DOMESTIC VIOLENCE AWARENESS MONTH – 2018

By G. Gail Stricklin

Oklahoma is 11th in the nation for females murdered by males in single victim, single offender incidents. (Violence Policy Center, 2018). The Oklahoma Domestic Violence Fatality Review Board (OKDDVFRB) has found that the vast majority of murder victims had not accessed services from Attorney General certified domestic violence service providers prior to their death. See Annual Reports from the OKDDVFRB at http://www.oag.ok.gov/victim-services. However, certain systems have been alerted to the danger posed to the victims of intimate partner violence (IPV) and have responded with tools designed to determine lethality and safety issues. For instance, law enforcement has a statutory protocol to be used at IPV calls—The Law Enforcement Protocol screening tool. See, 21 O.S. Section 142A-3, evidencing state policy to screen for IPV and safety plan. The Child Welfare Division of the Oklahoma Department of Human Services has been training its employees in best practices and published the 3rd edition of the Domestic Violence Manual for Child Welfare Professionals, www.okdhs.org/library, which contains best practices and information valuable to all professions and it, as well as the OKDDVFRB reports, are self-authenticating state publications. Get them, read them and use them in your practice to educate yourself and support best practices!

Likewise, the Oklahoma Legislature has promulgated numerous statutes designed to protect children and victims from the effects of domestic violence, including criminal as well as civil, particularly in family law. It is widely accepted that “violence breeds violence.” Studies confirm that most parents who experience intimate partner violence had children that

2018 Raising the Bar

David Cheek presents Outgoing YLD Chair Cody Cooper with the Outstanding Young Lawyer Award.

Sherry Crosthwait, Catherine Campbell, Monica Ybarra & Lauren Cooper

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Superhero Lawyer Costumes

By Sheila Stinson

October is already here and full of many things—the changing of the leaves, pumpkin patches, college football, the fear that Christmas is two months away, and of course, Halloween. As a parent of small children, Halloween is always such a conflicted time in our lives. I love seeing the kids dressed up, spending time with friends in the neighborhood, sneaking the little boxes of Milk Duds. However, it is also a time of fear. We indoctrinate our children with the fear of strangers and preach to them not to take gifts from strangers. Then comes Halloween—we encourage them to approach a complete stranger’s house, in the dark, and beg them for candy. Then the night guard must stay up late checking for the needles, the razor blades, and worst of all, the nuts. Oh, the nuts. Halloween is the worst nightmare for every parent of a child with a nut allergy.

Then there are the costumes. I recently asked friends what was their favorite childhood costume. Many said they were the homemade ones—a pumpkin, a skeleton, a pirate. Some involved a plastic and most likely very flammable mask. I had a few—a princess, a cowgirl, and as only a child of the 80s could appreciate, Madonna. There were also the odd ones. One year at the last minute my mom put together a Charlie Chaplin costume. Neither I, nor anyone in my class, had any idea who Charlie Chaplin was, but really, what 2nd grader doesn’t want to be a silent movie actor from the 1920s.

This year I realized after hours and hours of scouring the Halloween costume stores and online markets for my children to only change their minds five times each, what was missing from the options? Lawyers. Kids want to be Marvel superheroes and DC superheroes. They want to be doctors, policemen, vampires, zombies, dinosaurs, firemen and videogame characters. Where are the litigator costumes, where are the transactional attorneys and the in-house counsel ones? Where are the appellate judge costumes? Why are we so underrepresented in the aisles of the chaotic Halloween supply stores? I’m sure if I searched Pinterest, I would see a few parents that dressed their little toddlers up as lawyers or judges, but where is the larger demand for our profession?

As lawyers, we do plenty of things that a little boy or girl might want to emulate. Many lawyers are worthy of a costume. If you’ve ever been at a dual closing on an old house and a new house and a title issue surfaces, that title attorney that fixes it is a superhero. The attorneys that prosecute crimes that keep us all safe, as well as the attorneys that ensure the accused have their constitutional rights protected...superheroes. The attorney who helps a business remain profitable so it can meet payroll and provide for its employees—superhero. The attorneys that negotiate contracts for the government to protect taxpayers’ interests, the attorneys that help their clients day after day—both deserving of a costume. Attorneys change the course of our country through drafting legislation or arguing cases in court. They mediate cases and preside over jury trials. And that’s just what they do as their job. Then there are all the lawyers who donate their time on pro bono cases, serve on boards, volunteer on nonprofit committees, school alumni boards, help at their children’s school, coach little league. Through our own OCBA, lawyers are mentoring and reading to kids, hosting parties at nursing homes and shelters, helping domestic violence victims and veterans in need. Our own Young Lawyer Division is currently raising tens of thousands of dollars to combat hunger in our state. Every single day lawyers are making a difference.

But as lawyers and judges, we must conduct ourselves every day in our jobs and our communities as if the children are watching, because they are. The lawyer or judge costumes might not be flying off the shelves at the store, but hopefully our civility, our commitment to impact our society and our own respect and admiration for the profession will hopefully our civility, our commitment to impact our society and our own respect and admiration for the profession will encourage children wanting careers like ours. If you have the desire to do more for your community or the legal profession, just let the OCBA office know. We have a place for you. I wish everyone a happy autumn and for those of you celebrating Halloween, have fun and stay safe. Those nut filled Almond Joys and Snickers are out to get us.

Courthouse Briefs

• Special Judge-select R. Trent Pipes will be sworn in on November 1, 2018. He will be in Courtroom 600.
• Courthouse will be closed:
  • Monday, November 12th for Veterans Day
  • Thursday and Friday, November 22nd and 23rd for the Thanksgiving Holiday
  • Monday and Tuesday, December 24th and 25th for the Christmas Holiday

Quote of the MONTH

I’ve been on such a losing streak that if I had been around, I would have taken General Custer and given points.

