OCBA Celebrates Law Day 2015
U.S. District Judge Stephen Friot to Speak at Law Day Luncheon

by Curtis Thomas, Law Day Chair

One of the most iconic moments in the legal history of the world was the signing of the Magna Carta at Runnymede in 1215. That moment has been memorialized on monuments, murals, paintings, and friezes, and it even appears on the bronze doors of the United States Supreme Court. The Magna Carta has inspired, and been cited by, our nation’s founders, jurists, and civil rights leaders. Magna Carta has rightly been cited by, our nation’s founders, jurists, and civil rights leaders. Magna Carta has rightly earned a prominent place in the pantheon of cherished documents of freedom.

The 2015 Law Day theme—“Magna Carta: Symbol of Freedom Under Law”—celebrates the contributions of the Great Charter of Liberty. The words of the Law Day theme are drawn from the inscription on the Magna Carta Memorial at Runnymede, which the American Bar Association erected in 1957. That granite memorial stands today as a tangible reminder of our commitment to the rule of law, the connections between Magna Carta and the political and legal history of the United States, and the continuing symbolic significance of Magna Carta in the worldwide struggle for rights.

Magna Carta’s most oft-cited provision, Chapter 39, declares, “No free man shall be seized or imprisoned, or stripped of his rights or possessions … except by the lawful judgment of his equals or by the law of the land.” Inspired by this provision, we have come to associate the early roots of our cherished due process rights with Magna Carta. Over the centuries Magna Carta has become the embodiment of the principle that no person is above the law, that we are a nation of laws and not of persons. Colonists took with them to America the idea that the sovereign must recognize and respect the rights of the individual. During the American Revolution, Magna Carta was cited for its symbolic significance by Thomas Paine, Benjamin Franklin, and Thomas Jefferson, among many others.

Magna Carta continues to inform our thinking about rights and liberty. When Eleanor Roosevelt introduced the Universal Declaration of Human Rights to the United Nations Assembly in 1948, she referred to it as an international Magna Carta for all humanity. Nelson Mandela cited Magna Carta in his eloquent Statement from the Dock in the Rivonia trial in 1964. The United States Supreme Court has referenced Magna Carta in its opinions more than 170 times.

Practice Tips from Federal Judges at Bench and Bar Conference

By Rex Travis

Lawyers who practice in federal court were fortunate to get practice tips from some federal judges at the 2015 Bench and Bar Conference at Quartz Mountain Lodge. I was fortunate enough to get to chair a panel consisting of U.S. District Judges Robin Cauthron, Joe Heaton and Tim DeGiusti. The announced purpose of the panel was to acquaint federal court practitioners with things the judges believe we lawyers can do to be more effective in federal court.

All three judges suggested that the quality of legal writing in their courts leaves much to be desired. Judge Cauthron told us about being told by her law clerk that particular briefs they were reading were terrible. All three judges indicated a common failing among us is inadequate editing and rewriting by the lawyers filing the briefs.

Judge Heaton expressed some irritation at having lawyers file an application for leave to exceed the 25-page limit, based on the assertion the legal matter involved could not possibly be covered in less than 32 pages. Then, when the brief is filed, it begins something like: “Comes now the Plaintiff, John Smith, by and through his lawyers, Jones and Brown, and, for response to the Motion for Summary Judgment of Defendant, Gigantic Corporation, filed herein, states and avers.” He suggested this makes him think, “I can suggest to you how to get the length of the brief down to the 25-page limit!”

Judge Tim DeGiusti suggested some remedial reading by lawyers would include The Elements of Style by Strunk and White (4th Edition). The book is available from Amazon new for $6.95. Judge DeGiusti also particularly recommended The Literate Lawyer by Robert Barr Smith, Professor Emeritus at the OU Law School. That book is also available from Amazon new for $25 in paperback or used for $9.25. A member of the audience recommended The Winning Brief by Bryan Garner, also available from Amazon new for $56.95.

I suggested we have used and like Word Rake, proofreading software for Microsoft Office. Information and pricing can be found at www.wordrake.com. It is also available for Mac. It enables you to write and edit your brief and then run the brief through Wordrake which will then highlight words which can be omitted or phrases which can be rewritten to express the same thought more simply and succinctly.

All three judges spoke adamantly that one of their major irritants and “space wasters” in briefs is lawyers criticizing opposing counsel or the opposing party. All three suggest that you are much better off using the pages of your brief for advocating your legal position and argument than saying bad things about the opposition.

See PRACTICE, PAGE 13
From the President

Is Justice Blind?

By Jim Webb

OCBA President

“Injustice anywhere is a threat to justice everywhere.”

-Martin Luther King, Jr.

Lady Justice wears a blindfold. The reason, of course, is that justice is to be objective – based entirely on the facts and the law, not based on wealth, power, race, or the like. Have you ever worn a blindfold to smash a piñata with a wiffle bat? Or pin the tail on a donkey? Did you ever cheat by tilting your head back and peaking out down your nose and underneath the blindfold? Uh, me neither.

We would all like to believe Lady Justice is incapable of peaking. Trayvon Martin, Michael Brown, Eric Garner, and, most recently, a disgraceful video from a fraternity in our own back yard, have caused me to think seriously about the prejudices – particularly race-based – that exist in our society and, by extension, the justice system and our honorable profession as lawyers.

When the fraternity video surfaced, I heard some people say things like, “I’m glad we don’t have that problem in our business.” “Our school does not allow things like that.” “Our church is completely colorblind.” “There is no prejudice in our neighborhood.” Do you really believe that? Fully believe it? I very much want to believe it, but let’s be honest. We still have a long, long way to go.

In the halls of justice, we all know there is no room for prejudice. I think this means we must continuously scrutinize effects of our justice system that may show what the Supreme Court refers to as a “disparate impact” upon only certain members of our society. Why? Because we should do everything we can to ensure that prejudices do not play an entirely unintentional, but equally insidious, role.

This is often discussed in the context of the criminal justice system. For example, fewer than 4-in-10 (38 percent) of Americans say that blacks receive equal treatment under the criminal justice system. That’s a ten percentage point drop from one year earlier, when the public was evenly divided on the question. This finding comes from the Public Religion Research Institute American Values Survey.

Similarly, as reported by U.S. News & World Report, all-white juries convict black defendants for felonies at a rate of 81 percent versus white defendants at a rate of 66 percent.

All too often, racial biases aggravate socioeconomic disadvantages for folks who already lack access to the legal system and legal counsel. In times like these, we attorneys must be reminded of the duty of our profession and the goals of the law, as so appropriately captured by Roy Barnes, former Governor of Georgia, at the 2004 Equal Justice Conference: “The law should be a shield for the weak and powerless, not a club for the powerful.”

I will be the first to admit that I have prejudices. “Prejudices” – technically defined as preconceived judgments or opinions. Like it or not, my own background and experiences are necessary parts of the lens through which I filter the world around me. However, that means I must be ever vigilant for when those judgments or opinions are irrational, hostile, or detrimental to the rights of others.

As a lawyer, I must be committed to justice for all. All means all. “Equal justice under law is not merely a caption on the facade of the Supreme Court building, it is perhaps the most inspiring ideal of our society,” wrote U.S. Supreme Court Justice Lewis Powell, Jr. “It is one of the ends for which our entire legal system exists.”

Lawyers are the ultimate human defenders of justice. It is imperative for us to accept and understand those who come from different backgrounds. Along those lines, it’s even more important to work within our profession – such as mentoring junior attorneys or promising students from different backgrounds – so that the legal profession is more inclusive and reflective of our society.

We can start right here in Oklahoma County. We will all be better for it. As always, remember I have an open door policy. I welcome your ideas on how we can improve the OCBA. Please email me at jim.webb@chk.com or call me at 935-9594.

Community Service Committee Member Spotlight: Marchi McCartney

By Ray Zschiesche, Chair, Community Service Committee

Marchi McCartney received her J.D. from the University of Oklahoma in 1988, after receiving her Bachelor’s and Master’s degrees from Texas A&M University. After two years in private practice, Marchi began a career in civil service with the Oklahoma Corporation Commission, starting as an assistant general counsel before being promoted to deputy general counsel. While at the Corporation Commission, Marchi served as Director of the Consumer Services Division and Director of the Transportation Division.

Marchi retired from the Corporation Commission in March of 2014, but she hasn’t stopped working. Throughout her legal career, Marchi has volunteered for a number of organizations, including the New Covenant United Methodist Church Mission Team, the Infant Crisis Center, Edmond Women’s Club and the YWCA. She has held various positions in these organizations and has put in countless hours as a volunteer. She continues her work with these organizations after retirement, and is especially interested in volunteering for organizations that assist women and children.

