause had no other purpose but to keep Black people from voting. The Supreme Court struck down the Oklahoma amendment but did find that states could require literacy tests.

THE LEGACY OF GUINN

Victory for African American voters in the *Guinn* decision was short-lived. In February 1916, a special session of the Oklahoma

Legislature passed a new voting restriction that the U.S. Supreme Court would find unconstitutional in *Lane v. Wilson*.³⁶ But *Guinn* was still a critical case. It was the first case the National Association for the Advancement of Colored People (NAACP) filed an amicus brief.³⁷ The NAACP and NAACP Legal Defense Fund played a seminal role in numerous civil rights cases and are still instrumental in challenging new voting laws passed by states in 2021.³⁸

Several states have recently passed or are in the process of passing new voter restriction laws.³⁹ These new laws include additional voter identification requirements, limit voting by mail⁴⁰ and even punish people who provide voters waiting in lines with water or food.⁴¹ These laws are presented as attempts to stop fraud and expand voting rights but are met with the same type of criticism as voting laws in *Guinn*.⁴² The cost of *Guinn* was heavy – disenfranchising Black voters and creating generations of distrust and pain.⁴³ States should remember this cost when drafting new voting laws.

But *Guinn* was still a critical case. It was the first case the National Association for the Advancement of Colored People (NAACP) filed an amicus brief.

ABOUT THE AUTHOR



Anthony Hendricks is a director at Crowe & Dunlevy in its Oklahoma City office. He is a litigator and legal problem solver

who guides clients facing sensitive regulatory, cybersecurity, banking and environmental compliance issues. He is a graduate of Howard University and Harvard Law School.

ENDNOTES

1. Toluse Olorunnipa and Annie Linskey "Joe Biden is sworn in as the 46th president, pleads for unity in inaugural address to a divided nation," *The Washington Post*, Jan. 20, 2021, at www.washingtonpost.com/politics/joe-biden-sworn-in/2021/01/20/13465c90-5a7c-11eb-a976-bad6431e03e2_story.html.
2. Eugene Scott "Black voters delivered Democrats the presidency. Now they are caught in the middle of its internal battle," *The Washington Post*, Nov. 14, 2021, at www.washingtonpost.com/politics/2020/11/14/black-voters-delivered-democrats-presidency-now-they-are-caught-middle-its-internal-battle.
3. Abby Budiman "Key facts about Black eligible voters in 2020 battleground states," Pew Research, Oct. 21, 2020, at www.pewresearch.org/fact-tank/2020/10/21/key-facts-about-black-eligible-voters-in-2020-battleground-states.
4. Teresa Wiltz "2020: The Year Black Voters Said, 'Hold Up!'," *Politico Magazine*, Jan. 2, 2021, at www.politico.com/news/magazine/2021/01/02/black-americans-power-2020-453345.
5. John Eligon and Audra D. S. Burch "Black Voters Helped Deliver Biden a Presidential Victory. Now What?," *The New York Times*, Nov. 11, 2020, at www.nytimes.com/2020/11/11/us/joe-biden-black-voters.html.
6. 238 U.S. 347 (1915).
7. Letter from James Lankford to my North Tulsa Friends, Jan. 14, 2021, bloximages.newyork1.vip.townnews.com/tulsaworld.com/content/tncms/assets/v3/editorial/3/f0/3f0cb70a-56c8-11eb-bed6-2b558d2cd9e6/6000e17deb73e.pdf.
8. Frank Keating, "Frank Keating: Honoring A.C. Hamlin would right an embarrassing wrong," *The Oklahoman*, July 8, 2020, at oklahoman.com/article/5666249/frank-keating-honoring-ac-hamlin-would-right-an-embarrassing-wrong.
9. "A Brief History of Jim Crow Laws" USC Gold School of Law, at onlinellm.usc.edu/a-brief-history-of-jim-crow-laws.
10. Dianna Everett, "Enabling Act, 1906," *The Encyclopedia of Oklahoma History and Culture*, at www.okhistory.org/publications/enc/entry.php?entry=EN001.
11. "Jim Crow Laws in Oklahoma," *The Oklahoman*, Feb. 13, 2005, at oklahoman.com/article/2884332/jim-crow-laws-in-oklahoma.
12. *Guinn v. United States*, 238 U.S. 347, 355 (1915).
13. *Id.* at 357-358.
14. *Id.*
15. *Id.*
16. Michael L. Bruce, "Hamlin, Albert Comstock," *The Encyclopedia of Oklahoma History and Culture*, www.okhistory.org/publications/enc/entry.php?entry=HA015.

17. *Id.*
18. Larry O'Dell, "All-Black Towns," *The Encyclopedia of Oklahoma History and Culture*, www.okhistory.org/publications/enc/entry.php?entry=AL00.
19. 1910 OK 299, 27 Okla. 292, 111 P. 802.
20. 1910 OK 299, ¶¶20-21, 27 Okla. 292, 111 P. 802.
21. Harry F. Tepker Jr., The Dean Takes His Stand: Julien Monnet's 1912 Harvard Law Review Article Denouncing Oklahoma's Discriminatory Grandfather Clause, 62 *Oklahoma Law Review* 427, 430-431 (2010).
22. *Atwater v. Hassett* 1910 OK 299, ¶¶27-29, 27 Okla. 292, 111 P. 802.
23. Harry F. Tepker Jr., The Dean Takes His Stand: Julien Monnet's 1912 Harvard Law Review Article Denouncing Oklahoma's Discriminatory Grandfather Clause, 62 *Oklahoma Law Review* 427, 431 (2010).
24. *Atwater v. Hassett* 1910 OK 299, ¶34, 27 Okla. 292, 111 P. 802.
25. *Guinn v. United States*, 228 F. 103, 104-105 (8th Cir. 1915).
26. *Id.*
27. *Id.* at 109-111.
28. Rebecca Onion "Take the Impossible 'Literacy' Test Louisiana Gave Black Voters in the 1960s," *Slate*, June 28, 2013, at slate.com/human-interest/2013/06/voting-rights-and-the-supreme-court-the-impossible-literacy-test-louisiana-used-to-give-black-voters.html.
29. *Guinn v. United States*, 238 U.S. 347, 353 (1915).
30. *Id.* at 356-357.
31. *Id.* at 358-359.
32. *Id.*
33. *Id.* at 359-360.
34. *Id.* at 360.
35. *Id.* at 364-365.
36. 307 U.S. 268 (1939).
37. "NAACP Brief History," *Voice of America*, July 11, 2012, at www.voanews.com/archive/naacp-brief-history.
38. "LDF Issues Statement on Georgia's Voter Suppression Bill, S.B. 202, Being Signed Into Law" NAACP Legal Defense Fund, March 25, 2021, at naacpldf.org/press-release/ldf-issues-statement-on-georgias-voter-suppression-bill-s-b-202-being-signed-into-law.
39. "Voting Laws Roundup: February 2021" Brennan Center for Justice, Feb. 8, 2021, at www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2021.
40. *Id.*
41. Sanya Mansoor "Georgia Has Enacted Sweeping Changes to Its Voting Law. Here's Why Voting Rights Advocates Are Worried," *Time Magazine*, March 25, 2021, at time.com/5950231/georgia-voting-rights-new-law.
42. Amy Gardner and Amy B. Wang "Georgia governor signs into law sweeping voting bill that curtails the use of drop boxes and imposes new ID requirements for mail voting," *Washington Post*, March 25, 2021, at www.washingtonpost.com/politics/georgia-voting-restrictions/2021/03/25/91009e72-8da1-11eb-9423-04079921c915_story.html.
43. Russ Bynum, Kate Brumback and Jeff Martin "History, mistrust spurring Black early voters in Georgia," *Associated Press*, Oct. 14, 2020, at apnews.com/article/election-2020-virus-outbreak-race-and-ethnicity-voting-health-6fcec151a2c53ff7a39a0a5d90cdc878.

FIND THESE TITLES IN OUR
**CLE ONLINE
ANYTIME**
CATALOG

**UPCOMING SPEAKERS
AND TOPICS**

Tax Law & Business Structuring
Guest Speaker: Mitch McCuistian

Tax Law & Taxes
Guest Speaker: Chuck Rahill, CPA

Tax Law & Audits
Guest Speaker: Whitney Craig, CPA

Tax Law & Marketing
Guest Speaker: Brenna Bagnaro

Tax Law & Divorce
Guest Speaker: Cathy Christensen

Tax Law & Related Non-Profits
Guest Speaker: Renee Demoss

Stay up-to-date and follow us on



TO REGISTER GO TO WWW.OKBAR.ORG/CLE



TAX AND EMPLOYMENT LAW SURROUNDING THE COVID-19 PANDEMIC

During this course Rachel and attorney Katherine Rith Mazaheri, Mazaheri Law Firm, discuss what business owners and employees need to know about how COVID-19 has affected the workplace, including requirements for the workplace, compliance with Federal Acts, mandates and CDC compliance considerations, and tax issue that may arise. **(MCLE .5/0)**

TAX LAW AND BANKRUPTCY SURROUNDING THE COVID-19 PANDEMIC

Rachel and attorney Elaine Dowling, Dowling Law Office, delve into tax and bankruptcy issues surrounding the COVID-19 Pandemic for individuals and businesses. In particular, the intersection between the two practice areas and ways to resolve tax issues in bankruptcy; often in ways that aren't available elsewhere. **(MCLE 1/0)**

ABOUT RACHEL:

Rachel Mathew loves making the topic of tax policy, tax strategy, tax administration, tax cases, and tax law easy to understand for all! Rachel never planned on becoming a tax attorney. Yet the passion she exhibits today - to use her knowledge to help others- was the cornerstone of who she has always been from the very beginning.

Her unusually high aptitude for math became evident while working on her undergraduate degree. Though not required for her degree, Rachel found that she excelled in high level college math courses and took algebra, trigonometry, pre-calculus, calculus I, calculus II, calculus III, differential equations, and statistics. Rachel began in the tax and accounting field in 1999 and after working as an accountant, Rachel was inspired to become a tax attorney so she could use her knowledge of complex tax laws to help the public navigate the nightmare they faced at the IRS. Rachel and Rod Polston co-own Polston Tax with over 100 employees across the nation and together they have grown it into one of the largest tax resolution firms in the nation.

The Tulsa Race Massacre: Echoes of 1921 Felt a Century Later

By John G. Browning

A CENTURY AGO THIS MONTH, the thriving African American business district in Tulsa – Greenwood, often referred to as “Black Wall Street” – was home to five hotels, 31 restaurants, four drugstores, eight doctors’ offices, a hospital, 12 churches, law offices, a school, multiple grocery stores and other businesses. But when a young, Black man was arrested and jailed over the questionable accusation of assaulting a young, white woman, it proved to be the spark that ignited one of the ugliest, most devastating episodes of racial violence in American history.

In the smoldering embers of what we now refer to as the Tulsa Race Massacre, hundreds of Black citizens lay dead, and as many as 10,000 others were left homeless. Contemporary photos of Greenwood itself resembled Dresden, Germany, after the fire bombings of World War II air raids. More than 35 square city blocks were destroyed. The exact number of dead and the location of many of their remains is still unknown.

But perhaps equally shocking is the fact that for decades afterward, Tulsa itself seems to have buried something else: the truth and scope of what happened. Until recent years, this horrific event seems to have been willfully forgotten, and it was common to encounter whites and Blacks alike who had never heard of or been taught about the Tulsa Race Massacre. As this article shows,

discussion of the Tulsa Race Massacre as we mark its centennial – amidst a national discussion of race relations and racial justice – is critical to heeding Santayana’s famed admonition that those who do not remember the past are condemned to repeat it.

As two of the preeminent historians to study this event, John Hope Franklin and Scott Ellsworth, have noted:

The story of the Tulsa race riot is a chronicle of hatred and fear, of burning houses and shots fired in anger, of justice denied and dreams deferred. Like the bombing of the Murrah Federal Building some seventy-three years later, there is simply no denying the fact that the riot was a true Oklahoma tragedy, perhaps our greatest.¹

But what led up to this tragedy? African Americans, whether they were descended from enslaved persons who had journeyed to Oklahoma on the Trail of Tears with Native American tribes like the Cherokee, Creek, Choctaw, Seminole and Chickasaw, or whether they were settlers seeking their fortune in the decades following the Civil War, viewed the “Twin Territories” as a land of equal opportunity. As lawyer Edward McCabe, founder of the all-Black town of Langston put it, the Oklahoma Territory was a place where “the colored man has the same protection as his white brother.”² Prior to statehood, both “freedmen” and Blacks without Native American ancestry were able to accumulate wealth, both through allotments of land that turned out to be oil rich and sheer hard work and entrepreneurial



National Guard Troops escort unarmed African American men after the Tulsa Race Massacre. Photo courtesy of the Oklahoma Historical Society.

spirit. The discovery of the massive Glenn Pool oil reservoir led to a boom that transformed Tulsa practically overnight. Tulsa's white population quadrupled to more than 72,000 between 1910 and 1920, while the Black population swelled from 2,000 to 9,000. And while the oil industry work itself largely excluded African Americans, the wealth changing Tulsa into "The Magic City" spawned economic opportunities for the city's rapidly growing African American population as well.

The Greenwood District lured such businesspeople as lawyer and real estate agent J.B. Stradford, who built the luxurious three-story, 68-room Stradford Hotel; John and Loula Williams, who owned several businesses, including the Dreamland Theater; grocer and real estate developer O.W. Gurley; B.C. Franklin, a lawyer

whose expertise would prove critical in the aftermath of the massacre; and newspaperman A.J. Smitherman, owner of the *Tulsa Star*. Greenwood had its own hospital, numerous churches and an array of salons, shops and restaurants, serving over 11,000 people. While white Tulsans derisively referred to Greenwood as "Little Africa" (or worse), the district had earned its national moniker: "Black Wall Street."

As Tulsa-based historian Hannibal B. Johnson, author of *Black Wall Street* and other books about Greenwood, points out:

Greenwood was perceived as a place to escape oppression – economic, social, political oppression – in the Deep South. It was an economy born of necessity. It wouldn't have existed had it not been for Jim

Crow segregation and the inability of Black folks to participate to a substantial degree in the larger white-dominated economy.³

However, the dream of Black success and wealth-building was regularly interrupted by racial conflict. Black veterans who had served overseas in World War I and experienced life outside of Jim Crow restrictions came home to a society that viewed them as inferiors. During the "Red Summer" of 1919, race riots erupted in more than 30 cities across the United States. In Tulsa, J.B. Stradford found his wealth didn't prevent him from being forced to sit in a "Jim Crow" car as a paying passenger on the Midland Valley Railroad; he took his case to the Oklahoma Supreme Court and lost.⁴ And with plummeting oil

prices in 1921, once-prosperous whites simmered with resentment at the success of Greenwood's business community.

By May 30, 1921, what had been simmering boiled over with the accusation that 19-year-old Black resident Dick Rowland had assaulted 17-year-old Sarah Page, a white elevator operator at the Drexel Building at 319 S. Main St. Rowland, a shoeshiner, apparently stumbled while entering or exiting the elevator, causing him to inadvertently grab Page's arm. The young woman screamed, causing a clerk at Renberg's (a clothing store on the first floor of the Drexel Building) to rush to investigate. That clerk summoned the police, jumping to the conclusion that Rowland had attempted to assault Page. No record exists of what Sarah Page actually told the police when interviewed, but whatever was said doesn't seem to have spurred the police into anything but "a rather low-key investigation into the affair."⁵

The next morning, May 31, 1921, Rowland was arrested by two Tulsa police officers – Detective Henry Carmichael, who was white, and

Patrolman Henry Pack, one of the few African Americans on Tulsa's 75-man police force. Rowland was booked at police headquarters before being placed in the jail at the Tulsa County Courthouse's top floor. By the afternoon, word had spread to Tulsa's main newspaper, the *Tulsa Tribune*, and the result was a front-page story titled "Nab Negro for Attacking Girl in Elevator."⁶ An inflammatory editorial, purportedly titled "To Lynch Negro Tonight," also ran in this edition, further fanning the flames of mob sentiment.⁷

Dreading the potential for violence, Black community leaders met at A.J. Smitherman's newspaper office to discuss a response. Some recommended patience based on Sheriff Willard McCullough's promise to protect Rowland. But a white mob had already gathered outside the courthouse where Rowland was being held. Fearing the worst, a group of at least 25 African American armed residents – many of them World War I veterans carrying their military small arms – marched to the courthouse to aid in protecting Rowland. More Black

residents of Greenwood arrived later. As the crowd swelled and the tension mounted, a scuffle broke out when a member of the white mob grabbed the weapon of a Black veteran. A shot rang out, and chaos ensued. Greenwood residents tried to fight back, but they were battling not only superior numbers but advanced weaponry as well. The white mob employed machine guns to deadly effect, along with biplanes (possibly belonging to a local oil company) that dropped incendiary turpentine bombs that set the Greenwood district ablaze.

B.C. Franklin would later vividly recall the aerial assault:

I could see planes circling in mid-air. They grew in number and hummed, darted, and dipped low. I could hear something like hail falling upon the top of my office building. Down East Archer, I saw the old Mid-Way hotel on fire, burning from its top, and then another and another and another building began to burn from their top.⁸

I could see planes circling in mid-air. They grew in number and hummed, darted, and dipped low. I could hear something like hail falling upon the top of my office building. Down East Archer, I saw the old Mid-Way hotel on fire, burning from its top, and then another and another and another building began to burn from their top.

As many as 10,000 people were in the white mob that stormed the Greenwood district, including not only armed white men but women, children and members of the National Guard, police department and sheriff's department. A white Tulsa resident, Ruth Sigler Avery, would later recount some of

other businesses – in all, 35 square blocks were destroyed. In today's dollars, estimates of the property losses range from \$20 million to more than \$200 million.¹⁰

In the aftermath, many Black residents were detained in makeshift internment camps. Even after order was restored, it was official

Agitators Blamed for Riot."¹² Mayor T.D. Evans' sentiments were typical, saying, "Let the blame for this Negro uprising lie right where it belongs – on those armed Negroes and their followers who started this trouble ..."¹³ Indeed, the grand jury that was convened (and which issued its report on June 25, 1921) echoed the one-sided, laughably incredible white Tulsa interpretation of the massacre, pointing to "agitation among the Negroes for social equality" as the chief cause.¹⁴ No white person was ever arrested or brought to justice for crimes during the massacre; instead, Black residents (including J.B. Stradford, who relocated to Chicago) were charged with inciting a riot. None were prosecuted. Incredibly, the indictments of A.J. Smitherman and 55 others charged with inciting the riot remained on the books until a University of Buffalo historian, Barbara Seals Nevergold, pressed Tulsa County District Attorney Tim Harris to dismiss the baseless charges, something he did in a 2007 ceremonial hearing.¹⁵

Adding to the tragedy, city officials sought to prevent Greenwood residents and business owners from rebuilding by passing a fire zoning ordinance just six days after the massacre that specified expensive new building materials and standards, which would make it cost prohibitive to rebuild. Practicing out of a tent, B.C. Franklin and other Black lawyers fought to strike down the oppressive ordinance. They sought injunctive relief and won. Later, the Oklahoma Supreme Court held that the ordinance "constituted an invalid taking of property without due process of law."¹⁶

Ironically, some of the most complete documentation of the Tulsa Race Massacre is available thanks to an otherwise obscure



Iron bed frames lay in the rubble of burned buildings after the riot on June 1, 1921. Photo courtesy of the Oklahoma Historical Society.

the grisly sights she witnessed as a girl, including the "cattle trucks heavily laden with bloody, dead, black bodies. They looked like they had been thrown upon the truck beds haphazardly for arms and legs were sticking out through the slats."⁹

By daybreak on June 1, 1921, the catastrophic toll was evident. As many as 300 people were dead, at least 800 more wounded and most of the community's 10,000 residents were rendered homeless. More than 1,100 homes were burned (another 314 were looted but not burned), along with five hotels, 31 restaurants, a school, eight doctor's offices, Greenwood's only hospital, two theaters, a dozen churches and dozens of

policy to release a Black detainee only upon the application of a white person. Some leading white citizens expressed remorse, like Bishop Mouzon:

Civilization broke down in Tulsa. I do not attempt to place the blame, the mob spirit broke and hell was let loose. Then things happened that were on a footing with what the Germans did in Belgium, what the Turks did in Armenia, what the Bolsevists [sic] did in Russia.¹¹

Despite such sentiments, the title of the clergyman's sermon reveals what he and Tulsa's white establishment were identifying as the cause of the massacre: "Black



Many Black Tulsa lawyers practice out of tents after their offices were destroyed during the riot. Photo courtesy of the Oklahoma Historical Society.