— Joe E. Lewis, comedian (1902–1971)
Dear Roscoe: OK, so client comes in and says he needs to file bankruptcy. The problem is that he is, by occupation, a pot farmer: What do you think? T.B., Oklahoma City, Dear Roscoe: Tell me why do I tell him? I’d start by reminding him that the weed industry is legal in Oklahoma but illegal under federal law. Then I’d mention that Bankruptcy is a federal remedy. Next, I’d inform him that the U.S. Trustee’s program has established a track record of settlement objections involving State-legal marijuana businesses. First, per the USPTF website: “the bankruptcy system may not be used as an instrument in the ongoing commission of a crime, and reorganizations that permit or require continued illegal activity may not be confirmed.” Second, the USPTF wisely seeks to invalidate trustees for potential violations of federal law arising from engaging in criminal activities springing from their duties to maintain and control the assets of the case. This would kick in under both Chapter 7 and Chapter 13.In your example, in Luleum v United States Trustee (In re Arenas), 535 B.R. 845 (10th Cir. BAP. 2015), Debtors in the Rocky Mountain High State sought to convert their 7 to a 13. The court denied this because the Plan would require funding through the application of munific gleaned from the marijuana trade. This, the Panel held, violated federal law, so that the Trustee could not administer the enterprise essential to the Plan. As to the Arenas’ proposal that the Trustee simply abandon the 10th Circuit ruled that: even if the tainted marijuana assets were abandoned, the debtors would retain their business after exposing the trustee to substantial risk, provide the creditors with little or no recovery, and receive a discharge, protected all the while from their creditors’ collection efforts by the automatic stay and then the discharge injunction. This, the court viewed as prejudicial and likely inequitable as well. Thus, the trial court appropriately dismissed the case. In light of this published opinion, one might wonder whether subsequent cases would be subjected to a “good faith” violation when filed. That would cause concern for both attorney and client. Of course, if one wished to change the law, he’d have to file and run through the process. I would then explain the risks and, especially the costs, of that undertaking. I would also explain the potential future proceedings under federal law as a result of attracting public attention. So, in direct answer to your question, that’s what I’d tell him.

Dear Roscoe: Is it true that, in the Twentieth Century, American courts ordered graves exhumed to determine whether their occupants were vampires? Z.W. Oklahoma City. Dear Z.W.: Ah, what the hell? As the poet said: There is something in October sets the gypsy blood astir: We must rise and follow her. When from every hill of flame She calls and calls each vagabond by name And I think you’ll find that over the years I’ve shown myself to be as enamored at good, clean Hallowe’en fun as the next guy. You perhaps refer to the case of Mercy Brown. Your time line’s a little off though. In 1892, George Brown lost his wife Mary, then his daughter Mary, and then his daughter Mercy. When his son Edwin fell seriously ill with the same symptoms (probably tuberculosis), George and his neighbors exhumed the bodies of the two Marys to see if they were actually vampires preying on the living members of the family. They found Mercy’s body surprisingly well-preserved, so naturally they cut out Mercy’s heart, burned it, and then had Edwin drink the ashes. He died anyway, but nobody else in the Brown family seemed to be affected after that. According to Atlas Obscura, Mercy’s grave remains a popular tourist site in Exeter, RI.

A bit earlier, in West, CT the Rays family lost multiple family members to consumption, (now known as tuberculosis). The first to die from the mysterious disease was 24-year-old Luelum went first in 1845, less than four years later, family patriarch Henry B. Ray fell by his own sickle. He was followed to the grave in the same manner by 26-year-old son Elisha, only two years afterward. When the eldest son Henry fell ill in 1854, the villagers mobilized. The decomposing bodies of Luelum and Elisha were dug up and burned immediately. Once again, this seemed to fix the problem. It is believed that Henry survived the ordeal long enough to have the vampire hunter’s evidence declared a success. As far as I can tell, none of these cases involved proceedings before the courts.

Despite my early arrival, I found the courtroom packed. I squeezed through a gap between the wall and the benches probably not intended for human transit. Sandra Kearney sat in the third row looking like she wanted to be anywhere but in that court. Aubrie sat on her left and Junior flanked her on the right. I jostled my way to a seat directly behind them. I recognized Sandy’s ex-husband and his brother from Katie’s funeral. They sat with their attorney at counsel table. All three dressed in grey. Kearney’s wives, along with the Kearny matriarch herself sat in the back of the courtroom, close to the door. They all dressed in black and glared at everyone like a trio of dolorous harpies. It may have been the lighting, but I swear I saw a baleful luminosity in their eyes as they glanced toward Sandy.

The Hon. Micki Ohara took the bench and called the case, announced it came on for hearing upon a defense motion to suppress. I could vaguely hear the Doughwer Kearny tut-tutting about the presence of a yellow person—a people we had to nuke to bring to heel—on an American court. The judge asked counsel if they were ready to proceed. They replied in the affirmative. The bailiff went into the hall to summon the first witness. Ms. Kearney’s daughter-in-law, and apparently some retainers she’d brought with her. The judge inquired if they were ready to proceed. They replied, yes.

Q. Please tell the court the record what your GPA is, Mr. Perricone? A. I have a solid A. Q. So, you are a gifted student in the technology field, with both hands-on and academic knowledge of computer systems? A. Yes, sir. Q. Don’t you think this is a good standard to work towards? A. Yes, sir. Q. Are you a Junior or a Senior? A. Yes, sir. Q. So are you on an accelerated track it seems? A. Yes, sir. Q. To maintain your scholarship you must maintain a GPA of, essentially, B+ or better? A. Yes, sir. Q. What sort of work do you do? A. Mostly I help my mother with her deli. I also do some computer related services—repairs, set ups, assist with picking a technology package, that sort of thing.

Q. You received an award of some kind for setting up an animatronics exhibit in a local park hereabouts, correct? A. As part of a team, yes sir. Q. Stevens has a number of fields of study. Correct? A. Yes, sir. Q. And you concentrate on both Technology Management and Information, Intelligence, and Analysis? A. Right. Q. And in the latter course of study you learn about artificial intelligence, web security, and things of that nature. A. I do. Q. How old are you Mr. Perricone? A. 19 Q. And you’re a Junior this fall? A. Yes, sir. Q. So you’re on an accelerated track? A. Yes, sir. Q. To maintain your scholarship you must maintain a GPA of, essentially, B+ or better? A. Yes, sir. Q. What sort of work do you do? A. Mostly I help my mother with her deli. I also do some computer related services—repairs, set ups, assist with picking a technology package, that sort of thing.