She currently serves on the Lawyers Against Domestic Violence and Community Service Committees of the Oklahoma County Bar Association. Marchi has been a dedicated and valued member of the Community Service Committee for, according to best estimates and recollections, about 10,000 years.

See MARCHI, PAGE 7
**Emerson Alternative School Receives Gifts**

By Geary Walke

On April 3rd a group of lawyers and judges from two Inns of Court visited the Emerson Alternative School in the Paseo. They were there to see the art presented by students at Emerson Alternative School. The exhibition was a remarkable collection inspired from high school students. The depth and substance of the art and the talent of these young artists cannot be overstated.

The Emerson students don’t fit into the usual scheme of school programs for a variety of reasons. Most of those reasons are beyond their control. Everything from jobs and delinquency to poverty and pregnancy are reasons to stop attending school stacked on top of the reasons which are not theirs to control. These students attempted to continue an effort to secure an education despite the personal, social or other burdens.

Last fall Chris Batson Deason was contacted by the Librarian/Media Specialist at Emerson, Cathy Carlson. Chris and Judge Don Deason had spearheaded an effort to provide additional supplies for art students at Emerson (see art exhibit information above, and see article Briefcase, June 2014). Ms. Carlson wondered whether Chris’ friends and fellow lawyers might have any usable equipment to assist reading or English programs. Chris, Judge Deason and Donene Jones, current President of the Ginsburg Inn, went to work and not only gained the assistance of their fellow lawyer-members at the Ginsburg Inn, but challenged the Holloway Inn of Court through Judge Jerry Bass. $16,200 was contributed to Emerson (the Holloway Inn won the challenge by $2,200). The money was converted to: 18 Kindles (7 more than Ms. Carlson originally dared to hope for), 18 covers and adapters, 20 Chromebooks, and a reserve of over $5,000 with Amazon to be used for the purchase of data (books) or to replace lost or damaged Kindles. That was a one-time private contribution that will, in all probability, not be replaced hereafter by the OKC Public Schools. However, the school district did provide a cart for charging, for security, and for the in-school transfer of the Chromebooks between the library and the English classrooms. When connected to the school’s internet portal, most applications and the data used will be stored on the cloud.

The Emerson Alternative School Library will always need more donations to buy equipment or data (books). Anyone wishing to help may do so by dropping off Amazon gift cards to the school. Chris recommends $25 gift cards, but any amount, no matter the size, would be appreciated.

The two contributing Inns, consisting substantially of members in the Oklahoma County Bar Association, will meet jointly in April to visit with Ms. Carlson, students, and to view some of the applications used thus far. This is yet another example of lawyers working to improve the quality of life for others. Thank you.

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**New District Court Judge, Aletia Haynes-Timmons**

By C. Scott Jones

Aletia Haynes Timmons was sworn in as District Judge in January. Timmons was elected last November to fill the vacancy created when C. Scott Jones retired. Timmons counts current Oklahoma Supreme Court Justice Yvonne Kauger, as a judge, Timmons expected civility in her courtroom. Her biggest pet peeve is when a “lawyer accuses another lawyer of unethical conduct in a cavalier fashion without any evidence to substantiate the accusation.”

Timmons, whose father was in the U.S. Air Force, was born in Enid. Although her family was also stationed in Alaska and Hawaii, they returned to the Oklahoma City area in time for Timmons to finish high school. In 1979, Timmons graduated from John Marshall High School. She obtained her Bachelor of Arts Degree in Political Science from Oklahoma State University in 1983 and her law degree from the University Of Oklahoma College Of Law in 1986. While in law school she clerked for Justice Yvonne Kauger, who became her mentor.

After leaving the clerkship at the Oklahoma Supreme Court she accepted a position with General Motors handling claims on behalf of GM workers. After a stint with the Civil Division of the Oklahoma County District Attorney’s Office, she returned to private practice in 1999 at Abel, Musser, Sokolosky, Mares and Kouri Law Firm, where she founded the civil rights and employment law litigation section, and worked for the next three years. Then she started her own firm, Timmons and Associates, LLC. Timmons has also been an instructor at Langston University’s Oklahoma City campus.

Timmons’ husband Paul is a captain in the Oklahoma Highway Patrol. The two have been married for 22 years. Together they have five children. Oldest daughter, Alana House (age 29), is an attorney at the Oklahoma County Public Defender’s Office. Daughters, Alexis (22) and Alexandria (19) are currently attending Oklahoma State University. Daughter, Aleyah (20) is a student at the University of Oklahoma. Their son William (18) is a senior at Harding Charter Prep in Oklahoma City.

Timmons has also been active in the community. She served on the boards of Columbus Elementary Enterprise School and Harding Charter Prep High School. She was also appointed by Governor David Walters to serve on the Committee on the Status of Women, and by the Chief Justice of the Oklahoma Supreme Court to the Court’s Times Standards Committee. Timmons also was general counsel for the Adult NAACP for Legal Defense, the Central State Troopers Coalition, BLAC, Inc., and the Metropolitan Fair Housing Council. She is also a co-founder of the Jamming Hoop Fest, a summer youth basketball program in northeast Oklahoma City.

Judge Timmons’ chambers are in Room 105 at the Oklahoma County Courthouse. Her office number is 713-7101. Her chambers staff includes Karen Bacino (clerk), Barbara Jones (bailiff) and Tara Nixon (court reporter).

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**Emerson Alternative School**

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**Events & Seminars**

**APRIL 30, 2015**

Ask A Lawyer Program
9 a.m. - 9 p.m., OETA Studios

**MAY 1, 2015**

Law Day Luncheon
12 Noon, Skirvin Hotel Grand Ballroom

**JUNE 12, 2015**

Awards Luncheon
12 Noon, Jim Thorpe & Assoc. Sports Bldg.

**JUNE 15, 2015**

Annual OCBA Golf Tournament
Gaillardia Golf & Country Club

**JULY 17, 2015**

OCBA Night at the Bricktown Dodgers
7 p.m. Bricktown Ballpark

**SEPTEMBER 4, 2015**

Annual Dinner Dance
6:30 p.m., Skirvin Hotel Grand Ballroom

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VISA, MASTERCARD, AMERICAN EXPRESS & DISCOVER
By Jim Crosby

April 17, 1915

One Hundred Years Ago

[Loftin v. State, 1915 OK CR 33, 147 P. 505.]

The plaintiff in error was convicted in the county court of Jackson county upon an information which charged that, “one Oscar Loftin did willfull and unlawfully have in his possession a bottle of whisky; that he did place said bottle, seller, garn, and otherwise, and furnish said whisky to other persons, and to transport said whisky from one place in the state of Oklahoma to another place therein, in violation of the prohibitory liquor laws,” and was sentenced in accordance with the verdict of the jury to be confined in the county jail for 30 days and to pay a fine of $100. To reverse this judgment an appeal was perfected.

Of the various errors assigned, we deem it only necessary to consider the one that the verdict is contrary to law and to the evidence. John D. Bailey, sheriff, testified that he was at the town of Olsue, and with his deputy, Mr. Collins, went into a livery stable and found the defendant and Mr. Eley there; that the defendant had a bottle in his hand, and that he broke it over the window sill; that he went out, “picked up the broken glass and licked up some of the contents, and found that it was whisky,” and then came back into the stable, and on the other side of the stable, found a bottle about half full of whisky; that he arrested the defendant. A.W. Collins testified that he was a deputy sheriff, and with Sheriff Bailey followed the defendant into the livery stable, that the defendant had a bottle partly full of whisky in his hands, and when he saw them he broke the bottle over a nearby window sill; that he also found them both with a law officer half pint bottle half full of whisky. The state rested, and the defendant demurred to the evidence, and moved the court to direct a verdict for the defendant, and permitting a subversion of the presumption in favor of the innocence of the accused and the necessity of establishing the guilt of the defendant beyond a reasonable doubt, the evidence should be of such a character as to overcome prima facie the presumption of innocence. If the evidence only raises a mere suspicion, or, admitting all it tends to prove, the defendant’s guilt is left dependent upon the opinion of the jury or conjecture, it is insufficient to sustain a conviction.


In the absence of any evidence in this case from which the jury could rationally conclude that the defendant was guilty, we think it would have been a proper exercise of the power vested in the trial court to have advised an acquittal of the defendant, upon ground that the evidence was insufficient to sustain a conviction. It is true that there are some circumstances that are somewhat suspicious, but that is the most that can be said of them. In our opinion, it would be destroying the presumption in favor of the innocence of the defendant, and permitting a subversion of the rule which requires the establishment of guilt beyond a reasonable doubt, to allow this conviction to stand.

