A LOOK FORWARD TO 2021

By Hon. Don Andrews
President, Oklahoma County Bar Association

Prior to 2020, the best way to describe the anticipated year would be that of “perfect vision.” While 20/20 vision acuity may not be “perfect vision” in every aspect, the year 2020 will certainly be remembered as an imperfect year in any aspect. In fact, depending on what lens through which you viewed the year’s events, you undoubtedly saw many different things interpreted in many different ways. From the onset of the novel coronavirus (COVID-19), it appeared that the tint of our particular lens enabled the view to take on different perspectives.

I don’t recall anyone ever telling me they wished 2020 would last forever. To the contrary, most everyone I know wishes to put this year behind them, with hopes of returning to some sense of normalcy in 2021. This year has presented challenges for all of us. Many of those challenges were as unique as we are as individuals, and many followed a common theme.

Routine activities such as grocery shopping or visiting friends became challenging at best or impossible at worst. Empty store shelves were the physical manifestation of the fear felt by most. Why toilet paper became the nation’s top commodity, I may never fully comprehend. Perhaps there is a subliminal correlation to a common applicable expletive that summarizes our descriptive opinion for what this year truly represents.

When you witnessed what occurred in Minneapolis, Seattle, and countless other cities, the tint of your lens may have shown you peaceful protests or riots, burning buildings and looting. Which was it? I think the appropriate answer is a combination of all of the above, compounded by a lot of finger-pointing. Whatever lens you viewed this through, I can’t believe there’s any shade of rose-colored glass, which allowed you to find peace in the midst of all the turmoil.

Many regular exercise routines went by the wayside because of shutdowns and restrictions. That halted or serious-ly slowed not just the physical benefits, but the far more important attendant mental health advantages, as well.

For some of us, the way we personally dealt with the 2020 turmoil was questioned, which only added to the stress and to our desire for this year to end. Many people have given up on the idea of ever completely returning to “normal.” I refuse to acquiesce to a concept of anything short of a complete and total return to our previous state of normalcy—with the added benefit of perspective in hindsight.

Despite all of the challenges this year, from economic uncertainties to civil unrest to a freak pre-Halloween ice-storm to a con-

As mentioned in the text, "In three words I can sum up everything I’ve learned about life: it goes on.”

Robert Frost

From the President
By Roscoe X. Pound

**Dear Roscoe:**

As a legal matter, should the gifts in “12 Days of Christmas” be construed as cumulative or consecutive according to verse? D. Grinch, c/o Oklahoma County Courthouse.

**Dear Grinch:**

Under usual rules of construction, if a contract provision is ambiguous, courts first look to the contract language to determine if the ambiguity can be resolved by reference to other provisions. Okla. Oncology & Hematology, P.C. v. US Oncology, Inc., 2007 OK 12, 27, 160 P.3d 936. When reference to the language alone is insufficient to resolve an ambiguity, a “contract may be explained by reference to the circumstances under which it was made, and the matter to which it relates.” 15 O.S. 163 (2011). “While parol testimony cannot vary, modify or contradict the terms of the instrument, it is admissible to explain the meaning of words when there is a latent ambiguity in the written text of the agreement.” Mercury Inv Co. v. F. W. Woolworth Co., 1985 OK 38, 9, 706 P.2d 523. When reference to the language alone is insufficient to resolve an ambiguity, a “contract may be explained by reference to the circumstances under which it was made, and the matter to which it relates.” 15 O.S. 163 (2011).

In this case, we have three strikes. There is no written contract containing ambiguities latent or patent. There’s no written contract at all. Also, we know nothing about the circumstances under which it was made. Rather, we have a unilateral recitation of past acts with nothing to indicate anything resembling something sufficient to create an expectation, let alone a promise, of subsequent deliveries. I venture to state that, it seems here, we have a greedy done trying to enforce a contract at all. Also, we know nothing is no written contract containing ambiguities latent or patent.