Oklahoma Supreme Court case arising out of an insurance coverage dispute.¹⁷ William Redfearn was a white man who owned two buildings in Greenwood, the Dixie Theatre and the Red Wing Hotel, both of which were destroyed in the massacre. They were insured for a total of \$19,000, but American Central Insurance Co. refused to pay based on a riot exclusion clause in the policies. Redfearn sued, lost at trial and appealed all the way to the Oklahoma Supreme Court. Although Redfearn lost, the briefing and record of the case – which includes hundreds of pages of eyewitness testimony and other documentation – provides valuable insight into the massacre, especially the culpability of the Tulsa police department and their “special deputies” who joined in the destruction and violence.¹⁸

The *Redfearn* case is noteworthy for the information it provides in part because of the active campaign Tulsa’s leaders embarked upon in the wake of the massacre to erase the event from the historical record. Police and fire department records mysteriously

disappeared, inflammatory newspaper articles were cut out and victims were buried in unmarked graves.¹⁹ As one historian of the massacre, Scott Ellsworth, observed, “What happens fairly rapidly is this culture of silence descends, and the story of the riot becomes actively suppressed.”²⁰

JUSTICE DENIED OR DELAYED?

According to the 2001 Commission Report, Tulsa residents filed \$1.8 million in riot-related claims against the city between June 14, 1921, and June 6, 1922. Virtually all were disallowed, with one notable exception: A white resident obtained compensation for guns taken from his shop.²¹ Of the lawsuits that were filed, none went anywhere, and in 1937, Judge Bradford J. Williams summarily dismissed most of those that were still languishing on the dockets. While some business owners persevered and managed to reopen venues like the Dreamland Theater, many simply could not.²² The “urban renewal” that brought Interstate 244 to Tulsa, splitting the north side

from the south side, did not help Greenwood. In Tulsa today, where African American residents experience higher rates of unemployment and lower life expectancies, Mayor G.T. Bynum has acknowledged “the racial and economic disparities that still exist today can be traced to the 1921 race massacre.”²³

In 1997, an 11-member “Tulsa Race Riot Commission” was formed and charged with developing a historical record of the massacre. In 2001, the commission issued its report, recommending, among other things, that the state Legislature, governor and Tulsa’s mayor and city council make payment of reparations to survivors and their descendants. Shortly after this report was released, Oklahoma lawmakers passed the “1921 Tulsa Race Riot Reconciliation Act.”²⁴ While it adopted many of the findings of the commission, the legislation did not provide financial compensation to survivors of the massacre or their descendants. And in fall 2001, then-Governor Frank Keating dismissed the notion of any state culpability in the massacre, insisting that paying reparations would be prohibited under Oklahoma law.²⁵

In 2003, a legal team that included Johnnie Cochran Jr. and Harvard law professor Charles Ogletree sued the state of Oklahoma, the city of Tulsa and the Tulsa police department on behalf of more than 200 survivors and their descendants, seeking “restitution and repair.” But in March 2004, the U.S. District Court for the Northern District of Oklahoma – noting that it took “no comfort or satisfaction in the result” – dismissed the case on limitations grounds.²⁶ Similarly taking “no great comfort,” the 10th Circuit affirmed that dismissal later that year.²⁷ The following year, the U.S. Supreme Court declined to review

the case.²⁸ Despite such setbacks and inspired by Oklahoma's success in suing opioid manufacturers under a "public nuisance" theory of recovery in 2019, the last living massacre survivors and descendants filed a lawsuit in 2020 against the city of Tulsa and several other defendants. That lawsuit is still pending.

CONCLUSION

The memories of the shameful legacy of the Tulsa Race Massacre are not just being kept alive in the courtroom, however. The 1921 Tulsa Race Massacre Centennial Commission, an organization working with the city and other civic partners, has planned a 10-day commemoration starting on May 26, 2021. At the intersection of Greenwood Avenue and Archer Street, a state-of-the-art history center called "Greenwood Rising" will be dedicated on June 2, 2021.²⁹ On an exterior wall of the center will be a fitting quote from writer and civil rights activist James Baldwin that should answer any lingering question of why it is so important to remember this dark episode in Oklahoma history: "Not everything that is faced can be changed, but nothing can be changed until it is faced."

ABOUT THE AUTHOR



John Browning is a partner in the Plano, Texas, office of Spencer Fane and is a former justice on Texas' 5th Court of Appeals. He is the author of five law books and numerous articles, including many on African American legal history and has received Texas' top awards for legal writing, legal ethics and contributions to CLE.

ENDNOTES

1. John Hope Franklin & Scott Ellsworth, *History Knows No Fences: An Overview, in Tulsa Race Riot: A Report by the Oklahoma Commission to Study the Tulsa Race Riot of 1921*, at 32 (Feb. 28, 2001) [hereinafter *Tulsa Race Riot Report*].
2. Victor Luckerson, *The Promise of Oklahoma*, *Smithsonian* (Apr. 2021), www.smithsonianmag.com/history/unrealized-promise-oklahoma-180977174.
3. Antoine Gara, *The Bezos of Black Wall Street*, *Forbes* (June 18, 2020), www.forbes.com/sites/antoinegara/2020/06/18/the-bezos-of-black-wall-street-tulsa-race-riots-1921/?sh=62519b40f321; see also Hannibal B. Johnson, *Black Wall Street: From Riot to Renaissance in Tulsa's Historic Greenwood District* (Sept. 1, 1998).
4. *Stratford v. Midland Valley R.R. Co.*, 128 P. 98, 99, 36 Okla. 127 (Okla. 1921). The case style misspells his name, though Stratford's father had been emancipated in Stratford, Ontario.
5. Scott Ellsworth, *The Tulsa Race Riot*, in *Tulsa Race Riot Report*, *supra* note 1.
6. We only know this thanks to a graduate student in history named Loren Gill, who did his 1946 master's thesis at TU on the massacre. Gill found an extant copy of the article, despite the fact the original bound volumes of the now-defunct newspaper had the May 31 front page and editorial page deliberately torn out (a microfilm copy of the paper exists, but the pages in question were removed before the microfilming was done).
7. Like the front page, the editorial page was torn from the surviving paper, and therefore, its exact content is subject to conjecture. However, multiple witnesses recalled the editorial discussing a potential lynching. See Franklin & Ellsworth, *supra* note 1, at 59.
8. *The Tulsa Race Riot and Three of Its Victims*, Manuscript of B.C. Franklin (original in National Museum of African American History and Culture, Washington, D.C.), excerpted in Allison Keyes, *A Long-Lost Manuscript Contains a Searing Eyewitness Account of the Tulsa Race Massacre of 1921*, *Smithsonianmag.com* (May 27, 2016).
9. Ruth Avery, *Fear: The Fifth Horseman*, *Oral History* (quoted in *Tulsa Race Riot Report*, *supra* note 1).
10. Clark Merrefield, *The 1921 Tulsa Race Massacre and the Financial Fallout*, *Harv. Gazette* (June 18, 2020), news.harvard.edu/gazette/story/2020/06/the-1921-tulsa-race-massacre-and-its-enduring-financial-fallout/ (citing Chris Messer, Thomas Shriver & Alison Adams, *The Destruction of Black Wall Street: Tulsa's 1921 Riot and the Eradication of Accumulated Wealth*, *AM. J. Economics & Sociology* (Oct. 2018)).
11. "Black Agitators Blamed for Riot," *Tulsa World*, June 6, 1921, at 1.
12. *Id.*
13. "Public Welfare Board Vacated by Commission," *Tulsa Trib.*, June 14, 1921, at 2.
14. "Grand Jury Blames Negroes for Inciting Race Rioting," *Tulsa World*, June 26, 1921, at 1.
15. Jay Rey, "Justice Delayed But, at Last, Not Denied Thanks to a UB Historian, Vindication For a Newsman Indicted in Tulsa Race Riot," *Buffalo News* (Dec. 11, 2007), buffalonews.com/news/justice-delayed-but-at-last-not-denied-thanks-to-a-ub-historian-vindication-for-a/article_4b7f0d85-4c84-5d59-84cc-60f51d4beaba.html.
16. Scott Ellsworth, *Death in a Promised Land: The Tulsa Race Riot of 1921* (Jan. 1, 1992). The idea of takings claims as a means of redress for race riots has been advanced by at least one scholar. See Melissa Fussell, "Dead Men Bring No Claims: How Takings Claims Can Provide Redress for Real Property Owning Victims of Jim Crow Race Riots," 57 *WM. & Mary L. Rev.* 1913 (2016).

17. *Redfearn v. Am. Central Ins. Co.*, 243 P. 929 (Okla. 1926).

18. For an excellent account of this case and its value as a lens into the massacre's origin and progress, see Alfred Brophy, "The Tulsa Race Riot of 1921 in the Oklahoma Supreme Court," 54 *Okla. L. Rev.* 67 (2001).

19. Braktkton Booker, *Scientists Discover Unmarked Coffins During Search for 1921 Tulsa Massacre Victims*, *NPR.org* (Oct. 23, 2020), www.npr.org/sections/live-updates-protests-for-racial-justice/2020/10/23/927265545/scientists-discover-unmarked-coffins-during-search-for-1921-tulsa-massacre-victims#:~:text=Researchers%20in%20Tulsa%2C%20Okla.%2C,the%20city%20Downed%20Oaklawn%20Cemetery.

20. Maggie Astor, "What to Know About the Tulsa Greenwood Massacre," *N.Y. Times* (June 20, 2020), www.nytimes.com/2020/06/20/us/tulsa-greenwood-massacre.html.

21. Larry O'Dell, *Riot Property Loss, in Tulsa Race Riot Report*, *supra* note 1.

22. *Id.*

23. *Bloomberg Philanthropies Announces City of Tulsa Will Receive \$1 Million for Public Art Project Honoring America's First "Black Wall Street"*, *Bloomberg Philanthropies* (Jan. 15, 2019), www.bloomberg.org/press/bloomberg-philanthropies-announces-city-tulsa-will-receive-1-million-public-art-project-honoring-americas-first-black-wall-street.

24. 1921 Tulsa Race Riot Reconciliation Act of 2001, Okla. Sess. L. Serv. Ch. 315 (West) (codified at Okla. Stat. Ann. Tit. 74, 8000.1(3) (2002)).

25. Adrian Brune, *Tulsa's Shame*, *THE NATION* (Feb. 28, 2002), www.thenation.com/article/archive/tulsas-shame.

26. *Alexander v. Oklahoma*, U.S. Dist. LEXIS 5131, at 3 (N.D. Okla. March 19, 2004).

27. *Alexander v. Oklahoma*, 382 F.3d 1206, 1220 (10th Cir. 2004).

28. *Alexander v. Oklahoma*, 544 U.S. 1044 (2005), cert. denied; Chris Casteel & Jay Marks, "Race-Riot Recourse Blocked, Supreme Court Refuses Appeal After Decision," *The Oklahoman* (May 17, 2005), www.oklahoman.com/article/2896719/race-riot-recourse-blocked-br-supreme-court-refuses-appeal-after-decisions.

29. Tim Madigan, "Remembering Tulsa: American Terror," *Smithsonian* (April 2021), www.smithsonianmag.com/history/tulsa-race-massacre-century-later-180977145.

Oklahoma's Embrace of the White Racial Identity

By Danne L. Johnson and Pamela Juarez

THE LAND THAT IS NOW OKLAHOMA was added to the United States as part of the Louisiana Purchase of 1803. In 1830, Congress passed the Indian Removal Act, which forced the Eastern Woodlands Indian tribes from their homelands and into "Indian Territory," an area that eventually became Oklahoma, the journey, is known as the "Trail of Tears." Simultaneously, the demand for ranching and pasture lands began to increase, and the government eventually opened the Indian Territory to settlement. This opening is commonly known as the "land run." Oklahoma became the 46th state in 1907, following several acts that incorporated more and more Indian Territory into the United States. Oklahoma became a center for oil production, with much of the state's early growth coming from that industry. During the 1930s, Oklahoma suffered from droughts and high winds, destroying farms and creating the infamous Dust Bowl of the Great Depression era. So goes the story of Oklahoma.

This common recitation of Oklahoma's early history is void of the stories of how popular theories of manifest destiny guided efforts to colonize the people on the land and establish white supremacy.¹ Indigenous people lived on and utilized the land and resources of what was to become Indian Territory before Oklahoma would be established. The indigenous people were from numerous tribes, each having a unique culture and way of life. As a result of the Louisiana Purchase, these lands became a part of the United States' westward expansion.

Anti-Blackness and discrimination were not created in Oklahoma, rather they arrived with people, "new white" Americans and indigenous people from the southern states, who had learned, observed, practiced and sought to perfect white supremacy or other forms of

control in the territory destined to become Oklahoma.

Racial whiteness was developed in the U.S. colonies in the late 1600s and early 1700s. Prior to that time, white was not a unifying identity. Laws differentiating jobs and rights in accordance with white as a racial identity came into existence during that time. Low- and no-wage laborers were separated by race, with European laborers accorded white skin privileges and certain benefits while free or indentured Africans, their descendants and other laborers were subjected to more restrictive laws and harsher punishments. Even with white skin privileges, European laborers experienced limited social mobility; however, the skin color hierarchical system prevented the low- and no-wage laborers from uniting across their skin color differences to combat the

challenges presented in the new economy. Over time, these policies created a white identity that prevented white tradesmen from educating nonwhites.

During the 1800s, white identity was strengthened through minstrel shows and negative literary portrayals of Africans and their descendants.² The character traits of newness, cleanliness and rugged individuality defined the new white identity and stood in contrast to Africans, their descendants and other nonwhites who were generally cast as lazy, highly sexualized, communal, dishonest, dirty, dumb and sinister.

The benefits and privileges accorded to the newly created white racial identity can be examined through the experience of Irish immigrants in the late 1800s. The Irish, Africans and African

descendants lived and worked in common areas in the northern United States. It is theorized the term “mulatto” appears in the 1850 census for the first time due to Irish and African or African descendant intermixing. In addition, there is a rich body of literature that supports the unity and camaraderie between those two communities initially.³ However, by the late 1800s, the Irish struggled to take on and assert a new white identity for job security and status. These efforts involved discriminating against their former friends and failing to support the causes that once united them. The Irish distanced themselves from Africans and African descendants by siding with anti-abolitionists and joining white supremacists. A similar homogenization process was experienced by other European ethnic minorities as they sought their fortune in the U.S. These European ethnic minorities gave up their traditional foods, dress and culture to adopt a “whiter” version of themselves.

As southern whites clamored for more land, the government acted to forcibly remove the indigenous people. In 1830, free Africans and free African descendants, enslaved Africans and enslaved African descendants traveling with indigenous owners, neighbors and relatives from Georgia, Florida and Mississippi

arrived in Oklahoma as part of the Indian Removal Act. The Indian Removal Act was applied to the Choctaw, Chickasaw, Cherokee, Creek and Seminole tribes. It is estimated that 10-18% of each impacted tribe’s population was enslaved Africans and enslaved African descendants. It is estimated in 1861 there were more than 8,000 enslaved Africans and enslaved African descendants in Indian Territory, an estimate of free Africans and free African descendants is unavailable.

Numerous accounts trace indigenous ownership of Africans and African descendants to the encouragement by nonindigenous people in the southernmost states. As with the institution of slavery in most of the U.S., slave ownership

was concentrated in the hands of a small number of wealthy farmers. Accounts of the indigenous practice of enslavement focus on keeping enslaved families intact and are generally viewed as less physically abusive. This may be true, but the degraded status of slavery is intolerable to those who are enslaved. In 1842, there was a failed slave revolt in Indian Territory, where less than 50 enslaved Africans and enslaved African descendants attempted to flee from the Cherokee to Mexico. In 1866, slavery was ended in Indian Territory by treaty with the U.S.⁴

In 1889, the Indian Territory was opened by the U.S. government to settlement. People from all over the U.S. and beyond came to settle in Indian Territory. The process further marginalized



Following the Land Run, people set up tents along a dirt street on April 27, 1889. Photo courtesy of the Oklahoma Historical Society

indigenous people in Indian Territory. This unique blend of Africans, African descendants, indigenous people and a variety of European people from across the United States and abroad created a dynamic and sometimes volatile racial and ethnic mixture. Indian territory did not somehow escape the development of skin color hierarchy, rather the white racial identity was bolstered through violence and segregation. Prior to statehood, nearly a dozen communities experienced incidents of racial violence.⁵ In each instance, the goal was to punish or run-away Africans or African descendants: Berwyn in 1895, Lawton in 1902

and Boynton in 1904.⁶ Following the patterns of neighboring states, and prior to statehood, Oklahoma enacted two racial segregation laws covering education.⁷

In 1907, Oklahoma achieved statehood, and in that same year, a preliminary census showed a population of 1,414,177 – comprised of 86.8% “white,” 7.9% “Negro,” 5.3% “Indian” and less than 1% “Mongolian.”⁸ The Oklahoma Constitution identified two races in Article XV, the section for separate schools, the white race and the colored race, defining the term “colored” as all persons of African descent who possess any quantum of negro blood. In addition,

Section 11 of Article XXIII of the Oklahoma Constitution similarly discussed only two races, “colored” or “negro” and all others as white. In 1907 and 1908, Oklahoma enacted five additional racial segregation measures covering voting, public education, railroads and miscegenation.⁹

After statehood, in addition to laws enforcing racial segregation, violence took on a more prominent role. Lynching had taken place in Oklahoma from 1893–1895, with cattle or horse theft and robbery noted as the main offenses.¹⁰ After statehood, lynching was reserved primarily for Africans and African descendants.¹¹



A Black man holds up a sign in Oklahoma City on Aug. 17, 1960. Photo courtesy of the Oklahoma Historical Society.



Two Black children observe a civil rights protest at Bishop's Restaurant in Oklahoma City on May 31, 1963. Photo courtesy of the Oklahoma Historical Society.

The first lynching of a man of African descent happened on December 27, 1907, in Henryetta. Gordon, a man of African descent, was arrested for shooting Bates, a white man, during an argument. When news of the murder made its way to whites, hundreds stormed the jail, took Gordon, lynched him from a telephone pole, and used his body as target practice. Within two days, the whites burned the residential district where the people of African descent resided and established a “sundowner” law.¹²

From 1908 to 1916, 41 men of African descent were lynched in connection with accusations of murder, complicity in murder, rape and attempted rape as the main offenses alleged by whites.¹³

Few Oklahoma cases take up the task of defining race, but those that do are inconsistent and focus on miscegenation, land transfer and one issue of libel related to racial misidentification.¹⁴ Oklahoma case law allowed the construction of racial identity based on skin color, community opinion and assumptions. These methods further embed notions of skin color hierarchy, white passing and related familial disruption.

Oklahoma's history is peppered with cautionary tales of racial terror, race-mixing, racism including sundown town,¹⁵ whipping parties,¹⁶ lynching and Klan activity.¹⁷ The most well-known snapshot of Oklahoma history in terms of racial injustice is the Tulsa Massacre. In the Drexel Building, Sarah Page, a white woman, screamed while Dick Rowland, a man of African

descent, was riding the elevator she operated.¹⁸ It is uncertain what happened; however, the following day, *The Tulsa Tribune* reported that Rowland had attempted to rape Page.¹⁹ The article was titled “Nab Negro for Attacking Girl in Elevator.” That evening hundreds of whites gathered outside the Tulsa County Courthouse, demanding Rowland be turned over to them, but the sheriff refused. On May 31, 1921, whites destroyed more than 1,000 homes and businesses in the district where people of African descent thrived, and an estimated 300 Oklahomans died. Oklahoma's turbulent racial history, unfortunately, casts a shadow over into our racial present.

“The past is never dead, it's not even past.”²⁰

Oklahoma's population is just shy of 4 million people: 74% white, 11.1% Latino, 7.8% African American, 9.4% Indigenous, 2.4% Asian, 0.2% Pacific Islander and 6.3% identify as being of two or more races.²¹ However, in over 100 years of statehood, racial oppression and inequality are persistent and pervasive. Using these census numbers as a backdrop, racial inequality and disparate impacts, in almost every facet of life and measures of wellbeing, are documented.²²

CONCLUSION

We need look no further than the Oklahoma bar to find racialized disparities. The state is 26% nonwhite, and Oklahoma law schools approach or exceed that figure.²³ However, among major firms in Oklahoma, there are very few nonwhites at the partnership or director level. The judiciary and law school faculties are equally homogenous. It is ethical and moral to inquire about the impact of such homogeneity in education, policymaking and the



The NAACP civil rights march on North Shartel Avenue in Oklahoma City on April 3, 1965. Courtesy of the Oklahoma Historical Society.

administration of the laws. We can no longer afford to make excuses about our inability to achieve diversity in the office, on the bench and at the podium. If we are making efforts, individually and collectively, and those efforts are not working, we must return to the drawing board. Members

of the legal profession can accomplish what we set our minds and hearts upon.