Q. Tell the court the record what your GPA is, Mr. Perricone? A. I have a solid A. Q. So, you are a gifted student in the technology field, with both hands-on and academic knowledge of computer systems? A. Yes, sir. I suppose so. Q. Don’t you think this is a good standard to work towards? A. Yes, sir. Q. So given all that, hacking someone else’s computer would be a piece of cake, wouldn’t it? Karl Coleman sprang up to object, and already traversed most of the distance between his table and the Bench when the court brushed aside his charge. “I’m going to allow it Mr. Coleman. Answer the question Mr. Perricone.”

A. It would depend on a number of variables such as the computer involved, the security systems in place, the… Q. OK, OK. Excuse me Mr. Perricone. Isn’t it true that you did, in fact, hack into a computer system belonging to a Mr. William Hurf? A. Yes. Q. OK. Now, Mr. Perricone, you are familiar with a man named Roscoe Pound? Yes. Both defendants cast dagger flinging glares in my direction. Although I didn’t turn around, I could feel hate-filled gimlets boring into me from the Wyrd Sisters and their retainers.

More on this later.

Q. Impressive. So you do not work at all? A. Not full time, no. Q. What sort of work do you do? A. Mostly I help my mother with her deli. I also do some computer related services—repairs, set ups, assist with picking a technology package, that sort of thing.

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More on this later.
Oklahoma County Bar Association  
Attn: Debra Gorden, Executive Director  
119 N Robinson, Suite 240  
Oklahoma City, OK  73102

Dear Members of the Oklahoma County Bar Association,

As Chief Judge, I want to personally thank you for your contribution of the wonderful toys and beautiful clothes. This enables us to give a toy or other item to the children who visit our courtrooms. These children enter the court system through no fault of their own and have experienced neglect and/or abuse in their young and innocent lives. As a judge, I see the smiles and joy that these gifts bring to a child who is in a strange, new place.

On behalf of all the judges at the Juvenile Justice Center of Oklahoma County, we are grateful for your time and care in giving to these children. You lift their spirits, and you lift ours.

There are over 1,400 children who are deprived in the court system in Oklahoma County. We could not bring joy to these children in this manner without your generosity. Your donations are truly appreciated!

Sincerely,

Howard R. Haralson  
District Judge of Oklahoma County
A Long Road To Becoming A Lawyer

By Benjamin Tech

“My why not go to law school?”

These words from my father echoed in my head. I had just been assigned to Tinker AFB in 2011 and I had accomplished what I felt was a successful military career, having served for over 15 years. I deployed for operations in Kosovo, Afghanistan, and Iraq and also served in Korea. My final deployment the next year was for the Libya campaign. I had medals and decorations galore, but I felt was a successful military career, having to work. During my last year in law school found me struggling with no endgame in sight. I wanted to focus on my future after my military career, and more difficult than I originally anticipated.

Despite my initial stumbling, I was able to slowly improve in law school. Later, I could see my biggest weakness: my friends and fellow students were engaging in internships and gaining practical experience. My military career now had an end date, but I was grateful for their support. I decided not to retest until after I retired from the Air Force. Yes, this put me even further behind the 8-ball, but I felt I needed to be 100% committed to studying and retesting. Shortly after I initially failed the February, 2017 bar exam, I had an Anterior Lumbar Spinal Infusion surgery, where surgeons fused my lower vertebrae together. I spent three months in recovery, and another three months in physical therapy, to help strengthen my modified body. During my recovery, I reached out to several attorneys to see what I could do to begin getting practical experience. I was guided toward the Mediation Program run by the Oklahoma Supreme Court, as well as the pro se divorce docket every Wednesday at the Oklahoma County Courthouse. I began the difficult task of creating a network of fellow attorneys and mentors I could rely on and turn to for help. I retired from the United States Air Force on October 1, 2017, and on November 1, 2017, I became the Small Claims Mediator for Oklahoma County.

I say this without a doubt in my mind - practical experience will outfit everything learned in a classroom. Between my mediations and the divorce docket, I learned a great deal about legal principles, procedure, documentation, and most importantly, how to engage with clients. I discovered it was important that they feel that their interests are your interests, and that you will be willing to help them get through whatever difficulty they are facing. Another lesson I learned was to not be afraid to ask for help. I had no ego left to bruise at that point, and constantly (to the annoyance of some) asked many, many, questions about the law and its application and processes. Without a doubt, I learned more in that year about the actual practice of law than I had in law school.

When September 7, 2018 rolled around, and my name was on that list of applicants who passed the bar exam, I realized what a sacrificial journey it had been and that my accomplishment was not just because of me, but also because of the support of my family, friends, and the judges and attorneys that helped me get to where I am today: a licensed attorney in the State of Oklahoma.

FROM CIVIL RIGHTS TO CIVIL LITIGATION,

The Story of Calvary Baptist Church

By Chad Kelliber

The Calvary Baptist Church, located on the corner of N.E. 25th and Walnut Ave., in the heart of Oklahoma City’s Deep Deuce neighborhood, occupies a special place in Oklahoma history. Construction on the building began in 1921 and the church opened in 1923 to welcome a growing population in one of the largest African-American communities in then-segregated Oklahoma City.

During the height of the Civil Rights movement in the late 1950’s and early 1960’s the church was a rallying point for the African-American community. Oklahoma City civil rights icon Clara Luper, and many others, frequently lead groups of demonstrators who assembled at the church for rallies. Famosly, the church served as the site of the 1952 NAACP National Convention. The 1952 convention saw then-U.S. Senator Hubert H. Humphrey and Thurgood Marshall among the distinguished speakers. Senator Humphrey would later play an instrumental role in passing the 1964 Civil Rights Act before becoming President of the United States, while Thurgood Marshall would embark on a legal career culminating with his selection as the Nation’s first black Supreme Court Justice.