April 30, 1940

Seventy-Five Years Ago


Plaintiff below recovered judgment for physical injuries allegedly resulting from certain malicious and unlawful words spoken by her by defendants, and the defendants have appealed.

Plaintiff had been collecting sick benefits under a policy issued by the defendant company. The defendant Alberty, as agent for the company, went to plaintiff’s home, where he found her in bed and allegedly ill. He informed plaintiff that he had been sent there by the company to pay her $2.40. Plaintiff refused the proffered payment, asserting that her claim was for $6, and that she was still ill, whereupon Alberty, according to plaintiff’s testimony, proceeded to berate her in uncomplimentary language, charging that she was not sick but that she was merely a dead-beat.

Defendants state that the foregoing conversation was merely a part of a business conference between the parties, and that in such case a defendant’s agent held himself and his interest to be free from liability if any of the whisky belonged to him; that the litter on the floor of the stalls was four or five inches deep; that he did not drink any of the whisky.

And the Court Said

The court held that the evidence was insufficient to sustain a conviction. The court directed the jury to acquit the defendant.

April 20, 1965

Fifty Years Ago

[Extracted from Jones v. Shaw, 1965 OK 67, 441 P.2d 990.]

This is an application for Frances Aline Jones and Jesse Marquez, a minor, who sue by and through his next friend, for a writ of mandamus directed to the respondent, Hon. Virgil M. Shaw, Clerk of Canadian County, to issue a premarital examination for syphilis prior to the issuance of a marriage license to them solely because of the accused and the necessity of establishing the guilt of the defendant beyond a reasonable doubt, to allow this conviction to stand.

It is next contended that if the language aforesaid had a detrimental effect on plaintiff, it amounted to a mere emotional disturbance for which the law offers no redress. Western Union Telegraph Co. v. Chouteau, 28 Okla. 604, 115 P. 879; St. Louis & S. F. Ry. Co. v. Keiffer, 48 Okla. 434, 150 P. 1026; Koons v. Board of Motor Co., 167 Okla. 634, 31 P.2d 573. In each of those cases the plaintiff sought damages for mental suffering alone resulting from negligence or from breach of contract. Here there is evidence that the plaintiff suffered emotional shock, as well as bodily fear or excitement induced by such declaration. The language complained of in the instant case went beyond the mere declaratory that the defendant should do or should not do.

It is argued that under recent decisions of this court, the question is one of law.

See OLIO, PAGE 14
Quote of the Month

“I want to stay as close to the edge as I can without going over. Out on the edge you see all kinds of things you can’t see from the center.”

~ Kurt Vonnegut, Jr., writer (1922-2007)

OKLAHOMA COUNTY BAR ASSOCIATION

ASK-A-LAWYER VOLUNTEER FORM

Date: Thursday, April 30, 2015
Place: OETA, 7430 North Kelley Avenue, Oklahoma City, OK 73111
Phone: 848-8501

Directions: OETA is behind Channel 9, off of Kelley, between Wilshire and NE 63rd
(Go west off Kelley on NE 73rd, which is the parking lot of Channel 9)

I want to volunteer to answer phones on Thursday, April 30, 2015 during the OCBA’s Ask-A-Lawyer program with OETA.

I WOULD LIKE MY SHIFT TO BE:

8:45 a.m. – 11:00 a.m. ___ 11:00 a.m. – 1:00 p.m. ___ 1:00 p.m. – 3:00 p.m. ___
3:00 p.m. – 5:00 p.m. ___ 5:00 p.m. – 7:00 p.m. ___ 7:00 p.m. – 9:00 p.m. ___

Name of Ask-A-Lawyer Volunteer: ________________________________

Address: ________________________________________________________

Phone: ____________________ Fax: ____________________

E-mail: ____________________

FILL OUT THIS FORM & FAX TO THE OCBA AT 405-232-2210. THANKS!
The Treatment of Prisoners of War in the Civil War
Part Two: Prepared for the Oklahoma City Civil War Round Table

By Rex Travis

Acknowledgments
I owe thanks to a lot of people in the process of researching and writing this paper. Particularly, I must acknowledge the help of Joan Stibitz, Head Park Ranger at Andersonville National Historic Site and her staff. Ranger Stibitz had mercy on a poor researcher many miles from home who did not know he had to make advance arrangements to use the research library at the Center. Special thanks go also to Ranger Don Pettijohn and to Volunteers Jimmy Culpepper and Mark Stibitz for sharing their extensive knowledge. I should also thank Peggy Sheppard, author of Andersonville Georgia, USA who volunteered at the Visitor Center of the Town of Andersonville and who was extremely helpful. By Rex Travis has been an invaluable help in listening to a lot about a subject in which she has much less interest than do I and for her help in photographing Andersonville.

Both sides started out using jails and local prisons to house prisoners of war, but these soon became wholly inadequate. The North took over an abandoned state prison at Alton, Illinois and filled it with prisoners. (It had been abandoned by the state as too unhealthy, which might have suggested a problem.) The North began to use the old state prison and train its own army early in the war for POW’s. These were relatively inexpensive to convert to prisons and were usually close to major cities and towns which could support them with supplies. The South first concentrated its prison efforts around towns already having factories and warehouse buildings and, when these proved inadequate, opened Belle Isle, a former resort area on an island in the James River.

The North soon discovered that it was very difficult to operate many scattered prisons, so it attempted to consolidate its prisons at a few. It also decided its military prison system needed a single head to administer it. It selected Colonel William H. Hoffman, a regular army officer who had been captured by Confederates in Texas at the start of the war and had taken an oath not to take up arms against the Confederacy. Apparent to its use as a Commissary of Prisons was not deemed to violate that oath. Unfortunately for Confederate prisoners throughout the war, he proved to be a rigid, budget-conscious officer, who took great pride in spending as little as possible on the prisoners.14

The logistics of feeding, sheltering and clothing large numbers of prisoners soon proved to be too much for the South. The South’s food supply was considerably disrupted by the war. The sad state of Southern railroads, made much worse by the fighting itself, was a problem. Blockade made it difficult to transport food, as well as other commodities. The bulk of the fighting, by 1863, was taking place in or around Virginia, meaning that most of the Confederate army was in that area and had to be fed and supplied there. Much of the food required for this came from Georgia and Alabama and so had to be moved on the North’s roads, which were in poor condition.

In addition, Andersonville was feeling insecure. There were large numbers of Union prisoners in Richmond in 1864, after the exchange cartel broke down. A Union cavalry raid, by 3,500 Union soldiers under Gen. Judson Kilpatrick in late February, 1864, was so successful that he almost reached Richmond.15 The South got wind of Union plans to free the prisoners at Richmond with a cavalry raid, arm them from the arms supplies in the Richmond area, and use the thousands of prisoners to take Richmond. The frightened citadel demanded that the prisoners be removed from the Richmond area.

The Confederate response was to move the prisoners closer to the source of their food and further from the war action which threatened to free them. There followed the founding of the first prisoner of war camps in Florida, the Carolinas and Alabama. These areas were then remote from the war and thought to be sources of food which would not have to be transported across much of the Confederacy to get to them. The first and most infamous of these camps was to be Camp Sumter, at Andersonsville, Georgia, which came to be known simply as Andersonville and which came to be synonymous with mistreatment of POW’s.

Anderson Station, Georgia was a small depot stop on the Central of Georgia Railroad near Sumterville (now part of Sumter County). It was established when the rail line was built in the early 1850’s and named for John W. Anderson, Superintendent of the railroad. The U.S. Post Office changed the name to Andersonville, to avoid confusion with Anderson, South Carolina. At the time the prison was planned (in early 1864), Andersonville had a population of less than 20.16 By August of 1864, with 33,000 prisoners in the stockade, Andersonville was the 5th largest city in the Confederacy.17

The prison is located in what is now Macon County, about 135 miles south of Atlanta. It is about 11 miles northeast of Americus. It is about 50 miles southeast of Columbus, present site of Ft. Benning.