I hope Oklahomans associated with the bar and beyond have the will to recognize and change the systems that predetermine negative racial outcomes. The road ahead is long but fruitful. As a

legal community and as individuals, we must grieve our hurt feelings, apologize for the hurt we have caused, witnessed and endorsed, listen and learn about the experiences of others, connect with those who want to share their experiences with respect, reengineer methods and systems

of reward and punishment, put forth all our power and influence toward our values and repair and heal places of hurt.

Oklahoma's future does not need to be written by the past. We can recast the future with intention.

Authors' Note: The authors would like to thank the OCU School of Law and the library staff, particularly Le'Shawn Turner, for support in this project.

ABOUT THE AUTHORS



Danne Johnson is the Constance Baker Motley Professor of Law at the

OCU School of Law and a certified diversity professional. Her awards include the Marian P. Opala Lifetime Achievement Award in 2020 and the Ada Lois Sipuel Fisher Award for Diversity in 2019. She has been recognized twice by the *Journal Record* as "50 Making a Difference."

Pamela Juarez is a 2L student at the OCU School of Law, member of the Hispanic Law Student Association and a dedicated research assistant.

ENDNOTES

1. White Supremacy is the belief, attitude, a practice or a policy that establishes or supports the idea that white people constitute a superior race and should therefore dominate society, typically to the exclusion or detriment of other racial and ethnic groups, in particular Black, indigenous or people of color (BIPOC).

2. Abramovitch, Seth, *Blackface and Hollywood: From Al Jolson to Judy Garland to Dave Chappelle*. "In fact, blackface is the oldest American show-business institution. It has its origins in minstrel shows, which began in New York City in the 1830s and quickly gained popularity among white audiences across the country. Performers were usually white men who would 'black up' their skin using coal or dark shoe polish. Their mouths were drawn clownishly large, they donned woolly wigs and their performances depicted African-Americans as lazy, hypersexual and superstitious jokers." www.hollywoodreporter.com/news/blackface-hollywood-al-jolson-judy-garland-dave-chappelle-1185380 (last visited March 10, 2021).

3. Noel Ignatiev, *How the Irish Became White*, Routledge (2008).

4. William D. Pennington, *Reconstruction Treaties*, The Encyclopedia of Oklahoma History and

Culture, www.okhistory.org/publications/enc/entry.php?entry=RE001 (last visited March 22, 2021).

5. Jimmie Lewis Franklin, *African Americans*, The Encyclopedia of Oklahoma History and Culture, www.okhistory.org/publications/enc/entry.php?entry=AF003. (last visited March 12, 2021).

6. Scott Ellsworth, "Tulsa Race Massacre," *The Encyclopedia of Oklahoma History and Culture*, www.okhistory.org/publications/enc/entry.php?entry=TU013 (last visited Jan. 20, 2021).

7. Map of Jim Crow America, mchekc.org/wp-content/uploads/2021/01/jim-crow-laws.pdf (last visited Jan. 20, 2021).

8. Department of Commerce and Labor, Bureau of the Census 1907 Population of Oklahoma, and Indian Territory, www2.census.gov/prod2/decennial/documents/1907pop_OK-IndianTerritory.pdf (last visited Dec. 17, 2020).

9. Map of Jim Crow America, mchekc.org/wp-content/uploads/2021/01/jim-crow-laws.pdf (last visited Jan. 20, 2021).

10. Dianna Everette, *Lynching*, The Encyclopedia of Oklahoma History and Culture, www.okhistory.org/publications/enc/entry.php?entryname=LYNCHING (last visited Jan. 20, 2021).

11. Dianna Everett, *Lynching*, The Encyclopedia of Oklahoma History and Culture, www.okhistory.org/publications/enc/entry.php?entry=LY00 (last visited March 22, 2021).

12. *History of Okmulgee County*, The Okmulgee Historical Society (1985).

13. Dianna Everette, *Lynching*, The Encyclopedia of Oklahoma History and Culture, www.okhistory.org/publications/enc/entry.php?entryname=LYNCHING (last visited Jan. 20, 2021).

14. In *Bartelle v. United States*, 100 P.45 (Okla. Crim. App. 1909) a woman's race is decided based on community reputation to invalidate her marriage. If she were determined to be Negro, her marriage would be void and her husband subject to prosecution. Ultimately self-identification seems to carry weight. However, this case and others endorse community reputation and affiliation as admissible evidence of racial identity. *Cole et al. v. District Board of School Dist. No. 29, McIntosh County*, 123 P 426 (Okla. 1912). *Scott et al. v. Epperson et al.*, 284 P. 19 (Okla. 1930) considers whether Mr. Scott is white under the Oklahoma Constitution. If Scott is determined to be white, his marriage to a Negro woman would be void.

15. "Sundown towns" – all-white towns where African Americans were not welcome after the sun went down. These towns had signs posted that read, "All people of color should be out of town before sundown." Sarah Stewart, *Norman Couple Relives History of Sundown Towns in Oklahoma*, 2018. News Channel 4 NBC. In the 1940s, Edmond, Oklahoma, promoted itself on postcards with the slogan, "A Good Place to Live ... No Negroes." www.blackpast.org/african-american-history/sundown-towns (last visited Feb. 10, 2021).

16. The "whipping party" -- where a large group of whites whipped or beat an African American who was suspected of an offense of some kind. In 1922 alone, according to Oklahoma Gov. Jack Walton, 2,500 whippings took place. Dianna Everette, *Lynching*, *The Encyclopedia of Oklahoma History and Culture*, www.okhistory.org/publications/enc/entry.php?entryname=LYNCHING (last visited Jan. 20, 2021).

17. Larry O'Dell, *Ku Klux Klan*, The Encyclopedia of Oklahoma History and Culture, www.okhistory.org/publications/enc/entry.php?entry=KU001 (last visited Feb. 18, 2021).

18. Scott Ellsworth, *Tulsa Race Massacre*, The Encyclopedia of Oklahoma History and Culture, www.okhistory.org/publications/enc/entry.php?entry=TU013 (last visited Jan. 20, 2021).

19. Randy Krehbiel, *Tulsa Race Massacre: 1921 Tulsa Newspaper Fueled Racism and One Story is cited for Sparking Greenwood's Burning*, *Tulsa World*, tulsaworld.com/news/tulsa-race-massacre-1921-tulsa-newspapers-fueled-racism-and-one-story-is-cited-for-sparking/article_420593ee-8090-5cfc-873e-d2dd26d2054e.html (last visited Feb. 18, 2021).

20. William Faulkner, *Requiem for a Nun*, Random House (1951).

21. QuickFacts, Oklahoma; United States, Census 2020. www.census.gov/quickfacts/fact/table/OK,US/RH1825219 (last visited Feb. 18, 2021).

22. Negative racialized outcomes can be seen in the following sectors: Healthcare: All minorities in Oklahoma make up 36% of the population but also have a higher need for medical care. In 2018, non-Hispanic African Americans had the highest age-adjusted cerebrovascular disease death rate (52.5 deaths/100,000 population), followed by Indigenous (42.3) and non-Hispanic whites (39.2); Hispanic individuals had the lowest rate (27.9). In 2018, African American adults had the highest age-adjusted death rates for diabetes (59.0 deaths/100,000 population), followed closely by Indigenous (50.6); Hispanics (25.6) and whites (25.5) were much lower. oklahoma.gov/content/dam/ok/en/health/health2/documents/2019-oklahoma-minority-health-at-a-glance.pdf (last visited Feb. 10, 2021). Children and Poverty: For many minority communities racial and ethnic oppression begin in childhood. African American children in Oklahoma are nearly six times more likely to live in concentrated poverty than white children, and Latino children are more than four times as likely. okpolicy.org/black-and-latino-children-in-oklahoma-are-still-more-likely-to-live-in-concentrated-poverty (last visited Feb. 10, 2021). Incarceration: Despite making up only 7.8% of the Oklahoma population, African Americans are disproportionately affected by incarceration in Oklahoma. One in every 15 adult African American men in Oklahoma is in prison, giving us the highest rate of African American incarceration in the country. Indigenous make up about 9% of Oklahoma's population, but Native American women make up about 12% of the incarcerated women in the state. Latinos are also overrepresented in Oklahoma prisons, making up 9% of the state population and 15% of its prisoners. okpolicy.org/2019-priority-add-racial-impact-statements-on-criminal-justice-legislation-to-reduce-disparities-in-the-justice-system (last visited Feb. 10, 2021).

23. OU College of Law reported 28% of the 1L class as nonwhite in 2019, averaging 23.8% nonwhite since 2011. OCU School of Law recently reported 32% of its 1L class as nonwhite. TU College of Law reported 26% of the 1L class as nonwhite in 2019.

Leading is a Choice, Let Us Honor It

By Kara I. Smith

THE TIME HAS COME FOR the OBA Awards Committee to solicit nominations of individuals and entities that are making positive contributions to our community. While the COVID impacts are still present and things have not all the way returned to normal yet, our efforts to identify those who are deserving should always be among our priorities. So, the OBA Awards Committee is asking you to do just that. Make it a priority to look among your peers, search your legal associations and

look around our communities for those who choose the path to lead and influence our communities for the better.

The OBA Awards Committee invites you to review the list of OBA awards and to join the OBA in its efforts to identify individuals and entities that fit the bill, who at the end of the day are that person or group that acts not for the recognition but because it needs to be done, or it is the right thing to do. Please submit your nomination. Please spread the word to

your colleagues and friends about this call, the process and ultimately encourage them to submit a nomination.

ABOUT THE AUTHOR



Kara Smith is the chief assistant attorney general in the Civil Rights Enforcement Unit of the Office of the Oklahoma Attorney General. She serves as Awards Committee chairperson.

NOMINATION RULES AND TIPS

- The **deadline is 5 p.m. Thursday, July 1**, but get your nomination in EARLY! Nominations, complete with all supporting material, **MUST** be received by the deadline. Submissions or supporting material received after the deadline will not be considered.
- Length of nomination is a maximum of five 8 ½ x 11-inch, one-sided pages, including supporting materials and the form, if used. No exceptions.
- Make sure the name of the person being nominated and the person (or organization) making the nomination is on the nomination.
- If you think someone qualifies for awards in several categories, pick one award and only do one nomination. The OBA Awards Committee may consider the nominee for an award in a category other than one in which you nominate that person.
- Submission options (pick one):
 - 1) email: awards@okbar.org (you will receive a confirmation reply);
 - 2) fax: 405-416-7089;
 - 3) mail: OBA Awards Committee, P.O. Box 53036, Oklahoma City, OK 73152.
- Visit www.okbar.org/awards for the nomination form if you want to use one (not required), history of previous winners and tips for writing nominations.

INDIVIDUALS FOR WHOM AWARDS ARE NAMED

NEIL E. BOGAN – Neil Bogan, an attorney from Tulsa, died unexpectedly on May 5, 1990, while serving his term as president of the Oklahoma Bar Association. Mr. Bogan was known for his professional, courteous treatment of everyone he came into contact with and was also considered to uphold high standards of honesty and integrity in the legal profession. The OBA's Professionalism Award is named for him as a permanent reminder of the example he set.

HICKS EPTON – While working as a country lawyer in Wewoka, attorney Hicks Epton decided that lawyers should go out and educate the public about the law in general, and the rights and liberties provided under the law to American citizens. Through the efforts of Mr. Epton, who served as OBA president in 1953, and other bar members, the roots of Law Day were established. In 1961, the first of May became an annual special day of celebration nationwide designated by a joint resolution of Congress. The OBA's Law Day Award recognizing outstanding Law Day activities is named in his honor.

FERN HOLLAND – Fern Holland's life was cut tragically short after just 33 years, but this young Tulsa attorney made an impact that will be remembered for years to come. Ms. Holland left private law practice to work as a human rights activist and to help bring democracy to Iraq. In 2004 she was working closely with Iraqi women on women's issues when her vehicle was ambushed by Iraqi gunmen, and she was killed. The Courageous Lawyer Award is named as a tribute to her.

MAURICE MERRILL – Dr. Maurice Merrill served as a professor at the University of Oklahoma College of Law from 1936 until his retirement in 1968. He was held in high regard by his colleagues, his former students and the bar for his nationally distinguished work as a writer, scholar and teacher. Many words have been used to describe Dr. Merrill over the years, including brilliant, wise, talented and dedicated. Named in his honor is the Golden Quill Award that is given to the author of the best written article published in the Oklahoma Bar Journal. The recipient is selected by the OBA Board of Editors.

JOHN E. SHIPP – John E. Shipp, an attorney from Idabel, served as 1985 OBA president and became the executive director of the association in 1998. Unfortunately, his tenure was cut short when his life was tragically taken that year in a plane crash. Mr. Shipp was known for his integrity, professionalism and high ethical standards. He had served two terms on the OBA Professional Responsibility Commission, serving as chairman for one year, and served two years on the Professional Responsibility Tribunal, serving as chief-master. The OBA's Award for Ethics bears his name.

EARL SNEED – Earl Sneed served the University of Oklahoma College of Law as a distinguished teacher and dean. Mr. Sneed came to OU as a faculty member in 1945 and was praised for his enthusiastic teaching ability. When Mr. Sneed was appointed in 1950 to lead the law school as dean, he was just 37 years old and one of the youngest deans in the nation. After his retirement from academia in 1965, he played a major role in fundraising efforts for the law center. The OBA's Continuing Legal Education Award is named in his honor.

JOE STAMPER – Joe Stamper of Antlers retired in 2003 after 68 years of practicing law. He is credited with being a personal motivating force behind the creation of OUJI and the Oklahoma Civil Uniform Jury Instructions Committee. Mr. Stamper was also instrumental in creating the position of OBA general counsel to handle attorney discipline. He served on both the ABA and OBA Board of Governors and represented Oklahoma at the ABA House of Delegates for 17 years. His eloquent remarks were legendary, and he is credited with giving Oklahoma a voice and a face at the national level. The OBA's Distinguished Service Award is named to honor him.

ALMA WILSON – Alma Wilson was the first woman to be appointed as a justice to the Supreme Court of Oklahoma in 1982 and became its first female chief justice in 1995. She first practiced law in Pauls Valley, where she grew up. Her first judicial appointment was as special judge sitting in Garvin and McClain Counties, later district judge for Cleveland County and served for six years on the Court of Tax Review. She was known for her contributions to the educational needs of juveniles and children at risk. The OBA's Alma Wilson Award honors a bar member who has made a significant contribution to improving the lives of Oklahoma children.

AWARDS

OUTSTANDING COUNTY BAR ASSOCIATION AWARD – for meritorious efforts and activities

2020 Winner: Canadian County Bar Association

HICKS EPTON LAW DAY AWARD – for individuals or organizations for noteworthy Law Day activities

Not awarded in 2020

GOLDEN GAVEL AWARD – for OBA committees and sections performing with a high degree of excellence

2020 Winner: OBA Estate Planning, Probate and Trust Section

LIBERTY BELL AWARD – for nonlawyers or lay organizations for promoting or publicizing matters regarding the legal system

2020 Winner: Poetic Justice, Tulsa

OUTSTANDING YOUNG LAWYER AWARD – for a member of the OBA Young Lawyers Division for service to the profession

2020 Winner: Brandi Nowakowski, Shawnee

EARL SNEED AWARD – for outstanding continuing legal education contributions

2020 Winner: OBA Family Law Section

AWARD OF JUDICIAL EXCELLENCE – for excellence of character, job performance or achievement while a judge and service to the bench, bar and community

2020 Winner: Judge Bob Bacharach, Oklahoma City

FERN HOLLAND COURAGEOUS LAWYER AWARD – to an OBA member who has courageously performed in a manner befitting the highest ideals of our profession

Not awarded in 2020

OUTSTANDING SERVICE TO THE PUBLIC AWARD – for significant community service by an OBA member or bar-related entity

2020 Winner: Christine Pappas, Ada

AWARD FOR OUTSTANDING PRO BONO SERVICE – by an OBA member or bar-related entity

2020 Winner: Derek Burch, Oklahoma City

JOE STAMPER DISTINGUISHED SERVICE AWARD – to an OBA member for long-term service to the bar association or contributions to the legal profession

2020 Winner: Retired Judge Richard Woolery, Sapulpa

NEIL E. BOGAN PROFESSIONALISM AWARD – to an OBA member practicing 10 years or more who for conduct, honesty, integrity and courtesy best represents the highest standards of the legal profession

2020 Winner: Bob Burke, Oklahoma City

JOHN E. SHIPP AWARD FOR ETHICS – to an OBA member who has truly exemplified the ethics of the legal profession either by 1) acting in accordance with the highest ethical standards in the face of pressure to do otherwise or 2) by serving as a role model for ethics to the other members of the profession

2020 Winner: Judge Rebecca Brett Nightingale, Tulsa

ALMA WILSON AWARD – for an OBA member who has made a significant contribution to improving the lives of Oklahoma children

2020 Winner: Judge Lisa Tipping Davis (posthumous), Oklahoma City

TRAILBLAZER AWARD – to an OBA member or members who by their significant, unique visionary efforts have had a profound impact upon our profession and/or community and in doing so have blazed a trail for others to follow.

Not awarded in 2020

OBA Newsstand: Free Benefit to Provide Daily Legal News Updates

GOOD THINGS (AND sometimes technology projects) take time.

We hoped to have the latest OBA member benefit, OBA Newsstand, launched earlier this year.

But it is coming soon. What is the OBA Newsstand? It is a daily newsfeed with practice-specific news, curated in partnership with Lexology. With OBA Newsstand, you will receive valuable news and information from a wide range of global and national agencies and firms, targeted to the areas of law reflecting your interests.

“Investing a few moments to customize this service to focus on your particular interests is

the path to turn this from a good service to an outstanding one,” said Jim Calloway, OBA Management Assistance Program director. “Begin by focusing on a few subjects of importance to you so the update will be shorter in length. You can add more areas later.”

To remove or add areas of interest or jurisdictions, you can request a code to access your account page. All changes must be made on the Lexology site. Your personal data will remain confidential.

Lexology delivers a comprehensive source of international legal updates, analysis and insights. More than 450 articles are published every day from over 900 leading law firms and service providers worldwide across 50 work areas in 25 languages. The searchable archive contains more than one million articles. The combination of timely, quality, granular information and relevant insight provides an unparalleled user experience.

LEXOLOGY®

CONSUMER BROCHURES

The OBA has brochures to help nonlawyers navigate legal issues. Topics include landlord and tenant rights, employer and employee rights, small claims court, divorce, information for jurors and more! Only \$4 for a bundle of 25. To order, visit www.okbar.org/freelegalinfo.



Celebrate Diversity With an Award Nomination

THE DIVERSITY COMMITTEE is now accepting nominations for the Ada Lois Sipuel Fisher Diversity Awards to be presented in November. The three award categories are members of the judiciary, licensed attorneys and organizations that have championed the cause of diversity. All nominations must be received by **Monday, August 2**.

For additional information, please contact Diversity Committee Chair Telana McCullough at 405-522-9528 or visit www.okbar.org/diversityawards.

SELECTION CRITERIA

One or more diversity awards will be given to an organization that has an office in the state of Oklahoma and has met one or more of the following criteria:

- Developed and implemented an effective equal opportunity program as demonstrated by the organization's commitment to the recruitment, retention and promotion of individuals of underrepresented populations regardless of race, ethnic origin, gender, religion, age, sexual orientation, disability or any other prohibited basis of discrimination;
- Promoted diversity initiatives that establish and foster a more inclusive and equitable work environment;

- Demonstrated continued corporate responsibility by devoting resources for the improvement of the community at large; and
- Exhibited insightful leadership to confront and resolve inequities through strategic decision-making, allocation of resources and establishment of priorities.
- Led the development of innovative or contemporary measures to fight discrimination and its effects;
- Fostered positive communication and actively promoted inter-group relations among populations of different backgrounds;
- Participated in a variety of corporate and community events that promoted mutual respect, acceptance, cooperation or tolerance and contributed to diversity awareness in the community and workplace; and
- Reached out to a diverse array of attorneys to understand firsthand the experiences of someone from a different background.

Two or more diversity awards will be given to licensed attorneys, and an additional award will be given to a member of the Oklahoma judiciary who has met one or more of the following criteria:

- Demonstrated dedication to raising issues of diversity and protecting civil and human rights;

NOMINATIONS AND SUBMISSIONS

- Include name, address and contact number of the nominee.
- Describe the nominee's contributions and accomplishments in the area of diversity.
- Identify the diversity award category (organization, licensed attorney or member of the judiciary) in which the nominee is being nominated.
- The submission deadline is Monday, Aug. 2.
- Submissions should not exceed five pages in length.
- Submit nominations to diversityawards@okbar.org.
- Information on past award winners can be found at www.okbar.org/diversityawards.