The Church even lays claim to a cherished, if not ironic, relationship with Dr. Martin Luther King. In 1953, just twenty-four years old and recently out of seminary, Dr. King delivered a sermon to the congregation at Calvary Baptist in hopes of landing a job. Unimpressed, citing his youth and inexperience, the church declined to offer him employment. Years later, Dr. King returned to Calvary Baptist on July 29, 1960 as the Keynote Speaker for the “freedom rally” sponsored by the Oklahoma City Negro Baptist Ministers’ Association. The Church hosted an estimated 1,500 individuals that day who turned out to hear Dr. King speak.

In the decades that followed, Calvary Baptist Church suffered a decline in membership and resulting financial troubles. Even landing on the National Register of Historic Places in 1978 could not save the Church from the blight that had befallen the entire neighborhood. By the time the first phase of MAPS began injecting new life into the area in the mid-1990’s, the building had began to show its age and disrepair. The blast from the 1995 Murrah building bombing caused damage to many of the building’s large, stained-glass windows. Federal disaster funding made repairs to the building’s windows possible, along with upgrades to the mechanical systems, but the congregation was unable to afford the maintenance and upkeep on such an aging structure.

In 2005 the roof, which had been repaired following the Murrah Bombing, began to fail. The result was devastating water damage to the building’s interior. The Church, then known as the Covenant Life Family Worship Center, sued the contractor responsible for the post-Murrah Bombing repairs, alleging negligence and breach of contract.

The suit, Covenant Life Family Worship Center v. Smith and Pickel Construction, Inc. Case No. CJ-2005-4240, was brought in Oklahoma County District Court. The Honorable Patricia Parrish granted Defendants’ Motion to Dismiss the
Book Notes

By Bill Gorden

Tyrant: Shakespeare on Politics
Stephen Greenblatt, Norton, 2018, Hardback, pages, $21.95

Steven Greenblatt wrote Will in the World, reviewed some time ago here. This new offering seemed to be another intriguing work for those who like the Bard. There always seems to be more to write on the subject, though what we actually know about Shakespeare is quite limited. His view on tyranny, living as he did in the age of Elizabeth, is worth remarking upon. She was a sort of benign tyrant at times, the traditional mailed fist in a velvet glove.

This work, however, is much more than that. It can be read straight through for what it purports to be, a review of the various tyrants in the canon, and it all works. Richard III, Caesar, Lear, Macbeth, all familiar, with similarities and differences, are subject to review. Caesar is a bit of a stretch, as he is not alive in the play very long. The review is engaging, and given the author’s expertise, complete.

About forty pages in, however, in a chapter called Fraudulent Populism, the revolutionary Cade is depicted as wanting a political space where two and two do not have to equal four, and the most recent assertion need not remember a contradictory assertion made a few seconds earlier. Sounds pretty recent. A few pages on, the author cites Cade again: “He promises to make England great again.” Wait, what?

 Shortly, describing Richard III, Greenblatt calls absolute rule sometimes a family affair. One page later he talks of Richard’s collusion with the French, the traditional enemy. Greenblatt never names anyone of the current day in his analysis of the Shakespeare characters. Indeed, as one keeps bouncing into issues raised which ricochet into the present political scene, one wonders if they are just coincidental.

They are not. With around ten pages left in the book, talking about the Tyrant Coriolanus, the author says: “It is as if the leader of a political party long identified with hatred of Russia-forever saber-rattling and accusing the rival politicians of treason-should secretly make his way to Moscow and offer his services to the Kremlin.” Well, there it is.

In our divided country, some will be outraged by this, and pore over the book again for more examples of hidden assaults. Others will snicker and pore over the book looking for similarities and differences, are subject to review. Caesar is a bit of a stretch, as he is not alive in the play very long. The review is engaging, and given the author’s expertise, complete. About forty pages in, however, in a chapter called Fraudulent Populism, the revolutionaries Cade is depicted as wanting a political space where two and two do not have to equal four, and the most recent assertion need not remember a contradictory assertion made a few seconds earlier. Sounds pretty recent. A few pages on, the author cites Cade again: “He promises to make England great again.” Wait, what?

What is phenomenal is how all of this is put together, one of those posters at the mall with all the dots, which suddenly becomes a sailboat. The kicker is that the straight reading with all the dots, which suddenly becomes a sailboat. The kicker is that the straight reading of the analysis of Shakespeare also holds up.

This is a short book, but it took a lot of work. It is like two or three books in one. It is worth the read, whatever the reader’s political viewpoint, for the sheer artfulness of it.

Volunteer Opportunities

The OCBA has many opportunities to volunteer with their Community Service Committee, Law Related Education Committee, Lawyers For Learning Committee and Voices for Children Committee. However, this new monthly column will list other opportunities for our members to help the community. If you know of something that should be listed here, please contact the Bar Office at 236-8421 and we will add it to this new monthly Briefcase column.

Obituaries

Ken McKinney

By Rex Travis

Ken McKinney died September 17, 2018. He was 82 years old.

Ken had a distinguished legal career. He established the firm which later became McKinney Stringer and grew to 60 lawyers before its dissolution in 2005. Ken had an undergraduate degree in Geology from OU. Unfortunately, the oil business was in a deep slump when he graduated. As a result, he went to law school at OU. This turned out not to be unfortunate at all, as he became not just a really good lawyer but a great lawyer.

You would have expected, with his geology background, that Ken would have gone into oil and gas law. However, as often happens, we take the professional opportunity available to us and not the one we’d like to have. Ken went to work for an insurance defense firm, Duvall and Head. As a result, he became a premier business and environmental litigation lawyer. Duke Duvall was well-known and well thought of as a defense lawyer. He became Ken’s mentor and Ken learned well from him. At that time (about 1960) there was not yet a formal legal internship program. Law students worked as law clerks, doing all the things interns do now except appear in court. Ken took such a job and took to litigation and never looked back. During this time, he also served as a military lawyer in the Judge Advocate General Corps of the Army Reserve.

With Duke Duvall’s death, Duvall and Head evolved into the firm McKinney, Travis and Webster, which later became McKinney, Stringer and Webster and later McKinney, Stringer and Webster before it became McKinney Stringer.