At the time the prison was active, it was in Sumter County. The prison was named for Sumterville, but was always commonly known as Andersonville. While the few townspeople there did not want the prison put on there, two large local landowners, Wesley Turner and Benjamin Dykes, lobbied for the prison and leased land for it to the Confederate government, taking Confederate dollars for their lease payment.18

The prison site was selected by Captain Sid Winder and ultimately built by his cousin, Captain Richard Winder. So strong was local opposition to the prison that he could not procure local slaves for labor to build it without getting authority from Richmond to impress slaves and teams to build the prison.19

The plan for the prison was relatively simple. The slaves cut pine trees into logs about 20 feet long. The logs were squared off with an adze and made pointed at the tops. A large ditch was dug 5 feet deep. (The logs likewise increased in diameter after construction from an original area of 16 ½ to 18 acres.) The original plan was for an enclosure to hold 6,000 men with the increased size enclosure to hold 10,000 men. While the prison was its smallest size, its population reached 22,000 prisoners. With the increased size, it held up to 33,000 prisoners.20

Even the size of the stockade is misleading. The prison was built astraddle a branch of Sweet Water Creek. The branch became known as Stockade Creek. Sweet Water Creek was drained into the Oconee, which flowed into the Savannah River, which was about 7 miles to the east. The creek created a swamp in the middle of the stockade which rendered much of the ground unusable by the prisoners. Further, a “dead line” was built 18 feet inside the log walls. This was a line of small boards on posts beyond which prisoners could not go else they be shot dead. This reduced the space available for the prisoners so that, at the peak of the prison’s size to a space of about seven feet by five feet for each prisoner.

There was nothing in the prison enclosure to provide shelter for the prisoners. All the trees that had been felled in there was no shade in summer. The logs had been removed to build the stockade so there were no building materials except small trees and bushes and the remains of the large pine trees which had been trimmed and used for the stockade walls. The prisoners were left on their own to find whatever materials might be there and construct whatever shelter they could from these materials and whatever materials the prisoners had on them. The lucky ones still had their shelter halves or other tenting material. Others had to use whatever blanket or overcoat they had to put up on whatever sticks they could find to provide shelter and then be deprived of a blanket or coat to put on or wear.

Location of the prison had a lot to do with the fact that it was only about a quarter of a mile from the railroad so prisoners could be brought in on the railroad. After the railroad was built through the area in the early 1850’s, wood to fuel the locomotives became in high demand. The locomotives could not use the pine which predominates in the area. The machinery in that wood caused buildups of creosote in the firebox and stack which caused fires. As a result, all of the hardwood for a mile or so either side of the railroad had been cut. This left the prisoners only pine wood to burn for cooking and warmth. The black pine pitch in the smoke from the fires turned them all black.

The horror of Andersonville was short lived, only about 14 months. The first prisoners arrived there February 14, 1864. The last prisoner left May 5, 1865.21 During that time, 12,919 prisoners are reported as dying.22 We know more than that died, as their bodies were buried on the prison site. When the peak prison population was 32,899, more than 44,000 men were in Andersonville at one time or another, when deaths, escapes and transfers are taken into account.23

Andersonville had fatal flaws from the beginning. Here is a summary of the prison and the war crime trial after the war of the prison commander. Captain Wirtz, was that there were accepted methods of siting an army camp. The camp would be laid out on a creek or stream. At the upper limit of the camp would be a place to draw water for drinking or cooking. Below that would be a place for bathing and washing clothes. Below that, at the very downstream end of the camp, would be the latrines or “sinks” as they were then called. This enabled the creek or stream to cleanse itself of the contamination from the camp. All the water from the creek or stream from the sinks, hopefully before the stream got to another downstream camp.

Andersonville was not laid out quite that way. On Stockade Creek above the stockade where the prisoners were placed was the camp for the guards. All of their functions described above were carried out above the prisoners’ source of water. Further, the prisoners were so crowded in the camp and soon so ill and weak that they could not make it from where they slept to the downstream area which held the sinks for prisoners. The result was that the already inadequate water supply of the creek was contaminated before it ever got to the stockade where the prisoners were and became more contaminated as it flowed through the stockade until it was little more than an open sewer. The result was a health disaster.

Aggravating the health disaster was the diet fed to the prisoners. From the founding of the camp in early 1864 on, the food available to feed prisoners became more and more scarce and difficult to obtain. The ration was never adequate but it became much worse as the war worsened the South’s ability to produce and ship food until, at the end, there was a woefully short supply of food.

Further, what food was available was not very suitable. The staple of the diet was ground corn from which corn bread or mush was made. Unfortunately, the mills which contracted to supply the corn meal ground the corn ears whole, shucks, cobs and all.24 As a result, the prisoners, often with digestive tracts already impaired by sickness, found that the extremely rough corn husks and cobs pounded their digestion. One of the leading causes of death was diarrhea.

Further, the food was not always cooked adequately. No provision was made to supply cooking utensils to the prisoners. The cooks were usually former slaves who were issued rations in kind and were expected to cook the rations themselves. With no utensils and inadequate wood to cook the food,
A Modest Proposal: Kill the Lawyers

By Jim Croy

“The first thing we do, let’s kill all the lawyers.” When Dick the Butcher uttered these words in Act 4 of Henry the Sixth, he was not saying that lawyers were a scab on society. Rather, it was the opposite. Dick, Jack Cade and others were planning a somewhat communist revolution, and they thought the lawyers would get in the way of their plans.

Dick and Jack would feel right at home in the Oklahoma Legislature, at least as far as getting rid of the lawyers is concerned. Contrary to public impressions, not only do lawyers not dominate the legislature, neither chamber has enough lawyers to have the judiciary committees filled solely by attorneys. And, as Senator Clark Jolley pointed out last week at the OKBA Day at the Capitol, when his legislative class term limits out in 2 years, there will only be four lawyers in the Oklahoma Senate.

Well, is there really any reason for there to be lawyers in the legislature? I suggest the answer is yes. After all, the legislature is in the law business. When the House considers the benefits of prohibiting the sale of rubber tires with less than two-thirty-second inch tread on them, probably the lawyer-legislator does not have any specialized knowledge, except that when we all started out in practice, we coveted tires with that much rubber on them. However, when the legislature considers, as it is even as I write this, amending the rule against perpetuities as it applies to trusts, there is no chance a non-lawyer legislator would have the slightest idea what the bill was about. In those cases, the other legislators must look to their lawyer colleagues for guidance.

Not only does the legislature need lawyer members when considering civil and criminal procedure, it needs the lawyer when dealing with open meetings, open records, administrative procedures, employment law, civil rights, religious rights, and the list goes on and on. With the dwindling number of lawyers in the legislature, the members must turn to other sources of legal education. The two sources which immediately come to mind are staff attorneys and lobbyists. Senator Jolley has stated that as the Senate has had to tighten its belt it has had to cut back on the staff attorneys. And turning to a person with a vested interest in the outcome of a bill for legal information is somewhat problematic.

The lack of lawyers in the legislature is a real problem which will only get worse if the current trend continues. And as the number of lawyers decreases, combined with the lack of institutional memory brought about by term limits, the legal “smarts” of the legislature will dwindle as well. You might ask what it is that you personally could do to help alleviate this situation. And, fortunately, there is a solution. All it takes is a little bit of your time. Well, possibly more than a little bit. And it will require a little financial sacrifice on your part. Well, possibly more than a little sacrifice. And it will result in you losing just a tad of your sanity. Well, not just a tad, as it turns out. But the solution is simple: Run for the House or Senate. Become a lawyer legislator. I know what you are thinking, but that cannot be printed here. The gist of it is that you cannot possibly take time out of your legal career to spend four days a week, four months a year, earning about $38,000 at 23rd and Lincoln. But others have done so, and the state is richer for their endeavors. The sacrifice is great, the work is frustrating, and the task is daunting. But lawyers do make a difference in the House and Senate. In fact, lawyers are the difference. When you stand up on the Senate floor and bring a constitutional issue to your non-lawyer colleagues, there is no doubt that you are making a difference.

And, if you find yourself at a time and place in your life when your seniority, either professional or personal, is such that you can no longer seek political office, then do as Senator Jolley suggested last week: have the junior associate in your firm run. I can picture the meeting when the young associate is called into the office of the managing partner, and the conversation starts, “Phillips, I see that you live in House District 89 . . . .”

Marchi credits her membership on the Community Service Committee with introducing her to some of her earliest volunteer opportunities and instilling a passion for volunteer work in her. She enjoys serving on the Committee because it has exposed her to many types of volunteer activities.

Marchi is married to John McCartney, a land man at Linn Energy. Marchi and John have two sons, Jonathan, an attorney in Fort Worth, Texas, and Colin, a student at Oklahoma City University.