Ada Lois Sipuel Fisher, Photo Credit: Courtesy Western History Collections, University of Oklahoma Libraries, Ada Lois Sipuel Fisher 3

ADA LOIS SPUDEL FISHER leaves a legacy that impacted the legal profession and the Civil Rights Movement. Born in Chickasha, she graduated in 1945 with honors from Langston University, which did not have a law school. Segregation existed and Black people were prohibited from attending white state universities. Fisher decided to apply for admission to the OU College of Law to challenge the state's segregation laws and to accomplish her life-long goal of becoming a lawyer. State statutes prohibited the college from accepting her. A lawsuit was filed that resulted in a three-year legal battle. After an unfavorable ruling by the Oklahoma Supreme Court, an appeal was filed with the U.S. Supreme Court. Another barrier was erected with the creation of a separate law school thrown together in five days exclusively for her to attend. She refused to attend on the grounds the new school could not provide a legal education equal to OU's law school. A state court ruled against her, and the state Supreme Court upheld the decision. Ms. Fisher's lawyers planned to again appeal to the U.S. Supreme Court, but Oklahoma's attorney general declined to return to Washington, D.C., to argue the case. She was admitted to the OU College of Law on June 18, 1949, and graduated in August 1951.

New Lawyers Take Oath in Admissions Ceremony

BOARD OF BAR EXAMINERS Chairperson Tommy R. Dyer Jr., announces that 67 applicants who took the Oklahoma Bar Examination on Feb. 23-24 were admitted to the Oklahoma Bar Association on April 20 or by proxy at a later date. Due to the social distancing requirements caused by the COVID-19 state of emergency, Oklahoma Supreme Court Chief Justice Richard Darby administered the Oath of Attorney to the candidates on the steps of the Oklahoma Judicial Center in a morning ceremony. A total of 98 applicants took the examination.

Other members of the Oklahoma Board of Bar Examiners are Vice Chairperson Robert E. Black, Oklahoma City; Juan Garcia, Clinton; Micah Knight, Durant; Nathan Lockhart, Norman; Bryan Morris, Ada; Loretta F. Radford, Tulsa; Roger Rinehart, El Reno; and Tom Wright, Muskogee.

THE NEW ADMITTEES ARE:

Andrea Johanna Adum
Hunter Kiyoshi Akin
Joel Daniel Auringer
Kelsey Alison Baldwin
Talor Michelle Black
Brittainy Brooke Boyer
Amanda Jo Bradley
Briana Leigh Brakefield
Matthew Baker Burns
Nicholas Samuel Callaway
Timothy Williams Carignan
Victoria Anna Carrasco
Jonathan David Casey
Kaleigh Marie Chance
Taylor Craig Chinowth
MaryJoy Esclanda Chuba
Jessie Reider Cristo
James Linden Curtis
Sawmon Yousefzadeh Davani
Alan Bruce Davidofsky
Madison Nicole Ewald
Russell Jennings Graves
Carly Ann Greenhaw
Whitney Elizabeth Guild
Wade Kendricks Hairrell
Morgan Lindsey Hale
Justin William Harris
Logan Joseph Hathcoat
Laura Beth Holt
Jarred Lucas Jennings



Jaleesa Komolafe displays her wall certificate.



Candidates raise their right hands as they take the Oath of Attorney on the steps of the Oklahoma Judicial Center.

Right: Supreme Court Chief Justice Richard Darby administers the Oath of Attorney with Vice Chief Justice John Kane standing next to him.



Kaia Kathleen
 Kaasen Kennedy
 Grayson Elaine Kirk
 Jaleesa Cira Komolafe
 Ian Patrick Leitch
 Ryan Alexander Less
 Rusty Allen Lewis
 Carli Jade Liddell
 Hannah Weidner Lunsford
 Melissa Pierre Martin
 Kendall Lynn McCoy
 Mary Irene McMahan
 Paige Catherine Miller
 Justin Benjamin Neal
 Daniel Randolph Ashby Page
 Brandon Stewart Patrick
 Natalie Renee Pedroza
 Christie Ann Porter
 Christian Nathaniel Pyle

Jacob Tyler Reynolds
 Christopher George Reynoso
 Brandon Lee Rogers
 Regan Elizabeth Rule
 David Howard San Martin
 Dillan Mark Savage
 Matthew Curtis Shelton
 Heather Suzanne Sizemore
 Jackson Dalton Stallings
 Marjon Jacqueline Creel Stephens
 Melanie Rachel Stratemeier
 Mylin Alexander Stripling
 Eric Lee Strocen
 Kristin Nicole Thompson
 Jonathan Richard Wade
 Kylie Annmarie Weaver
 Ambre Renee Weston
 William Andrew Calloway Wilcoxon
 Clair Dawn Wood

Session Winding Down

By Miles Pringle

WE ARE IN THE HOMESTRETCH of the 2021 regular legislative session, which is scheduled to end on May 28. In addition to working on last-minute bills, the legislative leaders are likely working closely with the governor's office to finalize the budget. The budgetary process has been made easier this year with an increase in revenue projected by the Oklahoma State Board of Equalization.

Additionally, Medicaid expansion mandated by State Question 802, an anticipated pain point, received positive news during the session. Under the Affordable Care Act, states that expanded Medicaid received a 90% matching rate for adults covered by the expansion (phased down from 100% after 2014). In order to entice the 12 states that have not expanded Medicaid, the federal stimulus bill recently passed under the Biden administration will provide a 5% bump for those states (*i.e.*, 95% match) over the next two years. Since Medicaid expansion had yet to take effect in Oklahoma (July 2021), apparently, the state qualifies for the additional funds. A report from the Kaiser Family Foundation projects Oklahoma will receive approximately \$520 million as a result.

Another development at the Capitol is a dispute between the Oklahoma Corporation Commission and legislators. Senate Bill 617, related to trucking, would move administration of size and weight



violations, as well as money from fines that fund the program, away from the OCC's administrative court and to the district courts. Director of the OCC's Public Utility Division, Brandy Wreath, was quoted in the *Journal Record* as being concerned that SB 617 "makes this whole program an unfunded program, because currently, it is self-funded and paid for by those people who have violated the law and have a fine levied against them. Going forward, all those fines would go to the district court ... It would not be a dollar-for-dollar benefit to those court systems to process all of these, and it would leave whichever agency took this program over unfunded, with the entirety of the funding needing to come from taxpayers through appropriations." Despite the OCC's concerns, the bill appears to be trucking through the Legislature.

For lawyers involved in administrative law, SB 913 continues to move through the legislative process. SB 913 seeks to enhance the oversight the Legislature has in agency rulemaking and would establish a Joint Committee on Administrative Rules to consider proposed rules, amended rules and repeal requests submitted by agencies. Additionally, the executive branch would be granted more authority whereby the governor or a cabinet secretary can veto any agency rule modification or adoption.

COMMITTEE UPDATE

The Legislative Monitoring Committee is continuing to meet via videoconferences during this time; however, we are hopeful that will change if COVID numbers improve. We plan on holding our Legislative Debrief in August and are in the process of evaluating whether that can be in person or not. If you haven't already, we'd love to have you join the committee! Look for the 2021 Sign Up link on www.okbar.org.

ABOUT THE AUTHOR



Mr. Pringle is general counsel for The Bankers Bank in Oklahoma City and serves as the Legislative Monitoring Committee chairperson. Contact him through the committee's Communities page online in MyOKBar.

2021 Solo & Small Firm Conference Postponed

The bad news is the popular Solo & Small Firm Conference is canceled for the summer of 2021.

The good news is the conference returns in 2022, and a CLE Summer Series is planned for this year.

The conference committee met repeatedly to work through factors related to the venue, the pandemic, contracts and the calendar. Because of the obstacles, a decision was approved by the committee and the OBA Board of Governors to cancel the 2021 event, and work toward a return June 23-25, 2022, at Choctaw Casino & Resort in Durant.

“The committee and the staff worked hard to find a venue that would allow the conference to be a fun, informative event with the usual great social events. Unfortunately, the COVID rules in place in all available venues would not allow us to put on the conference in a meaningful way. I’m very disappointed, but we promise in 2022 we will put on the best conference ever,” said OBA President Mike Mordy.

The OBA CLE Department will present a Summer Series featuring online courses with relevant content to solo and small firm practitioners. An in-person social and networking event is being planned in Oklahoma City.



HEY!

When's the last time you checked out OBA member perks?

Every OBA member has access to free and discounted services and programs, like insurance, top-ranking technology and office services. Don't miss out! See them all at www.okbar.org/memberbenefits.



Judicial Nominating Commission Elections

Nomination Period Opens

THE SELECTION OF QUALIFIED persons for appointment to the judiciary is of the utmost importance to the administration of justice in this state. Since the adoption of Article 7-B to the Oklahoma Constitution in 1967, there has been significant improvement in the quality of the appointments to the bench. Originally, the Judicial Nominating Commission was involved in the nomination of justices of the Supreme Court and judges of the Court of Criminal Appeals. Since the adoption of the amendment, the Legislature added the requirement that vacancies in all judgeships, appellate and trial, be filled by appointment of the governor from nominees submitted by the Judicial Nominating Commission.

The commission is composed of 15 members. There are six non-lawyers appointed by the governor, six lawyers elected by members of the bar, and three at large members, one selected by the Speaker of the House of Representatives; one selected by the President Pro Tempore of the Senate; and one selected by not less than eight members of the commission. All serve six-year terms, except the members at large who serve two-year terms. Members may not succeed themselves on the commission. The lawyer members are elected from each of the six congressional districts as they existed in 1967. (Congressional districts were redrawn in 2011.) Elections are held each odd-numbered year for members from two districts.

2021 ELECTIONS

This year there will be elections for members in Districts 5 and 6. District 5 is composed of Oklahoma County, excluding eastern Oklahoma County and south of 89th Street. District 6 is composed of 23 counties in the north central and northwestern part of the state, as they existed in 1967. (See the sidebar for the complete list.)

Lawyers desiring to be candidates for the Judicial Nominating Commission positions have until Friday, May 21, 2021, at 5 p.m. to submit their nominating petitions. Members can download petition forms at www.okbar.org/jnc. When submitting a nominating petition, candidates should include a biography of 100 words or less and a photo (preferably both digital). For additional details and a sample bio format, email Debbie Brink at debbieb@okbar.org.

Ballots will be mailed June 4, 2021, to active attorneys in good standing in Congressional Districts 5 and 6, as they existed in 1967. Ballots must be received at the Oklahoma Bar Center by 5 p.m. June 18, 2021. Ballots will be tabulated on June 21, 2021. Elections results will be posted June 21, 2021. In the event of a runoff, the ballots for the runoff election will be mailed June 25 and the deadline for their return is 5 p.m. July 16, 2021. Those ballots would be tabulated on July 19, 2021.

It is important to the administration of justice that the OBA members in the Congressional Districts 5 and 6 become informed on the candidates

and cast their votes. The framers of the constitutional amendment entrusted to the lawyers the responsibility of electing qualified people to serve on the commission. Hopefully, the lawyers in Congressional Districts 5 and 6 will fulfill their responsibility by voting.

OBA PROCEDURES GOVERNING THE ELECTION OF LAWYER MEMBERS TO THE JUDICIAL NOMINATING COMMISSION

1. Article 7-B, Section 3, of the Oklahoma Constitution requires elections be held in each odd numbered year by Active members of the Oklahoma Bar Association to elect two members of the Judicial Nominating Commission for six-year terms from Congressional Districts as such districts existed at the date of adoption of Article 7-B of the Oklahoma Constitution (1967).

2. Ten (10) Active members of the Association, within the Congressional District from which a member of the Commission is to be elected, shall file with the Executive Director a signed petition (which may be in parts) nominating a candidate for the Commission; or, one or more County Bar Associations within said Congressional District may file with the Executive Director a nominating resolution nominating such a candidate for the Commission.

3. Nominating petitions must be received at the Bar Center by 5:00 P.M. on the third Friday in May.

4. All candidates shall be advised of their nominations, and unless they

indicate they do not desire to serve on the Commission, their name shall be placed on the ballot.

5. If no candidates are nominated for any Congressional District, the Board of Governors shall select at least two candidates to stand for election to such office.

6. Under the supervision of the Executive Director, or his designee, ballots shall be mailed to every Active member of the Association in the respective Congressional District on the first Friday in June, and all ballots must be received at the Bar Center by 5:00 P.M. on the third Friday in June.

7. Under the supervision of the Executive Director, or his designee, the ballots shall be opened, tabulated and certified at 9:00 A.M. on the Monday following the third Friday of June.

8. If there are three or more candidates, the candidate who receives forty percent (40%) or more of the votes cast, shall be declared the winner. If two candidates receive more than forty percent (40%) of the votes each, the candidate with the highest number of votes shall be declared the winner.

9. In case a runoff election is necessary in any Congressional District, runoff ballots shall be mailed, under the supervision of the Executive Director, or his designee, to every Active member of the Association therein on the fourth Friday in June, and all runoff ballots must be received at the Bar Center by 5:00 P.M. on the third Friday in July.

10. Under the supervision of the Executive Director, or his designee, the runoff ballots shall be opened, tabulated

and certified at 9:00 A.M. on the Monday following the third Friday in July.

11. Those elected shall be immediately notified, and their function certified to the Secretary of State by the President of the Oklahoma Bar Association, attested by the Executive Director.

12. The Executive Director, or his designee, shall take possession of and destroy any ballots printed and unused.

13. Following the approval of these procedures, the election procedures, with the specific dates included, shall be published in all print and electronic publications of the Oklahoma Bar Association and placed on the Oklahoma Bar Association website until the deadline for filing nominating petitions.

NOTICE

Judicial Nominating Commission Elections Congressional Districts 5 And 6

Nominations for election as members of the Judicial Nominating Commission from Congressional Districts 5 and 6 (as they existed in 1967) will be accepted by the Executive Director until 5 p.m., Friday, May 21, 2021. Ballots will be mailed June 4, 2021, and must be received at the Oklahoma Bar Center by 5 p.m. on June 18, 2021.



District No. 5	District No. 6
Oklahoma (Part)*	Alfalfa
*Part of	Beaver
Oklahoma	Beckham
County	Blaine
EXCLUDING:	Canadian
Choctaw	Cimarron
Harrah	Custer
Luther	Dewey
Midwest City	Ellis
Newalla	Garfield
Nicoma Park	Grant
Spencer	Harper
South of 89 th	Kay
Street	Kingfisher
	Lincoln
	Logan
	Major
	Noble
	Payne
	Roger Mills
	Texas
	Woods
	Woodward

2021

Patrick A. Williams

CRIMINAL DEFENSE INSTITUTE & OCDLA ANNUAL MEETING

JUNE 24 & 25
RIVER SPIRIT CASINO RESORT
TULSA, OK



The Oklahoma Criminal Defense Lawyers Association proudly presents the *Patrick A. Williams Criminal Defense Institute & OCDLA Annual Meeting*. This year the CDI will be held **IN PERSON** at the River Spirit Casino Resort in Tulsa, OK. The River Spirit Hotel & Casino will have the seminar room set up to socially distance from other attendees. Due to the social distance set up, space could become limited, so register early.

The OCDLA awards presentation & Annual Meeting will take place on Thursday evening of the Institute, along with a happy hour. Awards to be given are:

The Clarence Darrow Award, Thurgood Marshall Appellate Advocacy Award & Lord Thomas Erskine Award, Jack D. Pointer Criminal Defense Advocacy Award

Cutoff date for nominations is June 4, 2021 @ 5:00 p.m.
For OCDLA information, awards criteria & past award winners,
please visit www.ocdlaoklahoma.com

Please send nominations to:

Mail: **OCDLA**
PO Box 2272
OKC, OK 73101-2272

Email: bdp@for-the-defense.com Fax: 405-212-5024

2021 CRIMINAL DEFENSE INSTITUTE

(FULL AGENDA AVAILABLE at www.ocdlaoklahoma.com)

THURSDAY, JUNE 24, 2021

- **The Lynching that Launched 100 Years of Federalism*** – *Mark Curriden, Houston, TX*
- **Impact of Juvenile Cases on the Adult Defendant / Impact of State Cases on the Federal Defendant** – *Al Hoch & Jeff Byers*
- **State & Federal Case Update** – *Barry Derryberry & Stuart Southerland*
- **Overview of Mental Health Diagnoses** – *Shawn Agharkar, MD, DFAPA, Atlanta, GA*
- **Story Telling** – *Jacqui Ford, Oklahoma City*
- **Cellebrite Technology** – *Jason Bass, Oklahoma Digital Forensics*
- **Cost of Justice (Financial Burdens on your Client)*** – *Al Hoch, Oklahoma City*

FRIDAY, JUNE 25, 2021

- **All Things McGirt** – *Robert Don Gifford, Oklahoma City*
- **Representing the Foreign National** – *Julia Summers, AFPD*
- **DUI Issues & Case Update** – *Bruce Edge, Tulsa & John Hunsucker, Oklahoma City*

Registration Fees (Awards Dinner Included)

-OCDLA Member	_____	\$ 250.00
-Non Member	_____	\$ 300.00
-Registration after June 20th	_____	\$ 275.00 (OCDLA Member)
	_____	\$ 325.00 (Non Member)
-Printed Materials	_____	\$ 40.00

TOTAL: _____

Name: _____ Bar #: _____

Address: _____ City/State/Zip: _____

Phone: _____ Email: _____

Credit Card Info: # _____ Exp. Date _____

MCLE Credit

- OK - 12 Hours, includes 2 hour ethics*

LOCATION

The River Spirit Resort has a room rate of \$109.00 for the CDI. This rate is good until May 24th. For room reservations please call 1-888-748-3731 or online @ www.riverspirittulsa.com. If calling, reference the Oklahoma Criminal Defense Lawyers Association or visit OCDLA website for direct link.

Visit www.OCDLAOKLAHOMA.com to register, or mail this ad with payment to:
OCDLA, PO BOX 2272, OKC, OK 73101

FOR MORE INFO: Email: bdp@for-the-defense.com or call the OCDLA: 405-212-5024

I Miss Going to the Record Store and Strawberry Incense

By John Morris Williams

A COUPLE YEARS AGO, I received a record player for Christmas. I admit it was a wish granted. After digging through some boxes, I found some vinyl I had stashed away. Some of the forgotten treasures included the first record I ever owned. It was from 1964. It too was a gift. It was surprising the number of memories that old box of records contained. Some of the records had scratches, and the album covers reflected use and the passage of time. But each of the memories of the time and place where I acquired the records played without any static.

Today the availability of music from an audible command or simply touching the screen on a device is instantaneous and endless. The result is immediate gratification, but I must admit lacks the sensory stimulation of the scent of the incense the record store burned or flipping through the albums with my friends as we searched for something to add to our music collection. Of course, also something within the range of limited finances.

As we begin the path out of the COVID social distancing and necessary virtual meetings, we find ourselves at a crossroads. One road connects us with others through the touch of a keyboard or a screen. The other road requires traveling to a location and being in



close physical proximity with other people. One road has the efficiency of immediate connection while staying in place, and the other requires adding in travel and the time that takes.

In a way this is nothing new. For years, through the use of the telephone, we have been able to have immediate communications with others in distant locations. Videoconferencing has added the obvious visual component. When it all works well, virtual conferencing is a solution that can be meaningful and productive. When multiple parties are involved, the component of scheduling is the same for audio only (telephone)

or videoconferencing. My experience is that scheduling is easier when multiple parties do not have to dedicate travel time to attend. Thus, virtual meetings win hands down for convenience.

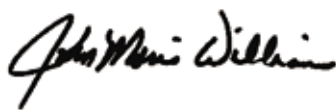
But what about the smell of the record store, the actual touching of the music with my friends and the budgeting of time and resources to have the experience of owning my own music? What about the memories of actually being somewhere with someone and the purposeful setting aside of time and resources to be present? What about the phone conversation that ended with “we need to meet to discuss this”? What about all the

nonverbal communication we pick up on when we are in close proximity to others? For the sake of public health, we know we can forgo these things when to do otherwise might subject ourselves and others to grave illness or death. Will we continue the efficiency of meeting electronically when it's no longer a matter of life and death?

All indicators predict we will prefer the efficiencies of electronic and virtual meetings long after the pandemic has passed. Remote working will be a reality for certain segments of our society. Many things that we did not undertake online now have become common practice. I now shop for records online, and magically they show up on my porch in a day or two. The fact is I can still comb through records virtually and ultimately own my touchable music. I'm just not certain that when I pick them up a few years later I will have the memory of going to the record store at the mini-mall with my best friend and buying "Honky Chateau." Oh, and that strawberry incense will definitely not be there. I think it is true the sense of smell is the strongest memory enhancer.