**My Yuletide question for you, dear readers is this:** In A Christmas Carol, Dickens wonders why we use the term “dead as a doornail” when a coffin nail might seem a more apt bit of “ironmongery.” What do you think?

***

Brossahan took a swallow of coffee then said: “I didn’t know you were the one who got Lennox on the straight and narrow.”

“Would it have made a difference?” I asked.

“Big time. I like the kid. I like his family. And I like what I’ve heard about the unnamed guy who took him in hand. Kid’s almost family to me. Knows what he’s doing, trustworthy, and don’t take nothin’ off any Karens or Kens. Been hopin’ to meet you in fact. Not like this a course.”

“So what’re you doing in the enforcer racket?”

“Started out there until I got, whatcha call, established. Every once in a while, I still take a call. Usually against my better judgment. Sometimes I try to work out a resolution. Barring that, I hit someone or break something. Not much call for that kinda muscle these days.”

“So are we gonna resolve something this morning?”

He shrugged. “Somehow, I don’t think so. This is a family thing for me. But I still don’t mind bouncin’ the little ferret’s head off the pavement. I got an earful of him last night and again this morning. Says I spoiled his psychological edge. Apparently, he got your gun license pulled and I was supposed to come at you while you were defanged, declawed and naked and afraid. Little puke thinks he’s von Clausewitz.”

“Pursue one great decisive aim with force and determination.” I quoted.

“Yeah, that’s the guy.”

“You probably should know that my claws grow back quickly,” I said. I held open the left side of my jacket, revealing the butt-forward Ruger hanging in its holster. He made a sound somewhere between a chuckle and a snort. “I guess you have friends too.”

My turn to shrug. “Yeah, but it really wouldn’t matter.”

He mulled this over, nodding slowly. “I bet not. Like I say, I won’t be coming back to visit you on my uh, relative’s behalf. But don’t take him too lightly. A lotta guys made that mistake. And he don’t do his own fighting.”

“Gotcha. How about a clue to who his pals in office are?”

He waved the question away. “Useless,” he said.

We shook. I browsed around a bit, took Lennox to lunch, and then returned to the office to make some calls.

Okay, so flash forward to real time. I sat in the conference room, firmly gripping a glass containing the remainder of the Pappy Van Winkle addressed in the last ish. This year’s Christmas decorations came in a “Nightmare Before Christmas” motif with a healthy sprinkling of both nesting and flying ravens, some supposing festive Santa hats. We spread out more this year, the better for social distancing. We all wore masks, of course, but Christmas remained Christmas. I revealed in my family – both actual and extended – and their presence far more than any presents. Of course, no one slacked in that department either. Soon we would dine on my neighbor Jerry’s Wenceslas Pizzas (“Deep pan, crisp and even”) and trade ghost stories. May all my fans and friends at the OCBA be as fortunate this year. Merry Christmas!
7 Small but Significant Ways to Change the World

Some of my favorite Christmas memories do not include the latest designer gifts (shh! Don’t tell my husband!), but instead moments spent with family and friends. Each year, many of us look forward to gathering together with loved ones to connect with each other by sharing all the holidays have to offer. However, 2020 has been a particularly challenging year for everyone. Social distancing is threatening to disconnect us, lost income brings unique hardships, illness or the loss of a loved one is a major life changes, and exposing anyone to this virus is a constant fear. On top of it all, collectively employing risk mitigation techniques to slow the spread of the virus seems impossible during the holidays. It is during lean times, like these, that it becomes more important than ever to identify ways to give back to your community, in any way possible.

Although the hardships 2020 weigh heavy, it is crucial to remember that the “most wonderful time of the year” has always been what you make of it. Even during these trying times you can make a difference in the life of another. Holiday cheer and kindness are contagious, so let’s challenge ourselves this year to come to a close to be even more generous than in other, more bountiful years.