The Community Service Committee would like to thank Marchi for her many years of service, and we look forward to seeing her smiling face at meetings and activities for years to come.
2015 Bench and Bar Wrap-Up

Down the state highways and over the bridges -- Big Elk Creek Bridge, Buggy Creek and Stinking Creek -- just to name a few, in the Washita Mountains, there is a gem of a state secret. This secret is the Quartz Mountain Resort and served as the venue for the 2015 Bench & Bar Conference.

Friday evening festivities included an Italian Buffet dinner and lots of hospitality in the two suites. Lots of cheering and yelling occurred during the OU v. Michigan State game and there were several disappointed Sooner fans. However, the comradeship and spirits of the hospitality rooms helped to get things rolling again and conversation flowed.

Saturday morning CLE began with featured speaker, Oklahoma Supreme Court Chief Justice John Reif. The Chief Justice gave a report on the state of the Oklahoma Court system which was followed by a session of questions and answers. Various break-out sessions consisting of a state court judges’ panel, federal court judges’ panel, a session on assisting active military and veterans, and a session on handling domestic abuse victims took place. Saturday afternoon activities included skeet shooting at the Hobart Gun Club led by Dan Carsey, hiking with leaders Justice Noma Gurich and John Miley, an opportunity to paint while partaking of wine and a full-blown beer tasting seminar by Coop Ale co-founder Daniel Mercer.

Saturday evening began with a barbeque buffet, followed by special awards and prizes for the weekend events. The Young Lawyer Troupe then presented an hour of Ethics that involved the whole crowd and kept everyone on their toes. A much quieter group spent time in the hospitality suite after the closing events.

The Bench & Bar Committee would like to thank our speakers: Chief Justice John Reif, Justice Noma Gurich, Judge Don Andrews, Judge Tom Prince, Judge Barbara Swinton, Rex Travis, Judge Robin Caulthron, Judge Timothy DeGiusti, Judge Joe Heaton, Brent Dishman, Michael Mullins, Gretchen Harris, Sonya Patterson and Jacquelyn Steyn. Another big thank you to our Young Lawyers Troupe: Justin Meek, Collin Barrett, Lauren Brown, Ryan Dean and Benjamin Grubb.

Last but not least, another special thank you to our sponsors:

Platinum Sponsors: Pierce Couch Hendrickson Baysinger & Green, Crowe & Dunlevy, Hartzog Conger Cason & Neville, Mullins Martinez Sexton & Reeves, Gable Gotwals, and Fellers Snider.


Bronze Sponsor: Fenton Fenton Smith Remeau & Moon.

Chief Justice Reif was the featured speaker for the conference.

Brent Dishman and Michael Mullins presented the break-out on Military Law.


OCBA President Jim Webb welcomes everyone.

Bench & Bar Chair Michael Chitwood introduced Chief Justice Reif.

General Session CLE.

YLD Ethics Troupe: Ryan Dean, Colin Barnett, Lauren Brown, Ben Grabb & Justin Meek.


Paint & Palette Participants.

Beer Tasting Caucus.

COOP ALE Co-founder Daniel Mercer and his wife display the “Briefcase” beer.


YLD Ethics Troupe: Ryan Dean, Colin Barnett, Lauren Brown, Ben Grabb & Justin Meek.

Bench & Bar Committee Vice Chair Judge Lisa Hammond helped hand out prizes.
McAfee & Taft names four new practice leaders

The board of directors of McAfee & Taft has named lawyers Mary Quinn Cooper and Charles Greenough from its Tulsa office and Barrett Ellis and Erin Van Laanen from its Oklahoma City office to serve as new practice leaders for the 2015 term.

Trial lawyer Mary Quinn Cooper was appointed to co-lead the state’s largest litigation practice with returning co-leader Brad Donnell. Cooper serves as trial counsel for a number of Fortune 500 corporate, including Ford Motor Company and General Motors, and defends product liability claims and class actions across the country. Her practice includes defending clients in professional malpractice cases.

Barrett Ellis was named leader of the firm’s Banking and Financial Institutions Group. Ellis advises corporate and financial institution clients in a wide range of transactional matters, with a particular emphasis on insurance financings and regulatory compliance. He is particularly regarded for his experience in representing banks and borrowers in structuring financing arrangements around complex corporate structures or regulatory requirements.

Charles Greenough was appointed leader of the firm’s Business Restructuring, Workouts and Bankruptcy Group and has extensive experience in financial, debtor, creditor, and bankruptcy matters, representing both lenders and borrowers, as well as serving as a trustee and as a liquidating agent in complex bankruptcy estates. He has represented banks and other financial institutions in all aspects of loan documentation, workouts and related litigation, including counterclaims brought by borrowers in problem loans. He also serves as a Chapter 7 trustee for the Northern and Eastern Districts of Oklahoma.

As the new leader of the firm’s Aviation Group, Erin Van Laanen oversees one of the largest and most experienced FAA aircraft title and financing legal teams in the United States. Her practice is concentrated in the areas of aircraft title, registration, financing and leasing and related matters concerning the United States Federal Aviation Act, the FAA Aircraft Registry in Oklahoma City, and the Cape Town Convention on International Interests in Mobile Equipment and the Aircraft Protocol.

Crowe & Dunlevy attorney honored at 2015 Byliner Awards

Crowe & Dunlevy director Vicki Behenna was recently honored at the Oklahoma City Chapter of The Association for Women in Communications’ (AWC) 57th Byliner Awards. The award recognizes Oklahoma’s most experienced FAA aircraft title and financing legal teams in the United States. Her practice is concentrated in the areas of aircraft title, registration, financing and leasing and related matters concerning the United States Federal Aviation Act, the FAA Aircraft Registry in Oklahoma City, and the Cape Town Convention on International Interests in Mobile Equipment and the Aircraft Protocol.

Behenna serves as a director in the firm’s Oklahoma City office in the White Collar, Compliance & Investigations, Administrative & Regulatory and Healthcare practice groups. Her practice includes litigation matters with an emphasis on white-collar defense, government relations and healthcare.

With more than 25 years of experience as a federal prosecutor in the U.S. Attorney’s Office for the Western District of Oklahoma, Behenna has extensive investigative experience resulting in the conviction of many high-profile defendants. Her noteworthy prosecutions include participation in the Oklahoma City bombing case against Timothy McVeigh as a special assistant to the prosecution against Senate Majority Leader Mike Milken and in the investigation and prosecution of two high-profile public corruption cases involving the Oklahoma State Treasurer’s office and the Senate Pro Tempe.

Behenna has received numerous accolades during her career, including the Trial Advocacy Award from the Association of Government Lawyers in Capital Litigation, Distinguished Service Award by U.S. Attorney General Janet Reno and the Integrity Award presented by the Department of Health and Human Services Office of Inspector General. She was recognized by the Western District of Oklahoma as an Outstanding Assistant U.S. Attorney in 2012 and was awarded Distinguished Law Alumna by Oklahoma City University School of Law in 2013.

Weaver says she is looking forward to joining the executive team at Crowe & Dunlevy and continuing to build upon her strong relationships with the firm’s clients.

Three Outstanding Lawyers Inducted Into OU Law Hall Of Fame

The University of Oklahoma College of Law honored three exceptional Oklahoma lawyers by inducting them into the Order of the Owl Hall of Fame. The ceremony took place at a dinner on Thursday, March 12, in the Molly Shi Boren Ballroom in Oklahoma Memorial Union, 900 Asp in the Skirvin Hilton Hotel.

Joseph Harroz, Jr., was created in 2011 to highlight accomplished alumni and the legacy they leave for future generations of OU lawyers.

Robin J. Cauthron was born in Edmond, Oklahoma, and graduated from The University of Oklahoma with her bachelor’s degree in 1970 and her Juris Doctor degree in 1977. She also earned a master’s degree in 1974 from Oklahoma Central State University.

Cauthron was a law clerk for the Honorable Ralph Thompson in the United States District Court for the Western District of Oklahoma from 1977 to 1981, Staff Attorney for Legal Services of Eastern Oklahoma, Inc. until 1982, and a private practice attorney until 1983, before being appointed to serve as Special District Court Judge for Oklahoma’s 17th Judicial District from 1983 to 1986, Cauthron was the first full-time female Federal Magistrate Judge in the Tenth Circuit serving the Western District of Oklahoma from 1986 to 1991.

She served the Judicial Conference of the United States as a member, and later as Chair, of the Defender Services Committee, district judge representative to the Conference, and member of the Executive Committee.

Cauthron was nominated by President George H.W. Bush in 1991 to be a district judge in the Western District of Oklahoma, and became the first female, federal district judge in Oklahoma. She served as chief judge of the court from 2001-2008.