As an entity, the Oklahoma Bar Association has been charged since 1939 by the Oklahoma Supreme Court rule to meet. Prior to COVID,

the requirement to meet was to come together physically to conduct the business of the association. There is a meaningful, unwritten part of that rule that requires us to create an environment to enable people to come together to have personal dialogue and promote comradery. During COVID, we found a way to conduct business, but try as we may, I do not think we ever can achieve through technology the experience of being somewhere and creating memories. I miss all of you and look forward to the time we can come together and make some more memories. I might even buy some strawberry incense for the occasion.



To contact Executive Director Williams, email him at johnw@okbar.org.



LAW
OFFICE

Closing an Oklahoma Law Practice

By Jim Calloway

A **LAWYER'S FINAL DUTY** to the clients is often appropriately shutting down their law practice in a way that ensures clients' interests are protected, which may include providing clients with appropriate departing advice and perhaps a referral to successor counsel. With proper advance planning, this can be handled more efficiently.

The closing of a private law practice can be, as Dickens famously wrote, the best of times or the worst of times. It may be the culmination of a multi-year planned winding down of a practice to enter retirement or an emergency situation brought on by failing health or

death. Accepting a new employment offer or a judicial appointment often means the law office needs to be completely shut down within a relatively short time.

Sadly, a lawyer's unexpected death may cause others to have to close the law practice, and without appropriate succession planning, those others may not be well prepared. The family of many a solo practitioner has had to rely on the local community of lawyers to assist them when a lawyer passes away unexpectedly.

This article is designed to assist lawyers with shutting down a law practice, whether it involves

an individual lawyer making a personal decision or a lawyer who has been hired to assist the family of a deceased lawyer.

There are two available resources: one is for planning ahead, and the other relates to the implementation of the closing process.

OBA'S PLANNING AHEAD GUIDE

Advanced Planning and Properly Closing Client Matter Files Make the Law Office Closing Process Go Easier

All Oklahoma lawyers in private practice at every stage of their careers are advised to read and follow the guidance of

the OBA's *Planning Ahead Guide: Attorney Transition Planning in the Event of Death or Incapacity*. You may download your free copy by logging into MyOKBar and clicking the link to Attorney Transition Planning Guide. This detailed handbook includes useful forms for setting up an assisting attorney relationship to assist your client in the event of temporary or permanent inability to do so.

As noted on page 11 of the guide, "If your office is in good order, the Assisting Attorney will not have to charge more than a minimum of fees for closing the practice. Your law office will then be an asset that can be sold and the proceeds remitted to you or your estate. An organized law practice is a valuable asset. In contrast, a disorganized practice requires a large investment of time and money and is less marketable."

OBA CLOSING A LAW PRACTICE RESOURCES

Your attention is directed to the OBA Management Assistance Program's new Closing a Law Practice Resources at www.okbar.org/map/cy/p. This is a newly designed collection for Oklahoma lawyers. OBA MAP has previously provided much of this information to Oklahoma lawyers and their representatives upon request. Now, this information is available for download on demand. There are more resources and checklists included there than included in this article.

Planning Your Exit

There are many details associated with retirement planning. The primary concerns for a lawyer who wants to permanently close their law practice include:

1. **Protecting clients from negative consequences related to the lawyer's**

retirement. Normally this is done through a combination of concluding as many open matters as possible and closing those files during the winding up of the lawyer's practice. Sometimes it means working with the client to transfer a matter to successor counsel. Sometimes it may mean withdrawing from a matter and documenting clearly that you have provided the client all information they need and are willing to cooperate with successor counsel when the client obtains successor counsel.

2. **Protecting the lawyer (or the lawyer's estate) from future professional liability claims and protecting clients from a loss.** Since professional liability insurance is typically sold on a "claims made" basis, once you no longer have professional liability insurance, you will be personally responsible for any claim made, even if it is based on conduct that occurred when you had coverage. Normally one protects against that risk by purchasing a tail policy (also known as extended reporting period) from one's professional liability insurance carrier for a one-time fee. Then such claims will be covered by insurance.

3. **Protecting your "heirs" from unnecessary anxiety and frustration.** While we wish you a long and happy retirement, when you close a law practice, it is important to make certain any future potential responsibilities can be handled even if you are not around to personally do so. Your legal heirs will have the rights and responsibility to handle your estate.

But other "heirs" may be local lawyers who agree to pitch in and assist your family. You do not want their last memories of you to be "Why is everything such a mess?" or "Why aren't there any written instructions?"

A Basic Checklist for Closing a Practice

- ✓ Determine a target closing date and a date to stop taking new engagements.
- ✓ Inventory open client files to determine status and actions to be taken.
- ✓ Discuss extended reporting or tail coverage with your professional liability carrier well in advance of your target date so you can understand your options and the cost.
- ✓ Inform your staff in person and in writing. Give a simple, truthful reason for the closure.
- ✓ Inform your clients in person if able, but certainly in writing.
- ✓ Complete all matters where that can be accomplished.
- ✓ For litigation matters that cannot be completed, discuss with the client their options to obtain new counsel and follow up that discussion in writing. You may need to assist your clients by requesting extensions of time and resetting of hearings when possible.
- ✓ If a client is obtaining new counsel, be certain an order allowing your withdrawal or a substitution of counsel is accomplished.
- ✓ Make certain the client has been advised in writing of impending statutes of limitations and all other deadlines.

Hopefully, you have already utilized a password manager that you will keep for personal use. If not, a list of passwords should be prepared and securely stored physically (*i.e.*, not on a computer).

- ✓ Notify former clients from recent years that you are closing your practice, reminding them of your file destruction policy and letting them know where their files will be stored between the closing and the ultimate destruction date.
- ✓ Hopefully, you have already returned all original documents, such as original wills and contracts to former clients, along with any copies of documents they might need as a part of your normal file closing process. But if not, now is the time to do so.
- ✓ You likely want to obtain a post office box and notify the post office to forward mail to that address after your office is closed. Check the box weekly at first and then monthly. Send change of address notices in response as warranted. Calendar when the mail forwarding expires as you may wish to renew it.
- ✓ Notify the OBA of new contact information soon after closure.
- ✓ Close your IOLTA trust account properly. A checklist for doing so is available from the Oklahoma Bar Foundation and the MAP resource page noted above.
- ✓ Inform other professionals of the closure, including court officials and those who have provided services to your firm. If time is an issue, this may be done via postcards or email.
- ✓ Notify landlords, utilities and other vendors who provide services to you. It is a good idea to review incoming mail for several months in advance for those who should be added to this list.
- ✓ Appropriately cancel memberships, internet service and other subscriptions.
- ✓ Prepare last-time records and send out final bills. These should also include the post office box address for those who may not remit timely.
- ✓ Prepare disposition of office furniture and other office property. Computers and hard drives should not be transferred to third parties unless you are confident in your ability to permanently erase all data.
- ✓ Your phone number is a valuable asset and may be transferred or sold to another law firm. This allows them to communicate that this office has been closed to those who were not informed and call the number.
- ✓ Law books are bulky and have little resale value, especially if not updated. Ask other lawyers in your community if there is a new lawyer who might appreciate them as a gift.
- ✓ An announcement on your website about the office closure is appropriate at some point. (Note: if you allow the website domain name to expire simply by not paying the renewal fee, it can be bought by someone else. Due to recent examples of fraud, it may be advisable to continue renewing old domain names even after you have discontinued the website.)
- ✓ Your email can be configured to automatically respond with a message about the office closure and that should be left operational for some time. Some small firm lawyers may decide to keep the “office” email account as a personal email account. Retirement may also be a good time to “start over” with a new email address. A Microsoft 365 subscription may be a good, secure option then.
- ✓ Hopefully, you have already utilized a password manager that you will keep for personal use.

If not, a list of passwords should be prepared and securely stored physically (*i.e.*, not on a computer).

- ✓ If you practice in a smaller community that has a local newspaper, consider placing a notice of the closing in it. This could be beneficial to some former clients. This can be considered when a lawyer unexpectedly dies.
- ✓ Cancel the law firm merchant account used for credit card processing, along with law firm credit cards as appropriate.

Obviously, this is not a comprehensive list, and the individual circumstances for each lawyer and law practice will vary.

What About Your Law License?

Broadly speaking, there are three ways for a lawyer to handle the lawyer's license when retiring.

1. **The lawyer can resign.**

Then the individual no longer has the legal right to practice law in Oklahoma and has no professional obligation to comply with mandatory CLE requirements or pay bar association dues. They are also no longer a lawyer. Acceptance of a resignation is contingent on no pending disciplinary proceedings or grievances pending. However, if the lawyer changes their mind, a reinstatement hearing will be required to attempt to return to the practice of law in Oklahoma.

- #### 2. **The lawyer can maintain a law license and cease practicing law.** Payment of dues to the OBA will continue. The benefit of this approach is you can easily change

your mind if circumstances change. Filing an affidavit with the MCLE Commission that one did not practice law for the entire year relieves the lawyer of MCLE obligations, as does being a non-resident of the state for the entire year while not practicing law in Oklahoma. But be aware of the "December surprise." We have talked with lawyers who did not practice law for almost a year and then made a small claims appearance or did some minor work for someone in December, which meant they had to satisfy MCLE requirements on short notice.

3. **The lawyer can take Retired Lawyer status.**

Lawyers 70 years of age and older can take retired lawyer status that means they no longer have to pay dues and satisfy other bar obligations. But they also cannot practice law. Retired lawyer is a convenient explanation when people request advice in the future. It acknowledges

the lawyer's career and also explains why they cannot offer legal advice. See www.okbar.org/governance for more details and the form to request the status. The member must have attained age 70 prior to Jan. 2. As stated at 5 O.S. Ch. 1, App. 1, Art. II, Sec. 2 (d), "An Active Member requesting Retired Member classification must have reached age seventy (70) prior to January 2nd of the year he or she is requesting to be reclassified to Retired Status and relieved from paying dues."¹

Selling Your Law Practice

A lawyer who is retiring and intending to either not practice law in the future or practice in a different area is allowed to sell their law practice to another Oklahoma lawyer. The method of doing so is outlined in Oklahoma Rules of Professional Conduct Rule 1.17. Sale Of Law Practice. Comment 1 to the rule reminds us that, "The practice of law is a profession, not merely a business. Clients are not commodities that



can be purchased and sold at will. However, under the conditions and requirements set forth in this Rule, a practice or an area of practice may be sold.” 1.17 states, in part, that “[t]he signed written consent of each client whose representation is proposed to be transferred to a purchaser must be obtained.” Notice to clients about the proposed transfer is outlined in the rule, and consent by clients is presumed if the client does not object or take other action within 90 days of the notice date.

Often the situation of a lawyer retiring and attempting to transfer the practice to a successor involves a certain period of working together to acquaint clients with the purchasing lawyer. If space is available, then depending on the lawyer’s specific plans for retirement, a lawyer who has gone to the office daily for decades might appreciate some free office space for some months, and the new lawyer could benefit from advice. If a lawyer is taking the bench, they can accept monthly payments from the purchaser based on a fixed sales price but cannot receive payments that are based on future fees.

Working Part Time After Retirement?

Many lawyers consider working part time after retirement. This may be because some additional earned income in retirement is desired or just to combat boredom in retirement. Working for another firm or company part time means the employer deals with professional liability insurance, paying for overhead and the like. Resigning that employment is usually like leaving any other job, although a rare situation where a client would be negatively impacted could implicate our ethical rules.

A solo practitioner who wants to slow down but “still practice

some law” is a plan that sounds simple in theory but is more difficult to execute well in practice.

Slowing down often means ending the biggest overhead expense – support staff. The lawyer who has worked with support staff assisting them over their career may misjudge the challenges of keeping a calendar, preparing billing statements and meeting appropriate deadlines without assistance. As the lawyer ages, this can become more challenging. It can be very difficult to practice law “part time.” Taking retainers on several new matters may make for a great week. But soon, the semi-retired lawyer may find their schedule is nearly as busy as before they retired but with much less net income.

The part-timer will likely have to pay nearly the same premium for professional liability insurance as if they were fully employed. They will also have to maintain their trust account. The lawyer will need a business-class computer, together with all the software, maintenance, internet access, need for tech support and other things that operating a business-class computer entails. Likely a printer and a business phone line will be required. MCLE requirements remain. Someone must be available to sign for certified mail in your absence. Will you have someone answering the phone for you or an answering service (or machine)? Will you still maintain your law firm website? Closing a physical business location can also dramatically impact the flow of potential new clients.

Lawyers who have not had support staff, particularly those who have made use of cloud-based practice management tools, are often better positioned to realistically judge what slowing down means for them.

If staying occupied is the goal, one might be better served by volunteering for Legal Aid Services of Oklahoma or another nonprofit where support staff help would be provided, and that entity would pay for professional liability insurance and overhead.

If additional income in retirement is the main goal, then cultivating an “of counsel” relationship with a law firm can be a better option. The lawyer might continue to work for certain clients with the understanding that they are transitioning to becoming a client of the firm, or a law firm might need help with their own “overflow” work with compensation on an agreed basis. Then your primary business record-keeping obligation is not losing the 1099 or W-2 the firm provides you.

Providing limited scope legal services under District Court Rule 33 is another viable option today. OBA MAP has a limited scope legal services page at www.okbar.org/map/lss. The lawyer with extensive family law experience might enjoy referring the family law feuds elsewhere and limiting the practice to preparing agreed dissolutions and custody agreements and perhaps even occasionally going down to the “waiver docket” to have an agreed order entered. For this type of practice to generate significant income, online marketing will be required.

Closed Files

Closing a law practice means closing files. How simple or challenging this process is will be greatly impacted by how well the lawyer or firm has closed client files during their practice.

Some law firms have exemplary file closing procedures, which involve much more than putting paper-based client files in boxes and labeling them by year. The law



firm's goal should be that once a file is closed, it need never be opened again – unless it is needed by the client in the future, hopefully for a related new engagement. Those firms' clients received back any original documents, copies of all relevant documents they might need and were reminded of the law firm's file destruction date as a part of the file closing process. File destruction policies had also been covered in the engagement agreement.

Closed files can be scanned and stored digitally to save on closed file storage costs as long as proper data security and backup procedures are followed.

Note that it is best to keep retainer agreements (where the client signed off on the file destruction policy), receipts from clients who picked up a copy of their file and a list of all destroyed files for an extended period (perhaps permanently) after the files are destroyed.

The law firm should have already established a client file destruction policy. The attorney's client file has two general purposes after a matter is concluded: 1) Retain for the client the records of a recently closed matter should the client need them and 2) to preserve documentation of attorneys properly handling the matter should there be a grievance or other claim filed against the lawyer. The first goal may be accomplished by giving the client a complete copy of the file and obtaining a receipt that the client has received it. The Oklahoma Rules of Professional Conduct do not require a file be retained for a stated period of time. However, the rules do require that records related to trust accounting be retained for at least five years. As a practical matter, a lot of information in the client file involves trust account expenditures. So,

many lawyers determine they will retain their closed files for a five-year period after closing or longer. But pay attention to some types of matters, such as a friendly suit involving a minor plaintiff, where a longer file destruction period should be set.

CONCLUSION

There is much to do to properly close a busy law practice. Hopefully, these resources will serve as a starting point for those undertaking this journey. Should you have additional questions concerning this subject, feel free to contact me or Practice Management Advisor Julie Bays, who can be reached at julieb@okbar.org.

Author's Note: The author appreciates the contributions of OBA General Counsel Gina Hendryx and Ethics Counsel Richard Stevens in reviewing this article prior to publication.

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

ENDNOTE

1. Associate Member status is also an option in the case of disability or illness under ARTICLE II, Section 2. "A member in good standing who files, or on whose behalf there is filed, with the Executive Director, a statement that, by reason of illness, infirmity, or other disability, he or she is unable to engage in the practice of law shall become an Associate Member of the Association for the duration of such illness, infirmity or other disability until restored to the former classification." www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=481678

Avoid Actions That Lead to Discipline

By Gina Hendryx

FAILURE TO PROPERLY supervise nonlawyer staff, not keeping a client informed and unreasonable fees have resulted in serious discipline for Oklahoma attorneys. The Oklahoma Supreme Court recently issued attorney discipline opinions that ranged from public censure to disbarment in the following 2021 disciplinary cases.

STATE EX REL. OKLAHOMA BAR ASS'N V. JACK, 201 OK 1

The OBA charged Tara Jack, an assistant district attorney for Tulsa County, with three counts of professional misconduct stemming from her failure to properly supervise nonlawyer employees who were under her direct supervision. In 2018, Jack was the director of the Traffic and Misdemeanor Division of the Tulsa County DA's office. As such, she supervised several law students and recent law school grads. None of these individuals had a license to practice law or were licensed legal interns when Jack assigned them to make court appearances, argue motions and negotiate pleas. Additionally, two of these nonlawyers represented the state in criminal misdemeanor jury trials that included conducting *voir dire*, witness presentations and closing arguments.

During her disciplinary hearing, Jack stipulated that she assigned

work to these individuals and she was aware that they were engaged in the practice of law despite being unlicensed. Based on these stipulations, the court held that Jack not only failed to make reasonable efforts to ensure these individuals' conduct was consistent with her professional obligations but also actively facilitated their unauthorized practice of law.

The court noted that one of the primary interests in disciplinary proceedings is preserving the integrity of the courts and the legal profession. "Incidents like those at issue here are precisely the type that undermine public trust in the legal system and profession. As such, the discipline imposed must reflect to the public the seriousness with which we treat this misconduct. Accordingly, we find that public censure is appropriate to protect the public interest and preserve the integrity of the legal profession."¹

STATE EX REL. OKLAHOMA BAR ASS'N V. BURTON, 2021 OK 6

The OBA charged Robert Burton with three counts of professional misconduct. In count I, Burton represented 10 plaintiffs in a class action suit. Eight plaintiffs became concerned with his actions on the case and fired him. Burton failed to withdraw from

representation of those individuals and was still counsel of record for them while negotiating settlement for his two remaining clients. He did not inform his clients of a later fairness hearing and failed to attend same. The court found Burton lied to the OBA during the investigation of this grievance.

In count II, Burton represented an individual charged with a felony first degree murder for a fee of \$25,000. Burton made a few appearances in the matter and then failed to return communications or perform further work on the case. The court found Burton's behavior towards the OBA was especially egregious based upon his repeated failures to respond to the grievance and his misrepresentation regarding his attendance at preliminary hearing. The court found Burton's fee was unreasonable – he double billed items and charged for work not performed.

In count III, Burton was retained to represent a personal representative in a complex estate matter. Burton had no written fee agreement or engagement letter for his services. Between March and April 2017, the personal representative paid Burton \$32,500. Though these funds were immediately deposited in Burton's trust account, they were completely spent by May 2017. Burton failed

to obtain the court's prior approval to be paid these funds, and he refused to provide an accounting thereof after multiple requests from the subsequent personal representative. At a hearing on an embezzlement complaint, Burton claimed he worked 190 hours between March 2, 2017, and June 10, 2017, and was owed \$66,500. His billing records included duplicate billings. The trial court found a reasonable amount of work performed for the benefit of the estate would be worth \$14,190 and ordered Burton to disgorge \$18,310.00. To date, Burton has not refunded these fees. The court found Burton's fees were unreasonable and that he was guilty of simple conversion. The court further found Burton's prolonged inaction and evasion of proper requests from the subsequent personal representative exhibited dishonesty and deceit.

The court found Burton's chronic disregard of his obligations to respond from inquiries from the OBA demonstrated "an indifference bordering on hostility to the OBA and this Court," and his behavior during the discipline hearing was "abhorrent."² Based upon these facts and Burton's prior discipline, the court imposed the discipline of disbarment.

STATE EX REL. OKLAHOMA BAR ASS'N V. NEWARK, 2021 OK 11

The OBA filed reciprocal disciplinary charges against Oklahoma and Texas licensed attorney Robert Newark based upon profession discipline imposed by the state of Texas. Newark received a one-year probated suspension from the state of Texas based upon his failure to provide diligent representation in a civil litigation matter that resulted in a default judgement against his client. The Oklahoma Supreme Court ordered the respondent reciprocally disciplined by public censure finding that Newark's failures surrounding his representation of his client in a debt collection matter constituted an isolated incident of misconduct. "There is a lack of any intentional or willful conduct. Respondent timely reported the final adjudication in the Texas disciplinary proceeding. His cooperation in the disciplinary process is likewise reflected in both the Texas and Oklahoma proceedings wherein he entered into agreed findings of fact in both jurisdictions."³

Newark reported the Texas imposed discipline to the Oklahoma Bar Association. Rule 7.7 (a) of the Rules Governing Disciplinary Proceedings requires a lawyer licensed in Oklahoma to notify the general counsel

whenever discipline for lawyer misconduct has been imposed in another jurisdiction, within 20 days of the final order of discipline, and failure to do so shall itself be grounds for discipline.