Let me encourage you to take out a pen and paper and write down 10 people for whom you can do something this holiday season; ask yourself what you can do today, this week, or this month to sprinkle some kindness into those last days of their challenging 2020 year. There are many opportunities that attorneys can give back to the community this season. Here are seven ways Mazaheri Law Firm has given back this season, and we encourage fellow Oklahoma County Bar Association members to join us:

1. Donate Blood or Plasma. For patients and hospitals full and COVID-19 numbers at an all-time high, this is the most important time to give blood or donate plasma…especially if you are possessed of the coveted antibodies. More information on how to give blood or donate plasma can be found on the Oklahoma Blood Institute’s website: www.obi.org.

2. Adopt a Family. One way to give back this season is to help provide for those in need. Many of our neighbors have lost jobs or have businesses affected by the economic impact of the pandemic and simply cannot provide for their family. Use your child’s school or church to find a family that may be struggling and assist them in providing a Christmas for their family. Additionally, organizations like The Angel Tree help provide Christmas gifts for families in the metro by allowing you to “adopt a family” through the YWCA, or volunteer to help wrap and distribute gifts. More information can be found on the YWCA’s website: www.ywcaokc.org.

3. Donate Money or In-Kind Gifts to a Non-Profit Organization. Many charity organizations have suffered financial losses as donor and fundraising events have been cancelled due to the risk posed by COVID-19. Many people have suffered financially, physically, and mentally during 2020 as the effects of COVID-19 have changed everyday life in many ways. Charities who provide food, clothing, mental health resources, care for domestic violence victims, and shelters need us more than ever. Consider making a monetary donation to your favorite charity this year. Mazaheri Law Firm has chosen to donate to the YWCA of Oklahoma City this year, as they had to cancel their yearly “Women Who Care Share” luncheon and needed assistance with helping victims of domestic violence.

4. Consider a Gift That Gives Back. Oklahoma Lawyers for Children published a cookbook chock full of recipes from the fiercest advocates. Proceeds benefit this worthy non-profit organization. Mazaheri Law Firm and other community members have sponsored and contributed to this cookbook, which will be the perfect holiday gift for anyone wanting to see what OKC Lawyers can do in the kitchen, as opposed to the courtroom.

5. Donate your Time. One of our favorite ways to give this season is by volunteering at Dinner with Love. Dinner with Love is a local foundation that provides holiday dinners for families in Oklahoma City who may not be able to provide a traditional holiday meal for themselves. This year, there are two separate dates and three locations to pick up the dinners in Oklahoma City. Volunteers may pick up dinners and deliver the meals personally to a family. Although the meals are typically cooked and delivered warm, this year they will be freeze-dried with limited contact to the recipients to ensure safe COVID-19 protocols are followed. Those who are not able to volunteer are encouraged to donate: www.dinnerwithlove.org.

6. Pay it Forward. There are many ways you can pay it forward in kindness, benefiting people in your everyday life or people you hardly know. By mentoring a new lawyer through OCU Law’s mentorship program, showing a new attorney around the courthouse, donating to the OCBA YLD’s Harvest Food Drive, or simply checking on an attorney over-the-counter, lost income brings unique hardships, illness or the loss of a loved one is a major life changes, and exposing anyone to this virus is a constant fear. On top of it all, collectively employing risk mitigation techniques to slow the spread of the virus seems impossible during the holidays. It is during lean times, like these, that it becomes more important than ever to identify ways to give back to your community, in any way possible.

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OKLAHOMA FORWARD

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As Bryan Adams wrote, it was the Summer of ‘69. The Viet Nam War dominated the news and I had traumatically concluded the newest version of kindergarten. Arkansas is not widely noted for its education regimens, but in retrospect, I am amazed at the quality of education afforded to us. I grew up in one of the poorest counties in the state, per capita. The Ozark mountains of north central Arkansas are beautiful and as my dad would attest, “God’s Country”. My father had been a state forest ranger before enlisting in the US Army in 1969. He was 40-years old and much older than the average enlistee. But he had 14-years of national guard experience. They made him a sergeant, gave him a clipboard and put him on a plane to Viet Nam with 60 fresh, basic-training graduates. That was the Fall of ‘69. And I started First Grade.