Andrew M. Coats is a Phi Beta Kappa graduate of The University of Oklahoma. He was an officer in the United States Navy and after serving at sea became an advisor to the Republic of China naval forces in Taiwan from 1957 to 1960.

In 1960, he returned to The University of Oklahoma to attend College of Law. He was an Editor of the Oklahoma Law Review, President of the Student Bar Association, and was elected to the Order of the Coif. He was honored by the Oklahoma Bar Association as the outstanding law student in the State of Oklahoma, and was selected as the outstanding law graduate of 1963.

He served as the District Attorney of Oklahoma County, was elected Mayor of Oklahoma City, served as President of Crowe & Dunlevy Law Firm, and was President of the Oklahoma Bar Association.

Andrew Coats was the National President of the American College of Trial Lawyers during 1996-97. He was the Charter President of the American Board of Trial Advocates in Oklahoma and is also a Fellow of the International Academy of Trial Lawyers. In 1995, he was selected as one of the United States Supreme Court Historical Society.

In 1996, he became the Dean of The University of Oklahoma College of Law. In 2002, in recognition of his leadership to the University of Oklahoma College of Law, the OU Regents named the law school building Andrew M. Coats Hall.

In 2005, Dean Coats was inducted into the Oklahoma Hall of Fame, the highest honor Oklahoma can confer on an Oklahoman.
2011 Honorees include:

- **William G. Paul**, American Bar Association president from 1999 to 2000 and of counsel for Crowe & Dunlevy in Oklahoma City
- **W. DeVier Pierson**, co-chair of the OU College of Law Board of Visitors and special counsel for Hunton & Williams in Washington, D.C.
- **William J. Ross**, co-chair of the OU College of Law Board of Visitors and chairman of the board of the Inasmuch Foundation in Oklahoma City
- **Ada Lois Sipuel Fisher** (in memoriam), a civil rights leader, OU Regent from 1987 to 1993, and the first African American to attend and graduate from OU College of Law.

2012 Honorees include:

- **The Honorable Thomas R. Brett**, U.S. district judge for the Northern District of Oklahoma from 1979 to 2003 who was the first female chief judge from 1994 to 1996 and is known for his commitment to ethics in the legal profession
- **James T. Comfort** and **William T. Comfort Jr.**, who established the Comfort Scholarship, Nathalie Pierson Scholarship and Top 10 Scholarship, which since 1994 have provided more than $5 million in scholarships to 893 OU law students
- **J. Hugh Roff Jr.**, a leader in the oil and gas industry and president, CEO and chairman of Roff Resources LLC and Roff Oil & Gas
- **Alma Bell Wilson** (in memoriam), the first female appointed to the Oklahoma Supreme Court and the first female chief justice.

2013 Honorees include:

- **The Honorable Michael Burragle**, former federal judge in all three U.S. District Courts in Oklahoma
- **The Honorable Kathy Taylor**, former Mayor of Tulsa and Oklahoma Secretary of Commerce
- **The Honorable Ralph Thompson**, retired federal judge, former member of the Oklahoma House of Representatives and U.S. Air Force officer
- **The Honorable Lee West**, senior federal judge and U.S. Marine Corps officer during the Korean War.

Davenport joins Andrews Davis, Attorneys at Law as Of Counsel

Andrews Davis, Attorneys at Law, is pleased to announce new Of Counsel Attorney, **Brad Davenport**.

Brad practices primarily in the firm’s litigation department. His diverse practice includes Commercial Litigation, Oil and Gas Litigation, Insurance and Malpractice Defense, Receivables and Asset Recovery, Collections, and Oil and Gas Title Examination. He also has experience assisting clients with the formation of corporations, limited liability companies, and Section 1031 like-kind property exchanges.

He has been admitted to practice in the Oklahoma Supreme Court and all Oklahoma District Courts, as well as the United States District Courts for the Northern and Western Districts of Oklahoma and the United States Court of Appeals for the Tenth Circuit. Brad is also admitted to practice in the North Dakota Supreme Court and all North Dakota District Courts. He is a member of the Oklahoma County Bar Association, the Oklahoma Bar Association, and the North Dakota Bar Association. Among Brad’s reported cases are: Oklahoma Department of Securities v. Blair, 231 P.3d 645, Blue Sky L. Rep. P74, 950, 2011 OK. 82. He serves on the board of directors for Parent Promise, a non-profit center that works to prevent child abuse and neglect. Brad is also the President-Elect of the Downtown Exchange Club of Oklahoma City and serves on the Oklahoma Bar Association Bench and Bar Committee.

Pringle & Pringle adds partners

Pringle & Pringle has announced that **Cheryl P. Hunter** has joined the firm as partner. The firm, which will continue the practice of law as Pringle & Pringle, also named **Miles T. Pringle** as a partner. Newly installed President of the Oklahoma Bar Association **David A. Poarch, Jr.** has joined the firm as Special Counsel.

Established in 1988 by Lynn A. Pringle and Laura N. Pringle, the firm has represented financial institutions and other business entities for over 25 years, as well as their officers, directors, holding companies and affiliates.

Hunter’s practice includes commercial litigation, all aspects of commercial real estate development; entity formations and general business issues; contract negotiations; representation of clients both in the purchase and the sale of businesses; advising on management on how to handle employment-related concerns in the workplace; and financing with debt and equity components. Hunter is a Master in the Lutheran Bomanan American Inn of Court XXIII serving as President in 1999, and a member of the University of Oklahoma College of Law Board of Visitors.

Poarch began his legal career as a federal prosecutor in Oklahoma City before entering the private practice of law representing individuals, businesses, and lending institutions in a broad range of civil and criminal matters.

After serving as general counsel and chief operating officer for a privately held bank service company that was subsequently acquired by a Fortune 500 company, he was appointed Assistant Dean at the University of Oklahoma College of Law where he oversaw all external matters for the College and taught courses in law, professionalism, and trial practice to law students. He has been elected to membership in several scholarly professional organizations, has twice served as an elected Governor on the governing board of the Oklahoma Bar Association and serves as the current President of the Oklahoma Bar Association.

Poarch is actively working on litigation and estate planning for the firm’s clients.

Miles Pringle received his undergraduate degree from the University of Kansas, and his Juris Doctorate from the University of Missouri – Kansas City where he was a member of the national moot court team and clerked for the Country Club Trust Company in Kansas City, and the United States Attorney’s Office for the Western District of Missouri. He is licensed to practice law in the state courts of both Oklahoma and Missouri and is an associate member of the Luther Bomanan American Inn of Court XXIII and member and Program Chair of the Financial Institutions and Commercial Law Section of the Oklahoma Bar Association. He is engaged in both the firm’s litigation practice and its transactional practice, emphasizing financial institution and small business representation.

LAW DAY from PAGE 1

symbol of the rule of law and as an inspiration for many basic rights Americans hold dear today, including due process, habeas corpus, trial by jury, and the right to travel.

We mark the 800th anniversary of Magna Carta on Law Day, May 1, 2015, in commemorating this “Great Charter of Liberties,” and rededicating ourselves to advancing the rule of law here and abroad.

This year’s festivities will begin at noon at the Skirvin Hotel Grand Ballroom. We are honored and pleased to announce the Honorable **Stephen P. Friot**, District Judge for the United States District Court for the Western District of Oklahoma as the keynote speaker for our festivities. Notably, Judge Friot will be the speaker 40 years after he chaired the Law Day Committee for Law Day in 1975.

Law360 Ranks McAfee & Taft Among Nation’s Largest Law Firms

Oklahoma’s largest law firm continues to rank among the nation’s biggest, according to the recently released annual survey by Law360. McAfee & Taft is listed at No. 220 in this year’s Law360 400, moving up seven spots from last year.

The Law360 400 features the largest U.S.-based law firms and unveils a U.S. ranking, as measured by domestic attorney head count.

McAfee & Taft’s roster of 182 lawyers counted in this year’s survey remained steady from the previous survey, but saw a jump in the firm’s position due to recent law firm mergers and consolidations, as well as declines in previously higher-ranking firms. McAfee & Taft also remained the only Oklahoma firm within the top 250.

Topping the list with 1,747 lawyers was Morgan Lewis. Tying for the last spot on the list were two firms with 100 lawyers each.

McAfee & Taft serves clients locally, nationally and internationally in the areas of aviation, business law, corporate and securities, employee benefits, entertainment law, environmental law, healthcare, intellectual property, labor and employment, litigation, oil and gas, real estate and tax and family wealth. The firm employs nearly 350 Oklahomans and has offices in both Oklahoma City and Tulsa.