FREE ETHICS ADVICE

Should you have an ethics question, take advantage of obtaining informal advice and interpretations of the rules of attorney conduct from Ethics Counsel Richard Stevens. It's a free member benefit. Advice given is memorialized through a confidential and protected database. You'll find more information at www.okbar.org/ec.

Ms. Hendryx is OBA general counsel.

ENDNOTES

1. *Jack* at ¶32.
2. *Burton* at ¶46.
3. *Newark* at ¶14.

Meeting Summary

The Oklahoma Bar Association Board of Governors met on Friday, March 19, 2021.

REPORT OF THE PRESIDENT

President Mordy reported he attended Solo & Small Firm Conference Planning Committee meetings, miscellaneous planning discussions with Executive Director Williams, Legislative Monitoring Committee meeting, Financial Institutions and Commercial Law Section meeting and meeting with the director of strategic communications and marketing.

REPORT OF THE VICE PRESIDENT

Vice President Geister reported he attended the Legislative Monitoring Committee meeting.

REPORT OF THE PRESIDENT-ELECT

President-Elect Hicks reported he attended the Oklahoma Bar Foundation Trustee meeting, National Bar Leadership Institute orientations and meetings and Tulsa County Bar Foundation Golf Tournament Committee meeting. He also reviewed 2021 appointments and did initial planning for the Strategic Planning Committee and Financial Planning Subcommittee.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he has been dealing with a legislative issue and a disaster-related issue in addition to drafting the proposed update to

Judicial Nominating Commission election rules. He attended the Solo & Small Firm Conference Planning Committee meeting, staff directors meeting and Legislative Monitoring Committee meeting.

REPORT OF THE PAST PRESIDENT

Past President Shields, unable to attend the meeting, reported via email she participated in discussions with the Estate Planning, Probate and Trust Section about proposed legislation and reviewed pleadings related to the ongoing lawsuit before the 9th Circuit.

BOARD MEMBER REPORTS

Governor Davis reported he gave a presentation on “Ethics Regulations for State Employees” at the Oklahoma Association of College and University Business Officers spring conference. **Governor Edwards** reported he graded one of the questions for the February bar examination. **Governor Garrett** reported she completed the first program of an OBA CLE series on medical cannabis legislative updates with bar member Felina Rivera. **Governor Hutter**, unable to attend the meeting, reported via email he attended virtually the Law Schools Committee tour and report for both the OU College of Law and OCU School of Law in addition to the Solo & Small Firm Conference Planning Committee meeting. **Governor Pringle** reported he chaired the

Legislative Monitoring Committee meeting, helped plan the OBA’s Day at the Capitol, recorded a presentation for Day at the Capitol, wrote a legislative update for the bar journal and wrote an article for the Briefcase. He also attended meetings of the Oklahoma County Bar Association Briefcase Committee and OBA Financial Institution and Commercial Law Section. **Governor Smith** reported she chaired the OBA Awards Committee meeting. **Governor Vanderburg** reported the Kay County Bar Association is continuing to receive applications for its Clark Scholarships and Northcutt Scholarships, which are existing programs created by local attorneys to support people with Kay County connections of at least three years who are attending an Oklahoma law school. He attended the Oklahoma Association of Municipal Attorneys Board of Directors meeting. He will prepare a presentation on the forms municipal local government can accept. He shared a list of topics discussed at the OAMA meeting.

REPORT OF THE YOUNG LAWYERS DIVISION

Governor Moaning reported she attended two ABA YLD Disaster Legal Services Committee meetings and two Solo & Small Firm Conference Planning Committee meetings.

REPORT OF THE SUPREME COURT LIAISON

Justice Rowe reported the judicial center is open, and he invited board members to come up to his office if they are in the building.

REPORT OF THE GENERAL COUNSEL

In General Counsel Hendryx's absence, Executive Director Williams shared that video-conference equipment is being researched for the hearing room. A written report of PRC actions and OBA disciplinary matters for February was submitted to the board for its review.

BOARD LIAISON REPORTS

Governor Rochelle said at the **Access to Justice Committee** meeting OBA Practice Management Advisor Julie Bays reported 151 attorneys are participating in the free legal answers program, and she shared an update on eviction issues. Governor Vanderburg called the board's attention to the recommendations of the **Awards Committee**, which is a separate agenda item. President-Elect Hicks said the **Diversity Committee** has its events planned for the year. Governor DeClerck said he had received information from **Disaster Response & Relief Committee** Chair Molly Aspan that the disaster hotline was going to be activated and coordinated with Legal Aid Services and Indian Legal Services. Executive Director Williams said he participated in

a meeting with the district YLD director to discuss providing legal services related to the winter ice storm. He said FEMA, which is a partner in providing services, wants a dial-in phone number, and Ms. Aspan has been hired to staff the hotline, which rings to the bar center front desk and calls are forwarded to the hotline. Governor Hilfiger said the **Law Day Committee** is definitely moving the Ask A Lawyer TV show and statewide free legal advice to the fall. Contest entries have been judged, and the ceremony for first-place winners will be virtual. President Mordy said at the **Solo & Small Firm Conference Planning Committee** meeting they discussed holding the event at River Spirit Casino Resort in

late July. A poll was conducted of about 500 past attendees, and 60% of those who responded said they would attend. Executive Director Williams has a proposed contract and asked board members for their thoughts. Discussion followed. It was decided Executive Director Williams will look at the contract, Management Assistance Program Director Calloway will make a site visit and a final decision on whether to hold the conference in person will be reserved until those things take place.

Governor Garrett said the **Women in Law Committee** met and is planning to have an in-person conference with a tentative date of Oct. 1. A location is still to be determined.

Executive Director Williams said he participated in a meeting with the district YLD director to discuss providing legal services related to the winter ice storm. He said FEMA, which is a partner in providing services, wants a dial-in phone number, and Ms. Aspan has been hired to staff the hotline, which rings to the bar center front desk and calls are forwarded to the hotline.

RECOMMENDATION OF AWARDS TO BE PRESENTED AT ANNUAL MEETING

As Awards Committee board liaison, Governor Vanderburg noted the committee recommends continuing to present the same awards with no changes. The board approved the committee's recommendation.

ADOPTION OF JUDICIAL NOMINATING COMMISSION ELECTION PROCEDURE

Executive Director Williams reviewed the background of the procedure that requires approval each time there is a JNC election in odd-numbered years. He drafted an amendment to the procedure that makes reference to publications educating bar members about the procedure and the candidates generic. The board approved the procedure with the amendment.

BOARD OF EDITORS APPOINTMENT

President Mordy announced a member of the Board of Editors has passed away who represented Supreme Court District 9, and he asked board members to contact him with suggestions of who might be interested.

DISTRICT ATTORNEYS COUNCIL APPOINTMENT

The board approved President Mordy's reappointment of Greg Mashburn, Norman, to the council with a term expiring 6/30/2024.

LEGISLATIVE SESSION REPORT

As Legislative Monitoring Committee chairperson, Governor Pringle reminded board members Day at the Capitol is coming up Tuesday, which will offer 2 hours of free MCLE. He has already recorded his portion of the virtual event. He shared that highlights will be presentations by Judge Thad Balkman, Dick Pryor and Shawn Ashley. Governor Pringle was thanked for his hard work.

LAW DAY UPDATE

President Mordy said the official date for the national celebration of Law Day is May 1; however, with COVID restriction still in place Oklahoma's main Ask A Lawyer events will move to fall. He said the Law Day Committee is working with OETA and looking at a tentative date of Sept. 30. Contest winners have been determined, and some counties have set

events. He said Committee Chair Ed Wunch is doing an outstanding job.

BOARD ORIENTATION

Executive Director Williams and Director Combs summarized their department responsibilities.

NEXT MEETING

The Board of Governors met on April 16, 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 at 10 a.m. Friday, May 21.



STANGE LAW FIRM^{PC}

Stange Law Firm, PC is looking to hire lawyers in their Oklahoma City & Tulsa Offices

Attorneys at Stange Law Firm, PC are dedicated to achieving the best possible results and helping individuals put their lives back together when they are facing a divorce, legal separation, a paternity action, or numerous other issues that affect families.

Law Firm 500 has recognized Stange Law Firm as one of the fastest growing law firms in the country. Opportunities include a competitive starting salary, signing bonus, an outstanding benefits package, employer-matched 401K after one year, paid time-off and other incentives.

To apply, send your resume, cover letter, references and writing sample to stangelawfirm@stangelawfirm.com.

855-805-0595 | WWW.STANGELAWFIRM.COM

Stange Law Firm, PC is responsible for the content. Headquarters office: 120 South Central Avenue, Suite 450, Clayton, MO 63105. Kirk Stange is licensed in Missouri, Illinois and Kansas.

ruby.



MEET RUBY

Ruby's not your average answering service. We are a team of award-winning professionals, highly trained in the art of turning your prospects into loyal customers, one interaction at a time. Over 10,000 business owners trust Ruby's live, US-based Virtual Receptionists and Chat Specialists with their front-line communications. Experience Ruby today.

Live virtual receptionist service.

You didn't start a business to answer your phone.

"As a small business owner, having Ruby answer my calls live has been the best thing for my business. They provide excellent service, the app works really well, and their communication is spot on. They are dedicated to your clients having the best experience possible."

Michael Downey

DOWNEY LAW GROUP LLC

www.ruby.com/okbar

Use promo code
OKBAR for 6% off
Ruby services.

1.844.569.2889

OBF 75 Faces of Impact: Fern's Story

By Candice Pace

MET FERN, A CLIENT OF OBF grantee Wings of Hope Family Crisis Center and one of the OBF's 75 Face of Impact. Her story is made possible by the generosity of OBF donors. Her name and photo were changed to protect her privacy and safety.

If I had not found Wings of Hope, I would be dead either by my husband's hands, my own or simply by circumstance.

My story of abuse began when I was abused by my family as a small child, and it continued throughout my life. I lost all trust in people because even the ones I loved abused me or turned away from me because they could not handle my despair. The man I married began abusing me after 17 years of marriage, and it lasted for four years. As a result, I am a shell of my former self. I never thought I would laugh again, listen to music or enjoy the things I had once loved because of the ongoing physical, mental and sexual abuse in my life.

When my husband hit our son, I knew I had to make a change. My desperation to protect my child and the advice of a coworker led me to Wings of Hope Family Crisis Center.

I admit I was hopeless things would get better. I thought this would be another cry for help that would go unheard, and I would soon go back to the pain and fear that drove me here.

Now, my son and I have been at Wings of Hope for two months. The other women who live here have become my family. They give me understanding and complete acceptance. Although we all come from different backgrounds, ethnicities, religions, careers and circumstances, we are united by our experiences as victims of abuse. Together, we finally understand that we are not alone.

Wings of Hope helps us become independent again. There is no pity, judgment or misunderstanding. We receive counseling that helps us heal, and we now understand the abuse and trauma we experienced is not our fault. We are treated with kindness by all the employees and volunteers. To them, we are not trash, a statistic or the forgotten. They make us feel like we deserve a life of happiness. They help us with emergency protective orders, childcare, appointments, clothes, food and shelter. They even refer us to other



nonprofits to make sure all our needs are met.

The last year has been hard for the employees and volunteers at Wings of Hope because COVID-19 has made their jobs more challenging than ever, and there are more people who need help than ever. I am inspired by their passion to help us.

I am so grateful to those who support Wings of Hope. Because of your generosity, I am no longer a victim – I am a survivor!

The Oklahoma Bar Foundation funds legal expenses, trainings

and transportation for survivors of domestic violence at Wings of Hope Family Crisis Center in Stillwater.

Domestic violence occurs in all families, not just economically disadvantaged ones. The OBF is

dedicated to raising awareness about the perpetual cycle of abuse that can harm multiple generations within a family if it is not stopped.

Your donation to our 75 for 75 Campaign can end family violence.

Give online: 75for75.swell.gives

Fill out the form below and mail your payment to the Oklahoma Bar Foundation, P.O. Box 53036, Oklahoma City, OK 73152.

Ms. Pace is OBF director of development & communications.

OKLAHOMA BAR FOUNDATION

75 for 75 Campaign Donation Form

Name: _____ Law Firm: _____

Address: _____ City: _____ State: _____ Zip: _____

Email: _____ Phone Number: _____

_____ Yes, I would like to end family violence by donating to the 75 for 75 Campaign.

Choose your level of impact:

___ \$75 ___ \$175 ___ \$275 ___ \$375 ___ \$475 ___ \$575 ___ \$775 ___ \$1,075 ___ Other \$ _____

Not sure how much to give? Most nonprofit legal fees are at a free and reduced cost to the client. The cost to nonprofits can range from \$100 - \$250/hour depending on the severity of the case.

___ Check ___ Enclosed Credit Card: ___ Visa ___ MC ___ AMEX ___ Discover

Name on Card: _____ Card Number: _____

Expiration Date: _____ Security Code: _____

Signature: _____ Date: _____

Credit card payments can also be made on our campaign giving site: 75for75.swell.gives



75 Years OF IMPACT



OKLAHOMA BAR FOUNDATION

75 Faces of Impact include:

- Clients helped by OBF Grantee Partners
- Staff and Volunteers from OBF Grantee Partners
- OBF Scholarship and Award Recipients
- OBF Donors and Advocates
- OBF Past Presidents
- Members of the OBF Board of Trustees

www.okbarfoundation.org

ensure
JUSTICE

for all

**A little bit of your time
can make a big difference**

**by answering a pro bono legal question
online for a low-income Oklahoman.**

**Visit
oklahoma.freelegalanswers.org
to learn more!**

**OKLAHOMA FREE LEGAL ANSWERS IS A PROJECT OF:
Oklahoma Bar Association
Oklahoma Access to Justice Commission
American Bar Association**

YLD Embraces Diversity and Inclusion

By April Moaning

THE OBA YLD EMBRACES diversity within our communities and the legal profession. We honor those who paved the way for diverse lawyers, challenged unjust laws and engaged in uncomfortable conversations necessary for the protection of marginalized groups. While making our footprint in history, we encourage the inclusion of individuals with varying national origins, racial and ethnic backgrounds, genders and gender expressions, sexual orientations, disabilities and religions.



Judge Lydia Green

AN INTIMATE LOOK INTO BLACK LEGAL HISTORY

In this month's journal, diversity is celebrated by highlighting Black legal history in Oklahoma. From the historical sit-ins at Katz Drug Store led by Clara Luper to the landmark lawsuits that resulted in the admission of Ada Lois Sipuel Fisher into the University of Oklahoma College of Law, Oklahoma has a wealth of monumental events that shaped Black history. What better way to truly capture the essence of our Black legal history, than to engage in a one-on-one conversation with some of our most influential legal practitioners? With that in mind, I



Judge Philippa James

asked a few of our sitting judges to expound on their journey in the legal field. Their responses are below:

Q: What piqued your interest in the legal field?

A: Judge Lydia Green: I was initially interested in the medical field, specifically pediatrics. However, during my leisure time I enjoyed watching *Perry Mason* and *Matlock*. During a school field trip, I took a tour of the Collin County courthouse and the city jail. It was during that field trip I solidified my interest in the legal field. I desired the skills of Perry Mason and the gratification of helping children. I researched ways to combine my interest in both pediatrics and the law and determined that I could practice law and focus on areas involving children.

Judge Philippa James: As a young child, I was drawn to legal shows and movies such as *Perry Mason*, *Matlock*, *Absence of Malice*, *Anatomy of a Murder* and *To Kill a Mockingbird*. My interest in the law just appeared to be innate. Also, my maternal grandfather was a victim of the Tulsa Race Riot. He owned a barbershop, which was completely burned down. After learning about this aspect of my family history, I became even



Judge David B. Lewis

more fascinated with exploring protections we have under the law.

Judge David B. Lewis: Initially, I considered multiple career paths and sat for the GRE, GMAT and LSAT. While weighing my options, I attended a program hosted by an agent for major league baseball, who also served as a lawyer. His presentation was impressive and solidified my decision to attend law school.

Judge Tanya Wilson: I became interested in the legal field by watching pioneers of the civil rights movement. I wanted to impact my own world of north Tulsa and facilitate positive changes. In order to accomplish this goal, I became an attorney.



Judge Tanya Wilson

Q: How would you describe your experience as a Black law student?

A: Judge Lydia Green: My experience was quite unique. I attended OCU School of Law and, at the time, our incoming class had the largest number of Black students. There were 14 incoming Black law students. Our class was also extremely diverse. It was really an amazing and monumental time! I was honored to be a member of such a diverse incoming class, and I enjoyed the benefits of diverse perspectives.

Judge Philippa James: I attended OCU School of Law in the early '90s and enjoyed the

benefit of attending the night program. What I enjoyed most about the night program was that many of the adjunct professors were practicing attorneys. Emmanuel Edem was one of the most impactful adjunct professors during my law school tenure.

As a young girl, I learned to navigate educational spaces that were not always extremely diverse. I grew up in Shawnee, and the races were segregated by a railroad track. In 1957, just a few years after the ruling in *Brown v. Board of Education*, my parents enrolled me into a Catholic school. I was the first Black student to attend that school.

Judge David B. Lewis: I attended the OU College of Law from 1980-1983 and was the 27th Black law school graduate. There were 225 law students in my class, three of whom were Black and included myself, retired Supreme Court Justice Tom Colbert and Lenora Burdine. I had to learn how to navigate the waters, but many of my classmates were supportive. Support systems are extremely important in every area of life, and I am still friends with those classmates today.

Judge Tanya Wilson: I attended the TU College of Law in the spring of 2000. There were only two Black law students in my class, and there

were only a handful of Black students in the entire school. I enjoyed my law school experience, but I definitely desired more diversity.

Q: Are you a first-generation lawyer in your family?

A: Judge Lydia Green: Yes.

Judge Philippa James: Yes.

Judge David B. Lewis: Yes, I am the first lawyer in my family, but my sister is also licensed to practice law in Oklahoma and serves as an Oklahoma County judge.

Judge Tanya Wilson: I am the only lawyer in my family. Since I have become a judge, a few of my younger family members have expressed an interest in the legal field.

Q: Why did you decide to serve as judge?

A: Judge Lydia Green: Ultimately, my life ended up coming full circle. I have been able to combine my interests in pediatrics and the law. I now serve as a special judge for the Oklahoma County Juvenile Court. It is a dream job!

Judge Philippa James: Law was my second career. I previously served as a social worker and counselor. Working with children has always given me the greatest satisfaction. Thus, I started my legal career working in the juvenile division of the Oklahoma County Public Defender's Office. Once I found out there was a need for a judge to preside over a juvenile program, I immediately seized the opportunity.

Judge David B. Lewis: Less than eight years into my legal career, I made the decision to serve as a special judge for the Comanche County District Court. I desired to lead by example and further the legacy of Ada Lois Sipuel Fisher. I also understood

the importance of fairness and impartiality. It was my belief that I could serve the state of Oklahoma by fairly applying the law. I now have the honor of serving as a judge on the Oklahoma Court of Criminal Appeals.

Judge Tanya Wilson: My desire to become a judge was the same as my desire to become a lawyer. Ultimately, I wanted to make positive differences in the lives of others. As a judge, I believe you can still uphold the law while showing compassion and fairness. I have watched a judge sentence a defendant to the RID program, and the defendant was ultimately rehabilitated. I have also watched a judge show compassion in order to comfort a young, terrified child who had to testify in a gut-wrenching legal matter.

Q: How has your background impacted your perspective while serving as a judge?

A: Judge Lydia Green: Due to my life experiences, culture and diversity are really important to me. I make a conscious effort to consider those factors when hearing testimony, reviewing evidence and making determinations regarding placement of children.

Judge Philippa James: I had to learn how to straddle multiple worlds at a very early age. This skill set is important while serving as a judge. We have to consider perspectives other than our own when making rulings.

Judge David B. Lewis: Fortunately, I have such a broad base of support individuals from all walks of life. People all have biases and prejudices, but when you wear the black robe, you cannot let that impact your ruling. There is a reason that Lady Justice has blindfolds on her eyes. We all deserve a fair, impartial hearing.

Judge Tanya Wilson: I believe that due to my experiences, I am more cognizant of the distrust in the legal system. Many no longer believe in the justice system because they do not believe the system represents the masses. I work hard to change that narrative and show compassion, all while upholding the law.

HELP YLD PROMOTE DIVERSITY AND INCLUSION

In order to promote diversity and inclusion, the OBA YLD implemented a Diversity Committee. The committee participates in community service projects tailored toward introducing students from diverse backgrounds into the legal profession. Many of the students we encounter express an interest in building a mentor-mentee relationship with individuals from diverse backgrounds. We hope you will join the YLD Diversity Committee and help us to create spaces that represent the world around us.