My class was taught by Mrs. Ella Parks. She was a long-term, no nonsense type teacher with horn-rimmed glasses. She literally taught me to read, paint, sing, and play well with others. I was the biggest and tallest kid in first grade. Mrs. Parks ordered the janitors to bring me one of the old school desks stored behind the furnace heat boilers. The desk looked like it was around when McKinley was president. It was tall, all steel, and made for high schoolers. But it fit me just fine. Some of my classmates jeered my Big-and-Tall desk, but I didn’t mind. I knew Mrs. Parks was taking care of me. Her husband Lindsey had taught school for years with my grandfather. Education was very important in my family.

That Fall of 1969, a new girl moved to our school. I later learned they were migrant farmers. She had jet black hair, coal dark eyes and a hard look about her. Her name was Rose, and was mean; regularly fighting both boys and girls at recess. Her dresses were threadbare, and usually had several holes and tears upon the fabric. While my family was slightly above the poverty line, Rose’s was not. They were poor. Literally, dirt poor.

As Christmas approached, we drew names for the exchange of gifts. I was excited with avarice in my heart. I knew I that I might get lucky and have one of the ‘rich kids’ in my class draw my name. I had been to their birthday parties. I had seen their electronic toys, models, bikes and games! Oh Boy! My patient mother bought a gift for whichever classmate’s name I drew. As Christmas vacation broke upon us, the gifts under the class Christmas tree were distributed. I tore open the wrapper of my gift, hoping for a GI Joe or a military model!

My eyes blinked unbelievingly. There inside the newspaper wrapped box was a homemade, crudely painted limberjack doll. [Google this if you have not seen one]. My heart fell to the abyss with shame. I was horrified on multiple levels! First, I had gotten a doll! Second, it was apparent that the new girl, Rose had drawn my name. Third, I would (and did) get jeered by the wealthier kids for having a sucky gift. I was crushed. At recess, Rose told me her grandfather had made the doll. She showed me how to make the stick figure dance on the little square board. I hope I was polite. I hope I put on a brave face.

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For 40 years OAMIC has been Oklahoma lawyers’ local provider of professional liability insurance.
Gross receipts show signs of moderation in the state. Administration hopes that will bring on planes.

Located in LeFlore County, Pollyanna 8 is proposed coal mine expansion opposed that dozens of others in the Sooner State.

Johnson Bridgwater said in a statement the proposal to mine coal brings to the health and safety of the people of the region. Georges Colliers Inc. made the request over the health and safety of the people of the region. The cause of growth in the health and safety of the people of the region. In Dallas, it was natural in the health and safety of the people of the region.

Twelve counties (0.4 percent) experienced the largest growth. The most growth was fairly even across the state have filed at least 22,250 lawsuits against their former patients over unpaid medical bills.

Jeffrey is a consulting actuary, specializing of population growth. For Phoenix it was migration. Though there has been more growth in migration. New Mexico (-1.5 percent); Farmington, New Mexico (-1.5 percent); Farmington, New Mexico (-1.5 percent); Farmington, New Mexico (-1.5 percent); Farmington, New Mexico (-1.5 percent); Farmington, New Mexico (-1.5 percent); Farmington, New Mexico (-1.5 percent); Farmington, New Mexico (-1.5 percent); Farmington, New Mexico (-1.5 percent); Farmington, New Mexico (-1.5 percent);

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Many companies partner with an outsource vendor. According to John Jeffrey, our clients often have issues that could arise, instead of

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Bar Observer

Gary S. Chilton Completes Harvard Law School Mediating Disputes Course

Gary S. Chilton of Holladay & Chilton, PLLC successfully earned his Certificate of Completion from the Mediating Disputes Course at the Program on Negotiation at Harvard Law School. Chilton was one of 34 participants from around the world studying Harvard’s understanding-based model of mediation. The course, an intensive week-long practicum in mediation techniques, was taught by Robert H. Mnookin, Samuel Williston Professor of Law, Harvard Law School; Gary J. Friedman, Co-Founder, The Center of Understanding in Conflict; and Dana Curtis, Mediator and Mediation Trainer. Chilton, with 39 years’ experience in complex business litigation and general civil litigation, serves as a mediator and arbitrator in all types of civil litigation matters.