From the base of doing insurance defense work, Ken branched out to do complex business and environmental litigation. The firm he founded did a substantial non-litigation practice, under the supervision of his long-time partner, Martin Stringer. Following the dissolution of McKinney Stringer, Ken became of counsel to the firm Tomlinson McKinstry, made up largely of lawyers who learned under Ken’s tutelage at McKinney Stringer until he retired in 2014, due to Parkinson’s disease.

Ken was also a strong family man. He and his long-time wife, Jane, had two daughters who have done well in life and took good care of Ken as his health declined. After Jane’s death, he remarried but that did not last and he was single at the time of his death. Ken and his family often traveled to Maine, where they had a second home. Later in life, he and his daughters and granddaughters took two trips to Europe which were very important to him.

During his long legal career, Ken also served his church, St. Paul’s Episcopal Cathedral, where he served as Senior Warden of the Church. Ken was also very civic-minded. He chaired the United Way campaign and was a long-time supporter of that effort. He was a long-time member of the Oklahoma City Golf and Country Club.

 Perhaps Ken’s most significant contribution was as a mentor to the large number of younger lawyers who passed through his firm. At his funeral service, his long-time partner, Martin Stringer, spoke eloquently about Ken’s trial abilities and his efforts to pass his considerable skills on to younger lawyers in the firm.

One of those younger lawyers, Bob Tomlinson, told us about Ken’s superb qualities as a mentor to Bob and others. Bob stayed closely in touch with Ken to the end of his life and was able to express to Ken his gratitude for the mentoring he received from Ken. Perhaps most remarkable about Ken was that, as remarkably good a lawyer as he was, he was an even better person. He was truly a great man.

Old News

Excerpts from OCBA News:

January 1979, Part 3

Drive From Kivel

By Franklin Jay Kivel

Busing. The subject is on everyone’s mind. Around the country people debate the pros and cons. Is it fair to the children? What about the energy crunch? With all the talk about busing, there stands alone a pathetic figure who is all but forgotten — the school bus driver.

Can you imagine what it would be like to be a school bus driver? Sunday School teachers should warn their pupils that a life of sin means they will be driving a school bus for eternity. Illustrated Bible books should depict Hell as a yellow school bus.

I rode a school bus as a kid. Our driver was Mr. Hammer – we called him “Hammerhead.” He was a grizzled man with crooked teeth, gnarled hands and deep wrinkles. Although only 22 years of age his vocation had taken its toll. At the end of the day his gray uniform was spotted with spittleballs; his hair caked with peanut butter (and sometimes jelly). Even Lloyds of London wouldn’t touch him with a ten foot pole.

My daughter rides a school bus. Barely ten minutes into the morning run the young woman who pilots that yellow beast is shaking like a leaf. Her life expectancy is May. No wonder that as school started this year one bus driver shot a parent who was giving him a hard time. Sins of the son visited upon the father.

Next time you pass a school bus on your way to work forget about the great social issues that put that bus on the road. Take off your hat to the poor soul driving the bus. I’ve been telling my daughters that if they don’t eat their vegetables they’re going to have to be school bus drivers when they grow up. My wife reports that nary an asparagus spear or green bean has been fed into the garbage disposal in weeks.

Palomar: Oklahoma City’s Family Justice Center

Our 3rd Annual Trunk or Treat is coming up soon! We are in need of the following donations: candy, costumes, mini pumpkins, Lil Debbie (or similar) packaged snack cakes, and $25 gift cards (for adult prizes!). Contact: Kellen Mack - 405.552.1006 - kellen.mack@okc.gov
Sharon Byers, the founder and current Executive Director of the Oklahoma Guardian Ad Litem Institute, had a vision for Oklahoma children swept up in family court cases whose families did not earn enough income to afford a private guardian ad litem. It was a vision Ms. Byers made good on in 2016 when the Oklahoma Guardian Ad Litem Institute (OKGALI) officially opened its doors.

The OKGALI is a 501(c)(3) nonprofit organization with the mission of giving Oklahoma children a voice in the family law courtroom regarding their care and custody, even when their parents cannot afford to hire an attorney to speak for the children. The OKGALI does not provide services for children who are in the custody of the Department of Human Services, nor do they assist children in the juvenile court setting. The OKGALI represents the best interests of children only in family court litigation such as divorce, paternity, and modifications of previously entered orders. To qualify for OKGALI’s services, the combined gross household income must be $75,000.00 per year, or less. The OKGALI has been the proud recipient of not only a Victims of Crime Act (VOCA) grant for two (2) consecutive years, but also of grants from the Oklahoma County Bar Foundation and Oklahoma Bar Foundation. As a result, they are able to provide services at no charge to the families they help.

In addressing the issue of domestic violence as it relates to children, Ms. Byers says, “Research shows that when a parent is the victim of domestic violence, the children suffer the effects, as well. We are here to help protect Oklahoma’s most vulnerable citizens - the children - in the one place where their voices should be heard the loudest – the courts who are deciding where the children live, and how much time the children may have to spend with an abuser. Without a guardian ad litem, children often go unrepresented in these important decisions. We cannot let that happen any longer.” Domestic violence is much more than physical violence. In addition to physical violence between intimate partners, domestic violence also includes mental abuse, emotional abuse, financial abuse, and sexual abuse.

In addition, as a VOCA grant recipient, the OKGALI must promote efforts within the community to aid crime victims. To fulfill that obligation, the OKGALI puts on several CLEs each year touching on domestic violence in the family court setting. The OKGALI will be holding its 1st Annual Champions for Children Conference in Oklahoma City on October 26th and 27th. For more information, check out the “Training” tab on the OKGALI website: www.okgalinstitute.org.