OCBA Family Law Section will Conduct Trial Advocacy Institute

The Oklahoma Bar Association Family Law Section will conduct its second Trial Advocacy Institute, to be held at the Oklahoma Bar Center in Oklahoma City on July 13-18, 2015. Its objective is to provide to lawyers hands-on, high-quality instruction as to how to prepare and try a family law matter. It’s aimed at the law-experienced members of the bar and will employ a number of attorneys from central Oklahoma and from other states, many of whom have been trained by NITA, the National Institute of Trial Advocacy.

Each student will receive specialized training every day for a week, complete with courtroom exercises, instructor feedback, and video recording of their exercises.

Then on Saturday, July 18th, the students will take part in mock trials, one or two lawyers to a side, presided over by family law judges, to put into practice what they’ve learned during the week. The cost is $1,500.00; the rest is underwritten by the Family Law Section’s Practice Manual.

Similar courses offered by the American Bar Association and NITA cost around $3,500.

To enroll send your contact information, bar number, and credit card information (or, if not paying by credit card, a check payable to OBA Family Law Section) to: Craig Combs, 1901 N. Lincoln Blvd., Oklahoma City, OK 73152 or by fax to (405) 416-7001. You can also visit our website to register and pay online at www. fistsa.com.

Lytle Soule & Curlee Hires New Associate for Oklahoma City

The Oklahoma City law firm, Lytle Soule & Curlee announces today the addition of Stanley Koop as an associate.

Mr. Koop graduated from the University of Oklahoma in 1991 with a degree in economics and received his Juris Doctorate from the University of Oklahoma College of Law in 1998. Mr. Koop is dedicated to practice by the state of Oklahoma in the U.S. District Court for the Western District of Oklahoma. With more than seventeen years of experience, he will continue to focus on civil litigation with an emphasis on personal injury, insurance, products liability and employment law.
A Good Reason To Get VERY Fit.

By Warren E. Jones

The newest issue of Mayo Clinic Proceedings contains a very interesting study on which “variable” from a treadmill stress test is most predictive of ten year survival. By “variable,” I mean one or more of these: heart rate, heart rhythm, blood pressure, chest pain, exercise level attained, percentage of predicted maximum heart rate achieved, shortness of breath, or electrical signals suggestive of ischemia (blood vessel blockage).

The researchers, mostly from John’s Hopkins, began the study in the early ‘90s among approximately 58,000 patients, none of whom had heart disease at the time of each individual stress test. Each patient was referred for the stress test as a product of some sign or symptom suggestive of cardiac disease, e.g., chest pain, shortness of breath, dizziness, or gasping for air during the night, ankle swelling, palpitations, unusual fatigue with usual activities, etc.

The treadmill stress test utilized the Bruce protocol. That merely means that each individual stress test was of a standard duration that merely means that each person exercised at varying levels of intensity, ending with a maximum level of exercise that the individual could tolerate.

The researchers then created a treadmill score that could be utilized by each patient’s primary care physician in describing that patient’s chances of a 10 year survival. The formula (to get the treadmill score) required only the insertion of the patient’s age, sex, met level achieved, and percent of age predicted maximum heart rate achieved.

Low scores could be a powerful tool for motivating behavioral change after stress testing. High scores would be encouraging and rewarding for patients.

The study also published, in the most recent Journal of American College of Cardiology, a study utilizing the same patients as in the study described above) reflecting “a continuous, graded reduction in mortality extending to individuals with an estimated exercise capacity of 14 mets and greater.”

In other words, at ever increasing levels of fitness were ever decreasing risks of mortality. Or, even more simply, no matter your age, whether 50 or 40 or 50 or 60, your mortality risks are less in each age group at ever increasing levels of fitness.

At least to the level of 14 mets, the researchers found no threshold where higher levels of fitness were no longer associated with a lower risk for all cause mortality. While the population in the study was large (as I said, approximate 58,000 patients), it lacked sufficient power, statistically speaking, to determine whether that threshold would exist at 16 or 18 or 20 mets.

I’m pleased to report, though, that the researchers concluded that “exploratory analysis suggested a continued mortality decrease in this (even more fit) group.”

Stump Roscoe

By Roscoe X. Pound

Dear Roscoe:

‘What’s the current state of the law regarding consent to search by one roommate over the objection of the other?”

B.R., Bethany, OK.

Dear B.R.: Sounds like grounds for a motion to suppress. However, there’s some serious law on the subject. In Fernandez v. California, 343 S. Ct. 1126 (2014), police observed a robbery suspect run into an apartment building, and heard screams coming from one of the apartments. They knocked on the apartment door, which was answered by a battered and bleeding Roxanne Rojas.

The officers asked her to step out of the apartment so that they could conduct a protective sweep. Two of her men to check out the bomb while they conducted the sweep. They then went into a huddle, every so often casting worried looks in my direction.

I noticed a guy surreptitiously lifting the crime scene tape and walking toward me. About my age with close-cropped sandy hair and facial hair too thick for stubble yet far as his guilt in the matter that they hung him for. The Tom Horn explosive device was invented by a fellow named Fred Amis, self-styled CinC of a group called the Wyoming Free Corps. Tom Horn was hung using a system of weights and counterweights arranged so that his weight unpluged a barrel of water. When the water reached a certain level, it caused the trap on the galvanopop to drop. The bomb works in pretty much the same way. Your own body weight in the seat has primed the explosive. If you get out of the car, or shift your weight in the wrong way, it detonates. In a way, you blow yourself up. Kinda ironic if you think about it.

Jimmy and the EOD guys nodded sagely in agreement. I like irony as well as the next guy, but now was not the time.

Warren E. Jones, JD, HFS, CSCS, CEQ, is an American College of Sports Medicine (ACSM) Health Fitness Specialist, a National Strength and Conditioning Association Certified Strength and Conditioning Specialist, and a holder of an ACSM Certificate of Enhanced Qualification. His clients range from competitive athletes to the morbidly obese. He can be reached at wejones55@gmail.com or at 405-812-7612.
From Geary Walke: I read Gerald Kelley’s iBar story about Wedgewood Amusement Park in the 1960s, and it hit home. Wedgewood was a super cool place to go in the 60s. So was Springlake. I thought about writing about an experience in reference to Wedgewood, but shrank away from it.

Then, Judge Deason told me a story about a former band member of Nirvana speaking words of “wisdom” about garage bands. Here it is:

“It’s (American Idol) destroying the next generation of musicians! Musicians should go to a yard sale and buy an old f**** drum set and get in their garage and just suck. And get their friends to come in and they’ll suck, too. And then they’ll f****** start playing and they’ll have the best time they’ve ever had in their lives and then all of a sudden they’ll become Nirvana. Because that’s exactly what happened with Nirvana. Just a bunch of kids that had some s***** old instruments and they got together and started playing some noisy-a-s**** and they became the biggest band in the world. That can happen again! You don’t need a f****** computer or the Internet or The Voice or American Idol.”

Five of us in Del City, barely in our teens, had a garage band. We sucked. We had homemade amplifiers and cheap guitars and mics. It was 1966. One of the songs we played was a cheesy version of For Your Love, by the Yardbirds. I say cheesy only to be humble. While I’m sure it was a nearly perfect rendition there may have been problems with our voices changing, and obviously equipment problems. We heard the Yardbirds were coming to OKC. They played at Wedgewood on Friday, August 19, 1966 (No, I don’t recall that date exactly, but according to a Jimmy Page web page the Yardbirds played at Wedgewood Amusement Park in OKC on that night, so it must be true).

The night before the concert at Wedgewood we, members of the local garage band, were at Penn Square Mall, back before it was covered, visiting Jenkins Music Store. We were probably lustful after expensive guitar strings, real amplifiers, glossy picks or something, when these long haired guys with British accents came in to buy or borrow equipment by the truck load. It was several members of the Yardbirds. I’d love to tell you it was Jimmy Page, or Jeff Beck, but I couldn’t identify them in a line up. I know from research on line that Eric Clapton had already left the band. All I can tell you for sure is that the next night we went to Wedgewood and saw the Yardbirds… and the guys from Jenkins Music were up on stage, playing magic.

I know that you are thinking that I must have been that close to being drafted by the Yardbirds, right? I wonder if the Yardbirds realize how close to greatness they came that night? OK, I was not destined for rock star status, and neither did that garage band. We sucked. And, we never get any better. We weren’t destined to become superstars, but we had lots of fun, met a lot of girls, and even made a little pocket change. But that one summer night in 1966 we had a brush with greatness at Wedgewood, and lived to find other careers! (Parenthetically, one other band member present at these events was John Kuhl. No, really! And he is a practicing attorney in Houston, Texas. Another became a physical therapist. All other contacts have been lost.)