Ms. Moaning practices in Oklahoma City and serves as the YLD chairperson. She may be contacted at aprilmoaninglaw@gmail.com. Keep up with the YLD at www.facebook.com/obayld and www.okbar.org/yld.

Don't let *distance*
keep you from getting
involved

It's easy!



Attend section and committee meetings remotely via BlueJeans. Use a mobile device, phone or computer. Visit www.okbar.org/bluejeans.

INNOVATION COMES STANDARD

FASTCASE IS ONE OF THE PLANET'S MOST
INNOVATIVE LEGAL RESEARCH SERVICES,
AND IT'S AVAILABLE FREE TO MEMBERS OF
THE OKLAHOMA BAR ASSOCIATION.

LEARN MORE AT
WWW.OKBAR.ORG



OKLAHOMA BAR
ASSOCIATION SINCE 1904

FOR YOUR INFORMATION

SOVEREIGNTY SYMPOSIUM 2021

The 2021 Sovereignty Symposium has been tentatively scheduled for Oct. 11-12 at the Skirvin Hotel in Oklahoma City. The event, themed “After McGirt?,” will coincide with Indigenous People’s Day on Oct. 11. Keynote speakers will include Harvey Pratt, Bob Blackburn and Rep. Tom Cole. Watch for more details at www.sovereigntysymposium.com.



10-DIGIT DIALING NOW REQUIRED FOR 405 AREA CODE

As of April 24, 10-digit dialing is required for all local calls within the 405 area code. The new area code, 572, will officially be added May 24. It is needed to ensure there will be enough telephone numbers available for the Oklahoma City area.

LAW DAY CONTEST UPDATE

After the Law Day Contest award winners were announced, the OBA Law Day Committee learned the second place and honorable mention winning entries for the 7th grade writing category did not comply with contest rules. As a result, these awards were rescinded. To see all the winning entries, visit www.okbar.org/lawday/contest/winners.

LHL DISCUSSION GROUP HOSTS IN-PERSON & VIRTUAL JUNE MEETING

“How to Handle Mistrust” will be the topic of the June 3 meeting of the Lawyers Helping Lawyers monthly discussion group. Each meeting, always the first Thursday of the month, is facilitated by committee members and a licensed mental health professional. The group meets from 6 to 7:30 p.m. at the office of Tom Cummings, 701 N.W. 13th St., Oklahoma City. There is no cost to attend, and snacks will be provided. RSVPs to tomcummingslawfirm@gmail.com are encouraged to ensure there is food for all. The group will also meet virtually at the same time using BlueJeans. Email debraj@okbar.org for login information.



BAR JOURNAL TAKES SUMMER BREAK

The *Oklahoma Bar Journal* theme issues are taking a short break. The next issue, devoted to personal injury, will be published in August. You will still receive electronic publications, eNews and Courts & More, which contains court material and news every Wednesday in June and July. Have a safe and happy summer!

IMPORTANT UPCOMING DATES

Don’t forget the Oklahoma Bar Center will be closed Monday, May 31, and Monday, July 5, in observance of Memorial Day and Independence Day. Be sure to docket the OBA Annual Meeting Nov. 10-12 in Oklahoma City.

ASPIRING WRITERS TAKE NOTE

We want to feature your work on “The Back Page!” Submit articles related to the practice of law, or send us something humorous, transforming or intriguing. Poetry, photography and artwork are options too. Send submissions of about 500 words or high-resolution images to OBA Communications Director Carol Manning, carolm@okbar.org.

ON THE MOVE

David H. Herrold has joined the Dallas law firm of Burke Bogdanowicz PLLC. He will practice primarily in commercial litigation and corporate counsel. Mr. Herrold received his J.D. from the TU College of Law in 1996 and previously worked in Conner & Winters' Tulsa office.

C. Austin Birnie was named partner at Conner & Winters LLP. Since joining the firm in 2014, he has developed a practice in Native American law, including litigation on behalf of tribes in federal, tribal and state courts, as well as transactional matters with an emphasis on Indian country financings and gaming developments. He also maintains an active general commercial litigation practice, serving clients across a broad range of industries, including banking, energy and real estate. Mr. Birnie received his J.D. from the Duke University School of Law in 2014.

Brian J. Kuester and **Emily C. Krukowski** have joined Rosenstein, Fist & Ringold as of counsel. **Samanthia S. Marshall** has joined the firm as a shareholder and director. Mr. Kuester will practice primarily in the areas of education, municipal law and litigation. He received his J.D. from the TU College of Law in 2000 and previously served as the U.S. attorney for the Eastern District of Oklahoma since September 2017. Ms. Krukowski focuses on research and writing at all stages of litigation in the areas of education, employment and municipal law. She received her J.D. from the TU College of Law in 2014. Ms.

Marshall focuses on providing daily guidance and litigation support to educational institutions and on representing both public and private employers in all areas of employment law and litigation. She received her J.D. from the TU College of Law in 2009.

Barrett L. Powers and **Lacy Pulliam** have joined the Tulsa office of GableGotwals as associates. Mr. Powers will focus on business litigation in state and federal courts and federal civil rights litigation. He received his J.D. from the TU College of Law. Ms. Pulliam practices in the areas of civil litigation, general insurance defense litigation and healthcare law. She received her J.D. from the TU College of Law.

Roger A. Stong has been elected by the directors of Crowe & Dunlevy to serve as the firm's president and CEO for 2021. Mr. Stong practices in the areas of corporate and securities law. This is his second tenure as president, having served in that role from 2008 to 2012. Additionally, **James W. Larimore** was reappointed as vice president of economics, and **Adam W. Childers**, **Kari Hoffhines** and **Malcolm E. Rosser IV** were named members of the firm's executive committee. **Cynda C. Ottaway** will serve as chair of the firm's board and **Karen S. Rieger** as vice chair.

Brad Carson will become the University of Tulsa's 21st president on July 1. He was chosen at the recommendation of a 13-member Presidential Search Committee,

which included representatives from the Faculty Senate, Staff Advisory Council and Student Association. Mr. Carson, an OU College of Law graduate, was elected to Congress from the 2nd District in 2000. In 2008, he was called to active duty as a naval intelligence officer and oversaw several weapons intelligence teams in Iraq. He also served as undersecretary of defense, undersecretary of the Army and Army general counsel for the Obama administration. Most recently, he was a member of the University of Virginia faculty, teaching courses in national security and the public sector.

GableGotwals has relocated its Tulsa office to the Vast Bank Building, located at 110 N. Elgin Ave. in the historic Greenwood District.

Jared K. Nelson has joined the Tulsa law firm of Sherwood, McCormick & Robert. He practices in the areas of transactional, regulatory and compliance matters involving corporate, business and health care issues. Mr. Nelson graduated with honors from the TU College of Law.

Phillip J. Tucker and **Brenda R. Fitzpatrick** have joined the Oklahoma City office of Doerner, Saunders, Daniel & Anderson LLP as members of the firm's Family Law Practice Group. Mr. Tucker is a partner at the firm and has over 37 years of family law experience. He practices primarily in the areas of adoptions, guardianships and general family matters. Ms. Fitzpatrick joins the firm as an

attorney of counsel. She practices primarily in the areas of modification and enforcement of court orders related to support, custody and visitation and family law matters related to property and dept division, spousal support, child custody and visitation, child support, contested adoptions and guardianships.

Benjamin K. Davis was named partner of the Oklahoma City law firm of Hartzog Conger Cason. Since joining the firm in 2019, Mr. Davis has practiced primarily in the areas of real estate transactions, commercial lending and financial transactions and general corporate and business matters. He received his J.D. from the OU College of Law in 2013 and currently serves on the Oklahoma County Bar Association Young Lawyers Division Board of Directors.

Steve Hanna has joined the Oklahoma City office of Testan Law as an associate. Mr. Hanna has dedicated his 31-year legal career to the litigation of workers' compensation claims. He served as chairman of the OBA Workers' Compensation Section in 2002.

Malinda Matlock, Elizabeth Sharrock and Joseph Stall have joined the Oklahoma City office of Rhodes Hieronymus Jones Tucker and Gable PLLC, which has relocated to 1001 NW 63rd St., Suite 280. Ms. Matlock, a partner of the firm, practices in the areas of employment litigation, sexual misconduct, premise liability, transportation, bad faith insurance claims, coverage disputes and professional liability. Ms. Sharrock, a partner of the firm, practices in the areas of professional liability, employment law, premise liability and general civil litigation. Mr. Stall, an associate of the firm, practices in the areas of complex litigation matters, including transportation, product liability, employment, medical negligence and construction.

Lindsey Kaiser and Curtis Kaiser have joined the Tulsa office of Rhodes Hieronymus Jones Tucker and Gable PLLC. Ms. Kaiser, an associate of the firm, practices in the areas of community association law and defense of insurance matters. Mr. Kaiser, of counsel, practices in the areas of estate planning, probate and community association law.

Patrick F. Collogan has joined The Biby Law Firm in Tulsa as a partner. Mr. Collogan will practice primarily in the areas of personal injury, including motor vehicle and trucking collisions, oilfield incidents, premises liability injuries and insurance bad faith. He graduated from the OU College of Law in 2011.

Burl O. Estes was appointed by Gov. Kevin Stitt to serve as associate district judge for Osage County. Mr. Estes has been in private practice in Bartlesville since 2008, practicing primarily in the areas of criminal defense, family and domestic matters, probate, deprived child cases and litigation matters. He has been a contracting attorney for the Washington County Courts since 2008 and is the city attorney for Dewey. He received his J.D. from the TU College of Law.

Peter K. Reilly has become an adjunct professor at Georgetown University Law Center in Washington, D.C., where he teaches federal tax practice and procedure (litigation). Mr. Reilly received his J.D. from the TU College of Law in 1985.

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:

Lauren Rimmer
Communications Dept.
Oklahoma Bar Association
405-416-7018
barbriefs@okbar.org

Articles for the August issue must be received by July 1.

Nikki Kirkpatrick and **Anthony L. Bonner Jr.** were appointed by Gov. Kevin Stitt to serve as district judges for Oklahoma County. Ms. Kirkpatrick, an assistant attorney general and experienced trial lawyer, previously served as a prosecutor for the Oklahoma County District Attorney's Office, handling all types of crime from homicide to property crimes and focusing on domestic violence prosecution. In 2017, she was awarded the Governor's Commendation for Distinguished Service in Domestic Violence. She received her J.D. from the OCU School of Law in 2009. Mr. Bonner is an experienced civil litigator and trial lawyer who has litigated hundreds of cases and has more than 30 trials, including both bench and jury trials, across Oklahoma. He previously served as staff counsel with Angela D. Ailles & Associates and the law office of Steve Crittenden, Legal Aid Services of Oklahoma and as an associate attorney with Cathcart & Dooley. He received his J.D. from the OU College of Law in 2006.

Johanna F. Roberts has joined the Oklahoma City office of Conner & Winters LLP. Ms. Roberts will practice primarily in the areas of litigation and regulatory practice. After receiving her J.D. from the OU College of Law with honors in 2018, she was an assistant public defender with the Oklahoma County Public Defender's Office. She is a member of the Order of the Coif, Order of the Barristers and Order of the Scribes.

Rex Hodges was awarded the ABA Military Pro Bono Project Outstanding Services Award for extraordinary pro bono services in 2020 through the ABA Military Pro Bono Project by the ABA Standing Committee on Legal Assistance for Military Personnel.

Associate District Judge Brad Benson was awarded the Chief Justice Award of Excellence by former Chief Justice Noma Gurich at the February Oklahoma Judicial Conference meeting. Judge Benson began his judicial service in 2010 and has now completed 11 years as judge in Tillman County. He has served on the Oklahoma Judicial Conference Executive Board since 2012 and as president in 2017. In 2020, he co-chaired a committee to advise Oklahoma courts on how to safely conduct jury trials during the COVID-19 pandemic.

Judge Paul Hesse, district judge for Canadian County, was appointed to serve as the presiding judge of Oklahoma's multi-county grand jury March 26 by Oklahoma Supreme Court Chief Justice Richard Darby. The multicounty grand jury investigates crimes that occur in every county of the state, as well as crimes that involve multiple counties. As presiding judge, he will have jurisdiction over all investigations, indictments, reports and other grand jury activities.

LeAnne Burnett has been selected as a Fellow of the Litigation Counsel of America, a trial lawyer honorary society composed of less than 0.5% of American lawyers. Fellowship is highly selective and by invitation only. Ms. Burnett is a director of Crowe & Dunlevy's Energy, Environment & Natural Resources Practice Group. She is also a Fellow of the American College of Environmental Lawyers and a founding member of the OBA Environmental Law Section.

Mark A. Craige has been appointed to serve on the American College of Bankruptcy Board of Regents. Mr. Craige, an ACB Fellow since 2000, will represent the 10th Federal Judicial Circuit on the board and will chair the Circuit Admissions Council for that circuit.

Sweet.



**New frequency discounts. New digital ad sizes.
Design services available. How refreshing.**

Tap into a niche audience and reach more than 15,500 offices and homes with print ads in the *Oklahoma Bar Journal* and digital ads in the new, weekly *Courts & More* issues.

www.okbar.org/barjournal/advertising



More Mediators. More Experience. More Results.



**Ted
Sherwood**

**Hugh
Robert**

**John
McCormick**

**Joe
Farris**

**Robert
Sartin**

**Mary
Fitzgerald**

**Danny
Williams**

**Christian
Tolen**

**Chad
Moody**

**Bill
Threlkeld**

Ted Sherwood
Joe Farris
Mary Fitzgerald
John McCormick
Chad Moody
Hugh Robert
Robert Sartin
Bill Threlkeld
Christian Tolen
Danny Williams



ACCORD
MEDIATION | ARBITRATION

15 W. 6th St.
Suite 2800
Tulsa, OK
74119

918-592-1144

View calendars & book online at AccordADR.com

CONQUER YOUR MOUNTAIN



FREE 24-HOUR CONFIDENTIAL ASSISTANCE
800-364-7886 | www.okbar.org/LHL



“Thank you”
is not enough.

The Oklahoma Lawyers for America's
Heroes Program provides legal advice and
assistance to those who have honorably
served this country and are unable to
afford to hire an attorney.

To volunteer, visit

www.okbarheroes.org



IN MEMORIAM

Sherri Kay Anderson of Tulsa died Feb. 6. She was born March 31, 1954, in Cushing. Ms. Anderson attended high school at C.E. Donart in Stillwater and later earned her master's degree as a CPA. She received her J.D. from the TU College of Law in 2004 and opened her own practice, Anderson Law. She was an active member of Eastland Assembly of God Church in Tulsa.

Eugene P. De Verges of Tulsa died March 14. He was born Jan. 26, 1953, in New Orleans. Mr. De Verges graduated with honors from OSU and received his J.D. from the University of Texas School of Law in 1980. He was an avid tennis player and belonged to the Tulsa Tennis Club and Shadow Mountain Racquet Club. He was also an adult leader in the Boy Scouts of America and received many awards, including the Silver Beaver. Memorial contributions may be made to Cascia Hall Preparatory School or the charity of your choice.

LaDonna F. Douglas of Oklahoma City died Feb. 14. She was born June. 6, 1956. Ms. Douglas received her J.D. from the OCU School of Law in 1987 and served as a senior attorney for the Federal Aviation Administration. She was a certified mediator for the Oklahoma Federal Executive Board, a court appointed special advocate and a certified foster parent.

Stanley P. Doyle of Tulsa died April 7. He was born Aug. 26, 1939, Youngstown, Ohio. He grew up in north Tulsa and eventually attended Cherokee Junior High and Central High School, class of 1957. Mr. Doyle received his J.D. from the TU College of Law in 1964, where he was the first editor in chief of the *Tulsa Law Journal* and the first business manager for the *Nimrod Literary Journal*. In 1975, he earned his LL.M. from the New York University School of Law. He was the principal of Doyle and Harris LLP and several other firms in his name. Memorial contributions may be made to the Community Food Bank of Eastern Oklahoma.

Jerry L. Franks Jr. of Tulsa died March 9. He was born July 16, 1964. Mr. Franks received his J.D. from the TU College of Law in 1990.

Daniel "Rick" Funk of Tulsa died March 25. He was born Jan. 6, 1946, in Philadelphia. After earning a master's degree in business administration from Lehigh University, Mr. Funk received his J.D. *cum laude* from Penn State Dickinson Law School in 1973. He began his legal career at the Pittsburgh law firm of Eckert, Seamans, Cherin & Mellott. In 1988, he became a member of the OBA and retired in 2013 from the law firm of Conner & Winters. Memorial contributions may be made to Clarehouse.

Pamela Jo Hardwick of Manor, Texas, died. She was born Jan. 29, 1945. Ms. Hardwick received her J.D. from the OU College of Law in 1970.

Jon Oscar Lagerberg of Frederick died July 4, 2020. He was born Sept. 28, 1952, in Newport, Rhode Island. **Mr. Lagerberg served eight years in the U.S. Army, including Fort Benning, Germany and Fort Sill, before being honorably discharged as a staff sergeant.** He received his J.D. from the OU College of Law in 1983 and worked in the district attorney's office in Cotton County, Tillman County and as first assistant in McCurtain County until retiring in 2007. He then opened a private practice in Walters, where he worked until retiring in May 2020. Mr. Lagerberg also filled in as city judge for Lawton for over 10 years.

Janet C. Love of Springfield, Missouri, died Aug. 15, 2020. She was born Oct. 18, 1961, in Charlotte, North Carolina. Ms. Love returned to school in 2014 to obtain her bachelor's degree. She received her J.D. from the OCU College of Law in 2017.

William D. Maguire of Oklahoma City died Jan. 20, 2019. He was born June 1, 1932, in Oklahoma City. Mr. Maguire graduated from St. Gregory's High School in Shawnee, received his bachelor's degree from Central State College in 1955 and earned his master's degree in education from OU in 1959. He received his J.D. from the OCU School of Law in 1970. Memorial contributions may be made to St. Gregory's Abbey.

Howard R. Mefford of Berryhill died March 29. He was born Nov. 24, 1933, in Oktaha. **Mr. Mefford served in the U.S. Army from 1953 until he was honorably discharged in 1955. He was stationed in Germany, working in warehouse supply.** In 1963, he received his J.D. from the TU College of Law, graduating second in his class. He was a partner at the law firm of Robert Wilde, Bob Pigman, Robert Miles and Howard Mefford and was appointed to serve as a Tulsa County special judge in 1992. He also served on the Berryhill Fire Board from 2009 to 2020 and was chairman of the board for several years.

Herbert J. Sliger Jr. of Scottsdale, Arizona, died March 7. He was born Nov. 21, 1948, in Urbana, Illinois. **After receiving his bachelor's degree from the University of Illinois in 1970, Mr. Sliger joined the U.S. Marine Corps.** He received his J.D. from the University of Arizona College of Law in 1974 and returned to Illinois, where he practiced primarily in the areas of estates, trusts and employee benefits, including pensions and other employer retirement plans. He then worked at various banks as corporate counsel, recently achieving 30 years of service with J.P. Morgan Chase as executive director and assistant general counsel of the Office of the General Counsel. Memorial contributions may be made to the Society of St. Vincent de Paul in Phoenix or the ALS Association Arizona Chapter.

Richard P. Trippet of Beaver died March 14. He was born June 13, 1938, in Tulsa. Mr. Trippet received his J.D. from the TU College of Law in 1962. He began his legal career in private practice in Tulsa, and in 1963, he became the Beaver County attorney. Four years later, he co-founded the law firm of Leonard and Trippet. In 1999, he and his partners formed the law firm of Trippet & Kee. He was active in the Beaver Rotary Club, Beaver Jaycees, Beaver Chamber of Commerce, Beaver County Bar Association, Beaver Masonic Lodge, Beaver Babe Ruth Baseball Program and the Beaver County Law Library. Memorial contributions may be made to the Beaver County Memorial Hospital, Beaver Volunteer Fire Department, Jones and Plummer Trail Museum, Beaver County Pioneer Library or Beaver United Methodist Church.

Thomas R. Weaver of Duncan died Feb. 12. He was born Aug. 17, 1938, in El Paso, Texas. Mr. Weaver attended the University of New Mexico, where he was a member of the Phi Delta Theta fraternity and a midshipman in the Navy ROTC. **He served in the U.S. Navy as an officer in the Civil Engineering Corps Marine Corp Base Camp in LeJeune, North Carolina.** He received his J.D. from the University of Texas School of Law in 1968. In 1971, he joined Halliburton Services in Duncan as a patent attorney. He was later named patent counsel and served in that capacity until 1993, when he opened a private practice in Duncan. Mr. Weaver remained active in the law until his retirement in 2018. After retiring, he was a volunteer guest reader at the Will Rogers Pre-K Center.