The OKGALI represents children statewide and currently has 2 full-time staff attorneys. The OKGALI may only be appointed by the district court utilizing its approved Order. The OKGALI Order can be found on the OKGALI website under the “Order Appointing Institute” tab.
2018 Raising the Bar Highlights

Adra Cheek & Ron Stakem

Michael & Edith Laird

Lance Cook, Jeff Scott, Jeff & Patty Grotta

Scott & Linda Sublett

President Sheila Stinson, Marc & Angela Bohm, Miles & Andrea Pringle

Steve Barghols & Catherine Campbell

David & Becky Stinson, President Sheila & Preston Stinson

Cody & Lauren Cooper
Civil Rights, continued from PAGE 5

contract claims as barred by the applicable statute of limitation and later granted summary on the negligence claim, finding it too was barred by the statute of limitation. Summary judgement was affirmed by the Court of Civil Appeals. The legal battle ended in late 2007 with the Oklahoma Supreme Court denying Certiorari.

In 2009, without legal recourse, and financially unable to fix the extensive water damage, Covenant Life Family Worship Center attempted to sell the building at the price of $1.2 million, knowing it would take millions more to revitalized the building. It would be four long years before the building found new ownership.

The Law Offices of Daniel M. Davis acquired the building in March of 2012 and set to work on a comprehensive restoration project, intent on maintaining as much of the building’s original architecture and charm as possible. Nearly a year and a half later, in August 2013, the firm moved from its former home on N.W. 13th into the newly renovated space.

Since being given new life, the building has hosted a number of school field trips and community groups, and often welcomes out of town visitors along with curious Oklahoma City citizens wishing to view the interior of the historic building. Despite operating a busy law practice, the firm’s members and staff are happy to offer a tour to those who stop by. Those wishing to view the building are welcome to stop by, or can contact the author by email at chad@dandavislaw.com to arrange a visit.
The Oklahoma County Bar Foundation met on September 18 and selected recipients of this year’s grant awards. The Oklahoma County Bar Foundation is a non-profit, public-benefit corporation that is organized and operated exclusively for educational and charitable purposes within the meaning of Internal Revenue Code Section 501(c)(3). Donations are deductible to the extent permitted by law. The principal purposes of the Foundation are:

(1) to advance, facilitate and promote within our community

(i) the science of jurisprudence, and

(ii) the study and improvement of the administration of justice; and

(2) to assist the Oklahoma County Bar Association (“OCBA”) in carrying out these purposes.

The Foundation was incorporated on September 2, 1970. Its original trustees were Fisher Ames, John C. Andrews, John L. Belt, V.P. Crowe, Robert S. Kerr, Jr., Claude Monnet, Joseph G. Rucks and John K. Speck. The Internal Revenue Service conferred Section 501(c)(3) status on the Foundation on May 1, 1972. Following years of dormancy in the 1980s and 1990s, the Foundation was reconstituted and reorganized as part of the OCBA’s ambitious long-range planning agenda in the early 1990s, and thanks to the vision of OCBA Executive Director Bobby G. Knapp and OCBA Presidents Joe Crosthwait and Jimmy Goodman, in 1995 the Foundation was reconstituted and reorganized as part of the OCBA’s ambitious long-range planning agenda of the 1990s.

In 1996, following extensive investigation and research, the Foundation’s Board resolved to establish a Designated Fund at the Oklahoma City Community Foundation (“OCCF”) for the permanent benefit of the Foundation. This decision was motivated (1) to secure a permanent source of income to support the Foundation’s purposes and goals; (2) to take advantage of the OCCF’s expert money managers; and (3) to make the Foundation eligible to participate in periodic matching-grant opportunities offered by the OCCF and the John E. Kirkpatrick Family. With great expectations for the future, the Foundation’s entire $38,000 in assets was deposited in its Designated Fund at the OCCF.

In 1998, the Foundation’s Board resolved that its long-term interests were best served by “growing” its OCCF Fund to a goal of $200,000 so that, at some future point, the Fund would generate sufficient annual income to fund meaningful grants consistent with the Foundation’s purposes and goals. The Foundation’s OCCF Endowment Fund has appreciated in the ensuing years because of the expert management of the OCBA’s finances by its professional staff, officers, and directors, which have enabled the OCBA to make substantial contributions to the Foundation. Funds have also increased due to the Foundation’s exercise of several matching opportunities made available by the OCCF, the Kirkpatrick Family Fund, and the John Kirkpatrick Centennial Endowment Challenge; $21,975 that was contributed to the OCCF Designated Fund by Oklahoma County lawyers and law firm leaders. The award to Bobby G. Knapp on the occasion of his retirement as OCBA Executive Director, and several individual gifts.

The Foundation made its inaugural grants to two community organizations in 2007. Since then, grants have been awarded on an annual basis. Grant funds are available from the interest generated by the Designated Fund at the OCCF, as well as donations made by members, either through their membership renewals or direct donations. In 2018, grants were awarded to ten different organizations: CASA of Oklahoma County, Law & Public Safety Career Academy at Douglass High School, Legal Aid Services of Oklahoma, Inc., OCU School of Law Street Law Program, Oklahoma Guardian Ad Litem Institute, Oklahoma Lawyers for Children, Palomar, Pivot, Remerge of Oklahoma County, Inc., and Trinity Legal Clinic of Oklahoma, Inc.

OCBA members are encouraged to use the Oklahoma County Bar Foundation to make donations in memory of late colleagues and friends, or in honor of current events or celebrations. All donations will receive a tax-exempt receipt.
Christensen Law Welcomes New Associate

Joshua Romano has joined Christensen Law, PLLC as an Associate. Mr. Romano is a civil litigator with experience in personal injury and medical negligence cases as well as defending healthcare providers, insurers and employers. Mr. Romano will work in the firm’s civil litigation and workers’ compensation departments.

Associates Moore and Puckett join McAfee & Taft

McAfee & Taft has announced the addition of T. Lake Moore V and Jennifer B. Puckett as associates. Both are recent honors graduates of the University of Oklahoma College of Law.