Jimmy Goodman: Jimmy attended OU and then graduated from Stanford Law School in 1971. For the first time, it is necessary to refer readers to the website of Jimmy’s law firm for his incomparable professional biography. We mean it. Check out: attourney-scroreboard.com. Jimmy is enjoying life as an “of Counsel” advocate, with much other.

iBar Definitive Playlists

By Judge Don Deason and Chris Deason

By Judge Don Deason and Chris Deason

The next one will be in 2017. Begin now to make plans to attend!

PRACTICE from PAGE 1

All the judges said they really want exhibits to briefs tabbed so they or their clerks don’t have to fish through pages and pages of attachments to the brief to find the exhibit cited in your brief. They made a believer out of me: I will never file another brief with untabbed exhibits. Why irritate the person who will soon be deciding your case?

Judge DeGiusti strongly recommends lawyers examine his chambers rule on “Fast Track Procedure” findable at www. okwd.uscourts.gov/files/fast_track_pro.pdf. The procedure offers an opportunity to get your case to trial within 6 months and do so more economically than with the usual scheduling procedure (in addition to saving your clients a lot of money) is that you get the case set for jury trial on a day certain, instead of on a trailing docket. If you’ve had the experience of having out-of-state clients or experts and asking them to be prepared to come to trial at an unknown date within a two-week docket, you will appreciate that advantage. The Bench and Bar Conference takes place only every other year. It is a great opportunity for lawyers to sit down with judges and find out what really works to improve your effectiveness as a litigator.

The next one will be in 2017. Begin now to make plans to attend!

Song Title | Artist
--- | ---
Lost on the River: The New Basement Tapes | Bob Dylan (by T Bone Burnett, Elvis Costello, Marcus Mumford, and others)
Thinking Out Loud | Ed Sheeran
Born This Way | Lady Gaga
All of Me | John Legend
Stay With Me | Sam Smith
Take Me to Church | Doziri (He sure likes a lot of songs about me!)
Can’t Find My Way Home | Blind Faith
Trashy Women (guilty pleasure) | Jerry Jeff Walker

Michael Brooks-Jimenez: Michael graduated from OU and then from OU College of Law in 1995. We have no idea what he did during the intervening years, except that he established a busy law firm focused on immigration law, criminal defense, workers’ compensation, and personal injury. According to the firm’s glossy website, Michael also serves on a number boards and committees. His bio for this article may be flimsy, but he made up for it with the illuminating comments after each song. Michael claims it was “way too much pressure” to list his all-time favorite songs. The following is comprised of what he’s listening to these days.

Song Title | Artist
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Jessica | Major Lazer (That’s the way they spell it. A fuzzed out, bass heavy, reggae tinged dance song out possibly named after my beautiful bride."
Planet Caravan | Brown Sabbath (Just a shade lighter than the original with a horn section.)
99 | Hollie Cook (Very cool dub with a singer who is the daughter of the drummer for the Sex Pistols and a backup singer for Boy George and Culture Club.)
Mr. | Ty Segall (This guy is an amazing guitarist who plays music that is truly timeless and he consistently turns out three to four albums a year.)
Clandestine | Manu Chao (I believe he is the only rightful heir to the crown of Joe Strummer of the Clash. Amazing multicultural/ multilingual fun music but with a conscience.)
Golden Shower of Hits | Circle Jerks (Perhaps the greatest punk rock song ever recorded. What could be better than a medley that includes songs from The Association the Carpenters, Starland Vocal Band, Paul Anka, the Captain and Tennille and Tammy Wynette. The song actually covers the entire arc of a romantic relationship, and all under five minutes!)
Linda Cavanaugh | Hosty Duo (How this artist sprang from the same loins as my esteemed colleague and fellow member of the OCBA, Tom Hosty, is beyond me. Another great song from the Hosty Duo, Will Work for Booty.)
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The overall purpose of the Act is to modify the current procedures in the case of a licensee who has a previous conviction with regard to the predicate for the revocation — and if it results in a conviction of a driving under the influence offense, the revocation becomes mandatory without the right to appeal to the district court. In such cases there is no procedural due process deprivation, however, because the licensee has been afforded a hearing with regard to the predicate for the revocation — the alleged crime — and if it results in a conviction the Department’s revocation is a simple, ministerial act of enforcing the mandatory revocation of the operator’s or chauffeur’s conviction.”

On the other hand a license may be revoked for violations of the implied consent laws — 47 O.S.Supp. 1989 §§ 751 through 761. In the revocation of a license under the implied consent statutes relevant to the facts of this case — §§ 6-205 and 6-211(a) — the court must be convinced that the revocation is “unconstitutional,” as a preliminary matter insofar as the statute purports to deprive a litigant of a “due process” right to have a court pass on a hardship modification. The court then proceeded to hear the plaintiff’s motion to modify and found that the plaintiff had shown by a preponderance of the evidence that a total revocation would impose upon him an extreme and unusual hardship in that he had no other means of transportation and being able to drive was essential to a contemplated move to a place where he could earn a living. Consequently, the court sustained the revocation for a period of 365 days commencing June 1, 1989, but ordered that it “shall be modified by the defendant to allow the plaintiff [his] privilege to drive on the highways during the period of 7:00 p.m. Monday through Saturday to drive from his residence in Perry, Oklahoma, to his place of employment in Oklahoma City, Oklahoma.”

The court further ordered that the plaintiff may drive “at no other times and for no other purposes.”

The defendant Department of Public Safety appeals complaining that the trial court erred in holding subject statute unconstitutional and modifying the revocation order.

In its petition in error the Department of Public Safety contends that the district court erred in its conclusion of unconstitutionality.

The legislative committee, not only is the district court vested with jurisdiction to review implied consent revocations, but it has a duty to hold a trial de novo in which the Department is required to prove the validity of the underlying grounds of revocation by a preponderance of the evidence. If that burden is satisfied, the revocation periods set out in § 6-205.1 take effect. And, if the revocation period is mandatory, the court is without jurisdiction to modify it regardless of “extreme and unusual hardship.”

The fundamental requisites of procedural due process are “that the deprivation be a deprivation before a fair and impartial tribunal having jurisdiction over the subject matter, and the right to confront witnesses. Substantive due process requires that a law shall not be unreasonable, arbitrary, or capricious. The requisite means selected shall have a reasonable and substantial relation to the objective being sought.”

Williams had an opportunity to be heard at both the administrative and district levels concerning the basis for the state action taken in arresting him and revoking his license. He does not complain of a deprivation in this regard. Thus, procedural due process was satisfied.

In enacting § 6-205.1(a)(3) and (c) (effective November 1, 1988), the legislature addressed an important state interest — the protection of its citizens from the threatened dangers of drunk drivers operating motor vehicles on public roads. One means of trying to do so was the enactment of subject statutes requiring that the driver’s licenses of certain repeat offenders of the implied consent statutes be revoked for the prescribed periods and that “neither the Department nor any court shall grant a license or permit to drive a motor vehicle upon any highway of this state.” § 6-205.1(a)(3) (c) (effective November 1, 1988).
the inadequate amounts of food became an even worse diet. Close behind diarrhea as a cause of death was scurvy, caused by a lack of fresh vegetables in the prisoners’ diet. Despite some effort to put “anti-scorbutics” such as fresh vegetables into the prisoners’ diets, the amounts available proved wholly inadequate. The prisoners often left Andersonville looking like what we later came to call “holocaust survivors.”

There were just no arrangements made for the prisoners to bathe or wash themselves. The only option was the already polluted creek as it flowed through the swamp.

The combination of all these things predictably caused an incredibly high mortality rate. In the summer of 1864, the prisoners were exposed to the hot sun because they had no shelter. They blistered, due to sunburns. These blisters broke and formed open sores. In the poor sanitary conditions, the open sores became infected. Gangrene and amputation often followed, soon to be followed by death.

Editor’s Note: Footnotes are sequential, beginning in Part One.

14 Speer, p. 11.
15 Denney, p. 158-160.
16 Futch, p. 3.
17 Speer, p. 262.
18 Roberts, p. 21.
19 Futch, p. 4.
20 Chipman, p. 31.
21 Futch, p. 2.
22 Speer, Appendix c, p. 332.
23 id.
24 Futch, p. 33 quotes Ohio Cavalryman David Kennedy’s diary for May 23, 1864: “Rations getting short and very poor. Cornbread, ground cob and all.”
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