To schedule a mediation or arbitration, please contact either Gary via email at gehilton@holladaychilton.com or his legal assistant, May Villalobos at mvillalobos@holladaychilton.com, or by phone: (405) 236-2343. Holladay & Chilton’s offices are located at 204 N. Robinson, Suite 1550, Oklahoma City, OK, 73102, in the heart of downtown Oklahoma City.

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Doerner, Saunders, Daniel & Anderson, LLP announced today that it has been awarded recertification in Meritas, a global alliance of independent business law firms. Doerner joined Meritas in 2014 and, as a condition of its membership, is required to successfully complete recertification every three years. Meritas is the only law firm alliance with an established and comprehensive means of monitoring the quality of its member firms, a process that saves clients’ time validating law firm credentials and experience. Meritas membership is selective and by invitation only. Firms are regularly assessed and recertified for the breadth of their practice expertise, client satisfaction and high standards of cyber-security to keep legal information safe. Meritas’ extensive due diligence process ensures that only firms meeting the tenets of Meritas’ unique Quality Assurance Program are allowed to maintain membership. The measurement of the firm’s performance, based on input from clients, is reflected in a Satisfaction Index score, which is available online on the Meritas website.

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Old News

Vol 12., No. 4

December, 1979

The President’s Column

Between a Rock and a Hard Place

The United States Supreme Court had recently ruled that an indigent Defendant can sue his court-appointed lawyer for malpractice.

An attorney has little choice, if any, concerning his appointment to represent an indigent Defendant, even though he has neither practiced, nor studied any criminal law since his law school days. In this era of specialization, the major portion of the practicing bar do not engage in Criminal Defense work. Those who do must constantly read, research, and brief the ever changing statutes and amendments affecting Defendants’ rights, beginning with the arrest and continuing through trial and appeal. The specialized practitioner is placed in financial jeopardy, not of his own choosing, with little time or opportunity to properly counsel, advise and defend his court-appointed client. Your County Bar will have the CLE seminar on January 24, 1980, entitled “How to Handle a Federal Criminal Case.” This seminar will be particularly directed toward the attorney who does not engage in the day to day practice of Criminal Defense in federal courts. Inasmuch as each of you reading this article will some time, some place, some where be court-appointed, I urge your attendance at this January 24th seminar. You will be receiving a flyer and application form in the mail shortly.

When a need arises, your Oklahoma County Bar responds!

D.C. Thomas, President

CHANGE

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in the way that a current or future client is represented. In fact, you can pay it forward to anyone through small actions like a handwritten note, a Starbucks coffee, paying for a stranger’s groceries, giving a compliment to a friend, or a simple text to check on them can positively impact someone’s day. During this holiday season on an unplanned isolation, be the sunshine that brightens someone’s otherwise gloomy day.

7. Give Grace. A final way to give back this season is by giving grace. As lawyers, we are trained to be fighters and do what is necessary to win. Increasingly busy schedules may lead to a lack of patience and compassion, emotional reactions, and other “impeccations.” I would challenge many of you to actively remember that the entire world is going through an unprecedented time and that everyone is grappling with their own struggles. Treat clients, opposing counsel, staff, and courthouse employees with kindness and respect, as their bad days or harsh interactions may be due to unknown hardships. In 2020, give grace to those that are trying their best to keep it together, just as you are also.

That list of 10 people to whom you decide to show kindness could change your life and the lives of many. Remember that each act of kindness, each handwritten note you send, each text message checking on that person you know, each dollar you give, each time you volunteer, or each continuance to which you didn’t object may just be the thing that cures someone’s worst day of the year. During the last days of 2020, social distancing should not mean we stop thinking of each other. Let’s focus on spreading kindness and usher that positive energy into a brave new year.