Lake Moore is a transactional attorney, whose practice encompasses a broad range of business and commercial matters, including mergers and acquisitions, divestitures, complex financing arrangements, business entity formation and organization, contract negotiations, corporate governance and compliance, and real estate transactions. During law school, Moore was a member of the American Indian Law Review and Phi Delta Phi honor society and was the recipient of several honors, including the Chesapeake Scholarship, Frank and Edna Elkouri Scholarship, Cole E. Adwon Memorial Scholarship, Aubrey M. Kerr Sr. Endowed Scholarship, and American Jurisprudence Award for Mergers and Acquisitions. He also served as judicial intern to The Honorable Kim West of the U.S. District Court for the Eastern District of Oklahoma and as a legal intern in the General Counsel Unit of the Office of the Oklahoma Attorney General.

Jennifer Puckett is a trial lawyer whose state and federal civil litigation practice is focused on the resolution of complex business disputes, with a specific emphasis on insurance litigation and matters affecting the energy industry. A portion of her practice is devoted to the representation of management exclusively in labor and employment disputes. While in law school, Puckett served as articles editor of the Oklahoma Law Review, was crowned National Champion of the American Bar Association’s National Appellate Advocacy Competition, and was named to the Order of the Coif and Order of the Barristers. She was also the recipient of numerous scholarships and other honors, including the Comfort Scholarship, Judge Wayne Alley Award for Excellence in Legal Writing, and eight American Jurisprudence awards for academic excellence.

Puckett currently serves on the Young Alumni Advisory & Pro Bono Council of the International Business & Human Rights Center at the University of Oklahoma College of Law.

Mike McBride III elected executive vice president of International Masters of Gaming Law

Crowe & Dunlevy attorney Mike McBride III was recently elected executive vice president of the International Masters of Gaming Law (IMGL). In this role, McBride will continue his nearly decade-long service on the organization’s executive committee and continue to lead, set policy, administate and carry out IMGL’s initiatives.

McBride is one of only two Oklahoma general members of IMGL, and this role change makes him only the second executive vice president of the exclusive organization. He has served IMGL in previous roles, including first vice president, second vice president, treasurer and director of membership.

He was also the 2011 recipient of the IMGL President’s Cup Award for his outstanding accomplishments.

Based in Tulsa, McBride chairs Crowe & Dunlevy’s Indian Law & Gaming Practice Group, and is also a member of the Banking & Financial Institutions, International and Litigation & Trial Practice Groups.

McBride has a quarter century of experience in gaming, federal Indian law, litigation and complex transactions as a trial, appellate and business lawyer. McBride has tried more than 50 cases to conclusion in federal, tribal and state courts, and as a judge and justice, has adjudicated numerous cases and authored many published decisions. Chambers and Partners has recognized McBride with its Star Individual designation in Native American law for several years in a row, its highest individual ranking. McBride has served as justice of the Pawnee Nation Supreme Court and is the former attorney general to the Seminole Nation. He received his Juris Doctor from The University of Oklahoma College of Law and his bachelor’s degree from Trinity University in San Antonio, Texas.

IMGL, an invitation-only, nonprofit association of more than 320 gaming attorneys, regulators, educators, executives and consultants from around the world, is dedicated to education and the exchange of professional information and advice. The open networking and collective experience of its members makes the IMGL an integral and effective tool for the dissemination of gaming law developments worldwide.
You may have thought that medical marijuana was the only state question this cycle given the voluminous amount of coverage it has received, and continuing concerns. There are, however, five other state questions on the ballot this November.

**STATE QUESTION NO. 793:** how would you like retail eye clinics? This state question adds a new section to Article 20 of the Oklahoma Constitution providing that “no law shall restrain, abridge or infringe on the ability of optometrists or opticians ability to practice their respective professions within a retail mercantile establishment.” Currently, 47 other states allow glasses to be sold in stores like Wal-Mart and Costco, and 34 other states allow an optometrist’s clinic to be located within and considered part of a retail establishment. Passage of SQ 793 would place Oklahoma within the majority of states.

Optometrists are against this state question. Joel Robison, executive director of the Oklahoma Association of Optometric Physicians, told the Journal Record in July that “We want to make sure Oklahomans understand this isn’t just about cheap glasses… This is about the kind of eye care people accused of crimes “should not have more rights than the victims” and that families should have a part in plea bargaining. Opponents argue that allowing victims the right to interject into more stages of the trial process will jeopardize a defendant’s right to a fair trial or parole hearing.

It should be noted that currently Section 34 of Article II of the Oklahoma Constitution, which SQ 794 seeks to amend, already sets out victims’ rights. Those rights include “the right to know the status of the investigation and prosecution of the criminal case, including all proceedings wherein a disposition of a case is likely to occur, and where plea negotiations may occur.” Additionally, a victim or family member has the right to know the location of the defendant following an arrest, during a prosecution of the criminal case, during a sentence to probation or confinement, and when there is any release or escape of the defendant from confinement. Further, a victim or family member has the right to be heard at any sentencing or parole hearing, be awarded restitution by the convicted person for damages or losses as determined and ordered by the court, and to be informed by the state of the constitutional rights of the victim.

**STATE QUESTION 798:** joint ticket for Governor and Lieutenant Governor. Currently, voters cast one vote for their preferred candidate for Governor and a separate vote for their preferred candidate for Lieutenant Governor. SQ 798 would require that candidates for Governor and Lieutenant Governor from the same party will run on a single ticket. This model duplicates the federal presidential system where the president and vice-president run on the same ticket.

If we are going to mimic the federal system, perhaps the earlier model is a better example. The Constitution originally provided that the candidate receiving the most votes in the Electoral College would be President, and the next highest would be Vice-President. U.S. Const. Art. II, § 1, Cl. 3. Following challenging elections in 1876 and 1880, due to the nature of the Electoral College and vote counting of electors, the Twelfth Amendment to the Constitution was adopted whereby electors cast ballots for both President and Vice-President. There was, for a fleeting moment, room for more than one party in the Executive Branch.

Perhaps facilitating parties to share power in the executive branch would forge better working relationships overall. It seems impossible to imagine, but what if Hillary Clinton was Vice-President to Donald Trump, and John McCain to President Obama? Perhaps this is not practical, but I do not support consolidating party power in office by consolidating races.