Stephen A. Zrenda Jr. of Edmond died Jan. 16. He was born Aug. 2, 1945, in New London, Connecticut. After playing on the varsity basketball and baseball teams at St. Bernard High School, he was recruited to play the two sports at the University of Connecticut. **Mr. Zrenda served as a captain in the U.S. Marine Corps, 1st Reconnaissance Battalion, during the Vietnam War. He was awarded the Bronze Star and Silver Star for his gallantry.** Upon his return, he received his J.D. from the University of Kentucky School of Law in 1973. He established his own securities law practice in Oklahoma City and served a diverse, global corporate clientele.

2021 ISSUES

AUGUST

Personal Injury

Editor: Cassandra Coats
cassandracoats@leecoats.com
Deadline: May 1, 2021

SEPTEMBER

Bar Convention

Editor: Carol Manning

OCTOBER

Tax Law

Editor: Tony Morales
tony@stuartclover.com
Deadline: May 1, 2021

NOVEMBER

DUI

Editor: Aaron Bundy
aaron@bundylawoffice.com
Deadline: Aug. 1, 2021

DECEMBER

Elder Law

Editor: Luke Adams
ladams@tisdalohara.com
Deadline: Aug. 1, 2021

2022 ISSUES

JANUARY

Meet Your Bar Association

Editor: Carol Manning

FEBRUARY

Labor & Employment

Editor: Roy Tucker
RTucker@muskogeeonline.org
Deadline: Oct. 1, 2021

MARCH

Impact of

McGirt v. Oklahoma

Editor: Aaron Bundy
aaron@bundylawoffice.com
Deadline: Oct. 1, 2021

APRIL

Law Day

Editor: Carol Manning

MAY

Energy

Editor: Tony Morales
Tony@stuartclover.com
Deadline: Jan. 1, 2022

AUGUST

Gaming

Editor: Scott Jones
sjones@piercecouch.com
Deadline: May 1, 2022

SEPTEMBER

Bar Convention

Editor: Carol Manning

OCTOBER

Education

Editor: Luke Adams
ladams@tisdalohara.com
Deadline: May 1, 2022

NOVEMBER

Municipal Law

Editor: Roy Tucker
RTucker@muskogeeonline.org
Deadline: Aug. 1, 2022

DECEMBER

Ethics & Professional Responsibility

Editor: Cassandra Coats
cassandracoats@leecoats.com
Deadline: Aug. 1, 2022

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



connect
with us

and stay connected
to your profession

follow the oba

 /okbarassociation

 /okbarassociation

 @oklahomabar





**Looking for an
OBJ article?**

**HeinOnline lets you view, print or
download any article or issue going back
to 1930. Access it through MyOKBar.**

It's a free member benefit!

SERVICES

OF COUNSEL LEGAL RESOURCES – SINCE 1992 – Exclusive research and writing. Highest Quality. Briefs and more. Appellate and trial. State and Federal. Admitted U.S. Supreme Court. Dozens of published opinions. Numerous reversals on certiorari. **MaryGaye LeBoeuf, 405-820-3011, 405-728-9925, marygayelaw@cox.net.**

WANT TO PURCHASE MINERALS AND OTHER OIL/GAS INTERESTS. Send details to P.O. Box 13557, Denver, CO 80201.

HANDWRITING IDENTIFICATION POLYGRAPH EXAMINATIONS

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

Arthur Linville 405-736-1925

DENTAL EXPERT WITNESS/CONSULTANT

Since 2005
(405) 823-6434

Jim E. Cox, D.D.S.

Practicing dentistry for 35 years
4400 Brookfield Dr., Norman, OK 73072
JimCoxDental.com
jcoxdds@pldi.net

PERFECT LEGAL PLEADINGS. Automated Oklahoma Legal Pleadings. Save hours and errors by utilizing the most comprehensive Oklahoma legal pleading production system available – Perfect Legal Pleadings. Works with Microsoft Word. PerfectLegalPleadings.org

CONSULTING ARBORIST, TREE EXPERT WITNESS, **BILL LONG.** 25 years' experience. Tree damage/removals, boundary crossing. Statewide and regional. Billlongarborist.com. 405-996-0411

SERVICES

BRIEF WRITING – EXPERIENCE MATTERS - Civil Litigator with 15+ years writing for Federal and State Courts – summary judgement briefs, appellate briefs, discovery, medical records review and more: Serving solo law practitioners and law firms. JSLegalWritingServices.com: Phone: 405-513-4005 Email: jennifer@jslegalwriting.

OFFICE SPACE

OKC OFFICE SPACE FOR LEASE. Near downtown (5 minutes or less to all three courthouses). Furnished. Two conference rooms. Full kitchen. Room for receptionist and file storage. Security System. Cleaning service bi-weekly. \$500 per month plus portion of bills. Well below market value. Please call (405) 413-1646 if interested.

EXECUTIVE OFFICES IN MIDTOWN (OKC). Receptionist provided. Each office from \$950 - \$1,750/month depending on sq. ft. Contact Larry Spears or Jo at 405-235-5605.

2 OFFICES FOR RENT CLOSE TO DOWNTOWN OKC – free parking – Bankruptcy – divorce – referrals. Clients must be treated fairly – honestly – equally. 405-949-5544.

MIDTOWN OKC CORNER OFFICE SPACE FOR LEASE – Free parking adjacent to building - Less than 3 minutes to all three Courthouses - Spacious attractive executive style office - Conference room available - Full kitchen - Staff available - Good colleagues/mentors - \$700.00. Perfect for new trial lawyer or self-starter who wants some overflow work on hourly or split fee basis. Contact Jack Dawson – 405-236-8541.

POSITIONS AVAILABLE

THE MUSCOGEE (CREEK) NATION OFFICE OF THE ATTORNEY GENERAL is seeking applicants for one or more Assistant Attorney General positions designated for criminal prosecutors. Applicants must possess a J.D. and be a member in good standing of a state bar in any U.S. jurisdiction. Applications must be submitted online and are available at mcn-nsn.gov.

CITY OF BROKEN ARROW is hiring for an Assistant City Attorney – Litigator. Apply online at www.brokenarrowok.gov/government/jobs.

EDMOND LAW FIRM seeking attorney with 1-4 years of experience. Candidate should be self-motivated, detail-oriented, organized, and able to prioritize multiple projects at one time and have the ability to work with senior attorneys to best serve client needs. Interested candidates are asked to provide the following: (1) cover letter; (2) resume; (3) professional references; and (4) writing sample. Please direct all communications to enoble@edmondlawoffice.com. Salary commensurate with experience.

HOLLADAY & CHILTON, PLLC, an Oklahoma City AV rated litigation law firm, is seeking experienced attorneys dedicated to providing clients with the highest quality of legal representation to join the firm in either an Of Counsel or office sharing arrangement. Within walking distance of the state and federal courts, H&C has beautiful, renovated office space in the heart of downtown, including what you have always wanted and earned – spacious corner offices with great views. Included is the use of two conference rooms, full kitchen, receptionist, high speed internet, telephone, utilities, janitorial service, printers, copiers and fax. Garage parking available. Referrals possible. If interested, contact Gary Chilton at (405) 236-2343 or gchilton@holladaychilton.com.

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

POSITIONS AVAILABLE

JUDGE ADVOCATE GENERAL'S (JAG) CORPS for Oklahoma Army National Guard is seeking qualified licensed attorneys to commission as Judge Advocates. Selected candidates will complete a six-week course at Fort Benning, Georgia followed by a tenand one-half week Military Law course at the Judge Advocate General's Legal Center on the beautiful campus of University of Virginia in Charlottesville, Virginia. This is not a full-time employment position. Judge Advocates in the Oklahoma National Guard will ordinarily drill one weekend a month and complete a two-week Annual Training each year. Benefits include low cost health, dental, and life insurance, PX and commissary privileges, 401(k) type savings plan, free CLE, and more! **For additional information contact CPT Rebecca Pettit, email Rebecca.l.pettit@mail.mil or call 405-228-5052.**

NORMAN BASED LAW FIRM IS SEEKING SHARP, MOTIVATED ATTORNEYS for fast-paced transactional work. Members of our growing firm enjoy a team atmosphere and an energetic environment. Attorneys will be part of a creative process in solving tax cases, handle an assigned caseload and will be assisted by an experienced support staff. Our firm offers health insurance benefits, paid vacation, paid personal days and a 401K matching program. No tax experience necessary. Position location can be for any of our Norman, OKC, or Tulsa offices. Submit resumes to Ryan@PolstonTax.com.

DELAWARE RESOURCE GROUP OF OKLAHOMA, LLC (DRG), a leading global Native-American family owned aerospace defense contractor based in Oklahoma City, seeks one or more Assistant General Counsels with 0-5 years of experience to assist and support General Counsel in broad range of in-house legal issues, including but not limited to employment and labor; contract drafting, review, analysis, and interpretation; statutory and regulatory interpretation and analysis (Federal Acquisition Regulations); international business and export issues; and compliance. Strong preference for background in human resources, labor relations, and/or government contracting. Please go to www.drgok.com/careers for more information and to apply. DRG is also seeking a legal intern and a contracts specialist.

POSITIONS AVAILABLE

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

THE UNIVERSITY OF TULSA COLLEGE OF LAW invites applications for one or more legal writing assistant professor positions to begin August 2021. Areas of teaching may include, though not necessarily limited to, Legal Writing I, Legal Writing II, Legal Writing III. Minimum qualifications include J.D. from an ABA-accredited law school, a strong academic record, and excellent written and oral communication skills. Relevant legal practice experience is preferred. The University of Tulsa College of Law, as an equal opportunity/affirmative action employer, is committed to equality of opportunity in its employment of faculty and staff, without discrimination on the ground of race, color, religion, national origin, gender, age, disability, or sexual orientation. Members of under-represented groups are strongly encouraged to apply. If you would like to learn more about the College generally, you may visit our website at www.law.utulsa.edu. Please submit a letter of interest, resume, writing sample, and diversity statement to Prof. Robert Butkin, Chair, Appointments Committee, University of Tulsa College of Law, 3120 E. 4th Place, Tulsa, OK 74104, or email to robert-butkin@utulsa.edu.

LEGAL COUNSEL POSITION: Oklahoma-based Armstrong Bank, with 31 locations across two states, is seeking the position of Legal Counsel for our corporate Muskogee office. We have been in existence for well over one hundred years and continue to grow with almost 450 employees and approximately \$2.3 billion in assets currently. Salary will be commensurate with experience and we offer an attractive benefits package including health insurance, 401k match, profit sharing, paid holidays, an annual performance bonus and much more. Interested applicants may view the job description and apply on our website at www.armstrong.bank/connect/career-opportunities. Applications will be accepted through May 15th.

POSITIONS AVAILABLE

THE UNIVERSITY OF TULSA COLLEGE OF LAW invites applications for the Director of Academic Support position. The Director of Academic Support provides programming and activities from 1L orientation through post-graduation Bar preparation for student academic and professional success. To implement the goals of student success, the Director of Academic Support will work closely with the Associate Dean of Students, administrators and faculty to envision, develop and implement ongoing academic success, time management, and wellness programming for all students, with targeted programs as needed for students. The Director will provide programming for all 1L, 2L and 3L students, which may include, but is not limited to, workshops, programming, one-on-one tutoring, skills labs, mentoring, and/or other support activities that will meet student learning needs and improve student outcomes based on data-driven research. The Academic Support Director will be responsible for the law school's Bar support and success program, including teaching the required Bar preparation course that students take in their last semester of law school. Minimum qualifications include J.D. from an ABA-accredited law school, excellent communication skills, and relevant experience. The University of Tulsa seeks to recruit and retain talented students, faculty and staff from diverse backgrounds. The University of Tulsa is an affirmative action/equal opportunity employer and encourages qualified candidates across all group demographics to apply. The University does not discriminate on the basis of personal status or group characteristic including, but not limited to race, color, religion, national or ethnic origin, age, sex, disability, veteran status, sexual orientation, gender identity or expression, genetic information, ancestry, or marital status. Please submit a cover letter, résumé, diversity statement, contact information for three references to: The University of Tulsa, Office of Human Resources, 800 S Tucker Drive, Tulsa, OK 74104 or submit online at tulsa.edu/job-application. The review of applications will commence immediately and will continue until the position is filled. The University of Tulsa is an Equal Opportunity Employer including Disability/ Veteran.

POSITIONS AVAILABLE

GROWING AND SUCCESSFUL NORMAN LAW FIRM with strong client base seeks an attorney with 3 to 7 years' experience. Practice is transactional and litigation, primarily in areas of real estate, business, construction, property, estate planning, and litigation. Salary based upon experience. Top 25% of law school class and member of preeminent Law Review highly preferred. Submission of Resume MUST also include Law School class rank and Law School transcript. Please email resume submissions to jmoon@riegerllc.com.

RAINEY LAW, LLP NEEDS 2-3 YEAR EXPERIENCED JUNIOR ASSOCIATE to join our established centrally located Oklahoma City broad general and civil business law firm. Visit www.okclaw.com to learn more about our team. Full time work available with competitive compensation and flexible hours with partnership opportunity. Interested? Send resume, transcript, writing sample, and references to: Amy Fairweather Info@OkcLaw.com.

POSITIONS AVAILABLE

A TULSA LITIGATION LAW FIRM SEEKS AN ASSOCIATE ATTORNEY at our Tulsa location. The successful candidate will possess a set of skills that translate to the Court room. This position reports to seasoned attorneys with years of multi discipline legal experience. The position requires flexibility and able to work within Family law, Criminal law and other civil litigation as needed. Best prospect will have one year or more of experience. Send replies to advertising@okbar.org with the subject line "Position BA."

DOWNTOWN OKLAHOMA CITY FIRM IS SEEKING CONTRACT ATTORNEY for complex civil litigation projects. Must have at least 7 to 10 years' experience researching and drafting civil briefs and crafting and responding to discovery requests. Interested applicants should include cover letter, resume and writing sample to Hampton Barghols Pierce, 210 Park Ave., Suite 2700, Oklahoma City, Oklahoma 73102 or email apierce@hbplawok.com.

NOTICE OF JUDICIAL VACANCY

The Judicial Nominating Commission (JNC) seeks applicants to fill a vacancy for an at-large position:

**District Judge, Seventh Judicial District,
Office 6, Oklahoma City**

To be appointed to this position, one must be a resident and registered voter of Oklahoma County (Seventh Judicial District) at the time (s)he takes the oath of office and assumes the duties of office. Additionally, prior to appointment, such appointee shall have had a minimum of four years' experience within the State of Oklahoma as a licensed practicing attorney, a judge of a court of record, or both.

Application forms can be obtained online at www.oscn.net (click on "Programs", then "Judicial Nominating Commission", then "Application") or by contacting Tammy Reaves at (405) 556-9300. Applications must be submitted to the Chair of the JNC no later than 5:00 p.m., Friday, May 14, 2021.

Applications may be hand-delivered, mailed, or delivered by third party commercial carrier. If mailed or delivered, they must be postmarked on or before May 14, 2021 to be deemed timely.

Applications should be mailed/delivered to:

Jim Webb, Chair
Oklahoma Judicial Nominating Commission
c/o Tammy Reaves
Administrative Office of the Courts
2100 N. Lincoln Blvd., Suite 3
Oklahoma City, OK 73105

A Continued Call for Making Oklahoma's Legal Profession More Inclusive

By Telana McCullough

BLACK LEGAL HISTORY IS full of brilliance, tenacity and copious amounts of courage. Black attorneys have and continue to overcome immense challenges to make our community more just. However, this progress is often hindered by the actions of fellow legal practitioners. Unfortunately, even though Black attorneys today may be counted in the diversity number at a law office, it does not mean those Black attorneys' voices are necessarily valued and included in office dynamics. The things legal offices can do to make work environments more inclusive are extensive, but here are a few things to start with:

CHECK IMPLICIT BIAS

Black attorneys often face hostilities stemming from unchecked implicit bias that leads to toxic work environments. Implicit bias refers to the unconscious attitudes or stereotypes that affect our understanding, actions and decisions.¹ Implicit bias can cause colleagues to unknowingly treat and view Black attorneys more harshly by unconsciously associating Black attorneys with negative stereotypes absorbed from society. The negative associations often come out in casual statements and actions called microaggressions² that slowly kill diversity efforts.

To begin to address implicit bias, an office can encourage employees to take the Harvard Implicit Bias Test³ and then require employees to attend training on implicit bias.⁴

CONNECT TO THE HUMANITY IN OTHERS

Office leaders should be intentional about connecting with all employees. Make sure the Black attorneys' voices are heard, valued and included. Appreciate Black attorneys as individuals who have unique talents, goals and purposes. A Black attorney who is given support and resources will be in a position to offer an even higher caliber work. Initially, it might be harder to connect with those who appear to be different, but there will be exposure to a new and valuable perspective amongst many other benefits. This type of connection starts with honest conversations about anti-Black racism in the legal profession.⁵

PROGRESS OVER PERFECTION

Working in an environment where implicit bias goes unchecked and connection is not highly valued can cause Black attorneys to seek other job opportunities. In searching for a better work environment, there is a desire for inclusive progress. Starting the work of diversity and

inclusion does not require perfect steps. In inclusive progress, there is a commitment to diversity and inclusion that makes the office stronger with every lesson learned.

Do not hide racial issues that come up at an office. Have open conversations about the problem and find a solution that includes all of the diverse voices surrounding a table. Do the work to make sure Black attorneys and judges are given the same chance, grace and promotion opportunities given to white legal practitioners. This diverse and inclusive work environment gives Black attorneys the space needed to grow into stronger legal practitioners who continue to make more outstanding Black legal history.

Ms. McCullough chairs the OBA Diversity Committee and is a staff attorney at the Oklahoma Department of Education in Oklahoma City.

ENDNOTE

1. kirwaninstitute.osu.edu/article/understanding-implicit-bias.
2. www.uua.org/sites/live-new.uua.org/files/microaggressions_by_derald_wing_sue_ph.d._.pdf.
3. implicit.harvard.edu/implicit/takeatouchtest.html.
4. www.americanbar.org/groups/litigation/initiatives/task-force-implicit-bias.
5. www.americanbar.org/groups/diversity/resources/black_lawyers_in_america_toolkit.

FIND THESE TITLES IN OUR
CLE ONLINE ANYTIME
CATALOG

MCLE 1/0 PART ONE

MCLE 1.5/0 PART TWO



Amber Peckio Garrett,
Amber Law Group, Tulsa



Felina Rivera,
Attorney, Bussett Legal Group, PLLC, OKC

Stay up-to-date and follow us on



TO REGISTER GO TO WWW.OKBAR.ORG/CLE



CANNABIS SERIES

BETWEEN TWO WEEDS: JOINT SESSIONS - PARTS 1 & 2

Stay up-to-date on the status of proposed cannabis legislation being considered by the Oklahoma Legislature.

These programs will provide an update to the status of cannabis related legislation that is currently being considered by the Oklahoma Legislature. These programs follow up on the cannabis law segment presented during the "50 Bills in 50 Minutes" portion of the 2021 Oklahoma Legislative Kickoff CLE provided in February 2021. Cannabis Attorneys Amber Peckio Garrett and Felina Rivera discuss the pros and cons of bills that are actively being considered by the House and Senate and advise on where each bill is on the path to becoming law.

ABOUT OUR SPEAKERS:

Amber Peckio Garrett is a Martindale-Hubbell® AV rated solo practitioner with Amber Law Group in Tulsa, OK. Ms. Peckio Garrett has 16 years experience and specializes in personal injury, civil litigation and family law. She received dual bachelor's degrees in Economics and Political Science from Southeastern Oklahoma State University. She received her Juris Doctor degree from the University of Tulsa College of Law in 2003 where she currently serves as a member of the Alumni Board.

Ms. Peckio Garrett is a current Trustee of the Oklahoma Bar Foundation where she serves on the Grants and Awards Committee. In addition, she currently serves as the Chairperson of the Law Related Education Committee. Ms. Peckio Garrett has served the OBA as the youngest ever Chairperson of the Women in Law committee (2007).

Felina Rivera is a civil litigation and cannabis attorney who has represented a large array of clients in the areas of tax law, insurance defense, personal injury, family law, consumer litigation, and cannabis law. Within her cannabis law practice, Felina assists clients with all aspects of their businesses, including guiding clients through the licensing application process, zoning and building permits, industry contract negotiations, and OMMA compliance. She is admitted to practice law in the State of Oklahoma, the Western District of Oklahoma, and Federal Tax Court. In addition to her legal career, Felina is also an active musician. She can often be found playing guitar and singing at local live music venues throughout the state.



Fifteen awards to choose from, including those for lawyers, nonlawyers, organizations and bar associations. All nominations and supporting materials must be received by 5 p.m. July 1.

www.okbar.org/awards

Oklahoma Bar Association
★ AWARDS ★



★ Nominations due ★

July 1