FROM THE PRESIDENT

continued from page 2

tuning spike in positive COVID-19 cases, 2020 is coming to an end with a more than a glimmer of hope.

Multiple COVID-19 vaccines are expected to be available soon. Moderna Inc.’s vaccine was reported as 94.1% effective in its Phase 3 clinical trials. Based upon reports, it appears safe as well, with only headaches and other mild reactions in those who have received the vaccine. Apparently, this vaccine was totally effective against severe cases of COVID-19. The reported advantage of the Moderna vaccine is that it can survive a period of thirty (30) days at standard refrigerator temperatures rather than the extreme cold temperatures the Pfizer Inc/BioNTech SE’s vaccine requires. Nonetheless, Pfizer Inc./BioNTech SE’s vaccine boost a 95% effective rate. Also, AstraZeneca PLC has developed a vaccine that is apparently not as effective, but still maintains a high percentage rate of successfully treated COVID-19 patients. Additionally, there are three (3) approved therapies for COVID-

19: Gilead Science Inc.’s Remdesivir, Eli Lilly and Company’s antibody therapy and Regeneron Pharmaceuticals Inc.’s antibody cocktail.

Our scientists have performed remarkably in developing apparent extraordinarily safe vaccines against COVID-19 at such a rapid, unprecedented pace. Technology and artificial intelligence have undoubtedly assisted in this acceleration to finding a cure. However, we should never underestimate the human factor involved with such incredible medical accomplishments. May the very worst circumstances always bring about the very best in us. Those folks must be commended for the hard work and the constant reminder that each act of kindness, each handwritten note you send, each text message checking on that person you know, each dollar you give, each time you volunteer, or each continuance to which you didn’t object may just be the thing that cures someone’s worst day of the year.

While I hope the year 2021 will bring with it a complete and total return to all of the activities in every aspect of your life that make us all feel “normal,” I know our experiences in 2020 have also forever changed us; I believe for the better. Although we still have a lot of work to do, we shall continue to weather this storm and come out stronger and more resilient in 2021.

Happy Holidays; may your New Year’s toasts be full of optimism for 2021!
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Recommended Reading—Negotiation

By: Kyle Prince

**Getting More** – Stuart Diamond: Authored by one of the world’s leading experts on negotiation, Getting More provides a fresh perspective on the often misplaced strategy of “getting to yes” in negotiations. Rather, Getting More is about finding the deeper emotional wants & needs which drive your counterpart and incorporating them to obtain the best result for you. For a better, more practical, example, Getting More provides as follows:

“Regina was 5. Her room was dirty. Always. Her dad, Dennis, was at wits end. Finally, he thought about Regina’s perceptions. ‘I want to be a princess,’ she often said. So they talked about princesses. Dad gazed over the room strewn with toys. Then dad said, ‘Does this look like a princess’s room?’ Regina looked at the mess and thought about it. She cleaned up her room. And kept it clean.”

Even if you only use the wisdom in Getting More to manipulate your loved ones into not only performing household chores, but wanting to perform household chores, you must remember: with great power comes great responsibility.

**Never Split the Difference** – Chris Voss with Tahl Raz: In contrast to the academic approach of Getting More, Never Split the Difference provides a more direct look at the entire spectrum of negotiation tactics. Despite being written by a former hostage negotiator for the FBI, this strategies in this book aren’t exclusive only for your next high-stakes mediation or terrorist negotiation, but are widely applicable to all walks of life whether it be buying a house, obtaining a raise, or dealing with personal relationships.

**Bargaining for Advantage** – G. Richard Shell: “As director of the world-renowned Wharton Executive Negotiation Workshop, Professor G. Richard Shell has taught thousands of business leaders, lawyers, administrators, and other professionals how to survive and thrive in the sometimes rough-and-tumble world of negotiation. His systematic, step-by-step approach comes to life in this internationally acclaimed book- now in its third edition and available on more than ten languages. Shell combines lively stories about world-class negotiators from J. P. Morgan to Mahatma Gandhi with proven bargaining advice based on the latest negotiation research.”

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