**STATE QUESTION 800:** The Oklahoma Vision Fund. This state question would, beginning in 2020, defer five percent (5%) of gross production taxes on both oil and gas for the Fund. The aim is to stabilize the budget from year-to-year caused by volatility in oil and gas revenues. The law was originally introduced in the Oklahoma Legislature by Republican Speaker of the House Charles McCall and Democratic Senator John Sparks, and resoundingly passed both the House and Senate. Governor Fallin originally vetoed the bill explaining that while the measure is well-intentioned, rerouting revenue using the mechanisms within the policy could have unintended consequences. In response, Rep. John Michael Montgomery, R-Lawton, stated that “Overall, I think it’s probably surprising and a little confusing, more than anything… No legislators opposed it in the final votes. There’s not any group we’re aware of that opposed it. The State Chamber’s OK2030 plan and Step Up had a budget stabilization fund. This is the fund they’re talking about.”

**STATE QUESTION 801:** Use of Property Taxes for Schools. Currently, property taxes are collected in two different areas: property taxes are collected on the property tax roll, and oil and gas revenue from the state’s budget stabilization fund. The aim is to use the mechanisms within the policy to increase school revenue. Those opposed to SQ 801 argue that the policy could create more problems than it would solve. For example, it could lead to larger disparities between poor and richer districts where more property taxes are collected.

**STATE QUESTION 797:** the Constitution to the Voters of Oklahoma, for Governor and Lieutenant Governor. Currently, voters cast one vote for their preferred candidate for Governor and a separate vote for their preferred candidate for Lieutenant Governor. SQ 798 would require that candidates for Governor and Lieutenant Governor from the same party will run on a single ticket. This model duplicates the federal presidential system where the president and vice-president run on the same ticket.
Cato’s Letters: No. 24
The Natural Honesty of The People
The Importance of Consulting the Public Interest

By Geary Walke

Sire, I have observed in a former letter that the people, when they are not misled or corrupted, generally make a sound judgment of things. They have natural qualifications equal to those of their superiors and there is often found a greater genius carrying a pitch-fork, rather than carry a white staff. The poor cook preferred by the Sultan to be his first vizier in order to cure the public disorder and confusion occasioned by the ignorance, corruption and neglect of the former ministry, made good his own promise and did credit to his master’s choice: He remedied the public disorders and proved an able and excellent minister of state.

Besides, mighty talents are not as required for government as some would pretend, even though those did not possess such talent. Honest affections and common qualifications are sufficient. The administration of states has been best executed, and the public liberty best preserved, when plain honesty and common sense alone governed the public affairs, and the morals of men were not corrupted with riches and luxury (a reference to the morals of men were not corrupted with riches and luxury (a reference to debauchery and corruption under King Charles II). Great abilities have often been employed to mislead the honest but unwaried multitude and to draw them out of the open and plain paths of public virtue and public good.

The people have no bias to be knaves. The security of their persons and property is their highest aim. No ambition prompts them. They cannot come to be great lords and to possess great titles, and therefore desire none. No aspiring or unsociable passions incite them and they have no rival for place, no competitor to pull down. They have no darling child, primp or relation to raise. They have no occasion for dissimulation or intrigue. They can serve no end by faction. They have no interest but the general interest.

This cannot be said of great men who gratify their private passions only to bring down the public in ruin. They fill their private purses. They oppress a mistress and will destroy a nation to benefit a favorite. They have no sense of the misfortunes of other men. They have no notion of miseries which they do not feel. The first principles of power are in the people. All projects of men in power should refer to the people and to aim solely for the good of the people. And whoever pretends to govern them without giving them due regard will soon repent it. It is madness to hope to rule the people against their wills.

Dominion that is not maintained by the sword must be maintained by consent. The impression of one for the sake of one, is tyranny, and so is the government of a few for the sake of a few. But, government executed for the good of all, and with the consent of all, is liberty. The word “government” is profaned and its meaning abused, when it signifies anything else.

People in free countries know this. They do not hate their governors until their governors deserve to be hated, and when this happens then absolute power itself nor the affections of a prince invested with it, can protect or employ ministers detested by the people. People who have trusted in their armies or nobility have been often deceived and ruined. Princes who have trusted wholly to the people have seldom been deceived or despised. The reason for this is that in all government which are not violent and militaristic, the people have more power than either the grandees or the soldiery. As Machiavelli observes, “When the people are dissatisfied and have taken a prejudice against their governers, there is no thing nor person that they ought not to fear.”

Therefore it is vastly important to preserve the affections of the people even in those governments where they have no share in the administration. The wise states of Holland are so apprised of the truth of this maxim that they have preserved themselves and their state by religiously observing it. Their government consists of many magistrates who choose each other. The people have nothing to do with it. But, in spirit and effect even this is a democracy. The jealousy of the people makes a vigilant magistracy who wisely knew that the means of redress? Who are the keepers and barriers of our liberty have shown themselves ready and willing to receive the modest complaints and representations of their principals, and to quickly apply remedies to the grievances expressed? Indeed, it has always been thought as highly imprudent, not to say dangerous, to resist the general groans and entreaties of the people uttered in this manner.

It is the best and only just way that they can take to breathe their grievances, and whenever this has been taken our kings have always accepted so powerful an application. Our parliament as well, who are the keepers and barriers of our liberty have shown themselves ready and willing to receive the modest complaints and representations of their principals, and to quickly apply remedies to the grievances expressed. Indeed, it has always been thought as highly imprudent, not to say dangerous, to resist the general groans and entreaties of the people uttered in this manner.

This method has always had great weight with good men and has always been a great terror to bad men. It has therefore always been encouraged or discouraged according to the innocence or guilt of men in power. A prince who minds the welfare and desires the affections of his subjects cannot wish for a better expedient to know how his servants are approved, and how his government is liked, than by this way of countenancing his people in laying their hearts, wishes and requests before him. Ministers never can be averse to such representations of the complaints of the people unless they have given the people occasion to complain.

Titus and Trajan (considered two “good” Roman emperors) conscious of their own virtuous administration, asked for the people to state their grievances. They wisely knew that if the Roman people had free leave to speak they would not take leave to act, and while they could have redress they would not seek revenge.

None but desperate patriots will make the people desperate.
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