The Domestic Violence Victim’s Assistance Program: A Look at Protective Orders and the Role of Advocates

By: Laura McDonald

“You need to get a VPO” is one of the most common pieces of advice offered to victims of Domestic Violence from social service professionals, law enforcement, and other systems victims interact with. It sounds simply enough. On its face, the process is fairly straight forward. However, the reality for victims is much more complicated than that. Access to Advocacy and other community resources can serve as a lifeline to victims trying to navigate the complicated legal system while walking through personal trauma.

Domestic Violence, at its core, is about the power and control abusers exert over their victim. Power and control relies heavily on the abusers use of Coercive Control. Coercive Control can best be described as a list of implicit or explicit rules, made by the abuser to govern the behavior of their victim. Those rules are accompanied by an implicit or explicit threat of consequence for breaking them, and a demonstrated ability of the abuser to carry out those threats. Victims live bound to these rules and have to learn to manage their safety through compliance. This dynamic permeates every aspect of the victim’s life and interaction with the abuser and impacts the victim’s decision-making process as they untangle from the relationship with the abuser, navigate the separation of assets, child custody, or business partnerships. Physical and sexual violence are what make

By: Cami Ruff, YLD Chair Elect, and Maggie Logan, Harvest Drive Co-Chair 2020

Each year the Oklahoma County Bar Association’s Young Lawyers Division pledges to raise $20,000 to benefit the Regional Food Bank of Oklahoma. This year, more than ever, we need your help. For many in our state, Covid-19 has had devastating, long-term effects. Oklahomans have lost their jobs, been evicted from their homes, and struggled to feed their families. On top of these issues, Oklahoma is one of the hungriest states in the nation. One-in-six Oklahomans struggles with hunger, and one-in-four children in Oklahoma struggle with hunger daily. This year has brought change and challenge to almost everyone we know. An unprecedented pandemic revolutionized how many of us conduct business, socialize with others and live our day-to-day lives.

By now, you or your firm have likely been contacted by member of the OCBA YLD Board of Directors seeking tax-deductible donations to the Harvest Food Drive. For nearly twenty-five years, the YLD’s partnership with the Regional Food Bank has been made possible by generous donations from local attorneys, businesses, and law firms. If you are able to do so, please consider a donation to aid the YLD in fighting hunger in Oklahoma. The YLD is honored to work with the Regional Food Bank and represent the Oklahoma County Bar Association with good works in our community.

If you would like to donate to the YLD’s Harvest Food Drive, please contact the Oklahoma County Bar Association at (405) 236-8421.

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To learn more about the Oklahoma Regional Food Bank and volunteering opportunities, please visit their website at www.regionalfoodbank.org.

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It’s Harvest Time—Have You Heard From a Young Lawyer?

By: Laura McDonald

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OSBA President Don Andrews presents Past President Michael Brewer with his Presidential Award. More photos on page 6.
Lessons learned from the Supreme Court’s odd couple

By: President Don Andrews

We live in an extremely politically-charged, hostile environment these days. There is much discord and divisiveness that alienate all, no matter your view. Personal and abusive insults are routinely hurled upon opponents, and such invective conduct is commonplace on all issues without exception. Are we headed down the road to ruin, or is there hope? The recent passing of Justice Ruth Bader Ginsburg reminded me of a time in the not-too-distant past when you could have a political disagreement, and yet, still treat your supposed foe with respect and dignity. One example was the U.S. Supreme Court’s most famous “odd couple” friendship.

Justice Antonin Scalia and Justice Ruth Bader Ginsburg had a relationship that stood as an example of warmth and professionalism across traditional divides. The two Justices, friends since the 1980s, had some commonality. They both came from outer-borough New York City and both the love of opera. Before their respective Supreme Court appointments, they were contemporaries as law professors and served together on the United States Court of Appeals for the D.C. Circuit. However, the politically polar opposites had vastly different views on the Constitution and the role of the court.

Ginsburg spent her life fighting for gender equality. Her first major written opinion was U.S. v. Virginia, where she ruled that the Virginia Military Institute must allow qualified women to attend — Scalia wrote the lone dissent scolding the majority as “smug,” “illiberal,” “misleading” and engaging in “Supreme Court peek-a-boo” (he often used adjectives in his writing). Ginsburg then accused Scalia of seeing “fire where there is no flame.” In fact, according to the Oklahoma Judicial Conference SCOTUS guru, Kieran Maye, since 2007, Justices Ginsburg and Scalia stunningly disagreed 64.1% of the time, the most of any two justices during the same time period. They disagreed nearly two-thirds (2/3) of the time. In cases decided by a 5-4 vote, they almost never agreed unless the case dealt with search and seizure issues (Scalia was very protective of the Fourth Amendment).

Against the backdrop of these odds, the pair had a warm, decades-long friendship. Scalia and Ginsburg were souvenir shopping buddies when they traveled together. In 1994, while on a trip to India, they famously rode an elephant, with Scalia sitting up front. Apparently, the decision on the seating order was (jokingly) based upon distribution of weight, and not a chauvinistic move, as some had maintained. Justice Ginsburg kept a photo-graph depicting her scene on display in her chambers for many years. The justices enjoyed each other’s company so much, they began a tradition in which they rang in every new year together with their spouses.

“If you can’t disagree ardently with your colleagues about some issues of law and yet personally still be friends, get another job, for Pete’s sake,” is how Scalia once described their lifetime appointments. “As annoyed as you might be about his zinging dissent, he’s so utterly charming, so amusing, so sometimes outrageous, you can’t help but say, ‘I’m glad that he’s my friend or he’s my colleague,’” Ginsburg said.

It is difficult to think of the civil, uncomplicated nature of Ginsburg and Scalia’s own appointments to the bench. They were supported with a kind of bipartisan enthusiasm that’s unthinkable in today’s gladiatorial politics.

Reagan-appointee Scalia was confirmed by a vote of 98-0, which included Al Gore, John Kerry and Joe Biden, all of whom have gone on to become the Democratic Party’s nominee for president. Clinton-appointee Ginsburg was confirmed in 1993 by a vote of 96-3. Among those who voted for Ginsburg: Bob Dole, who would be the Republican nominee for president three years later, Strom Thurmond, who once ran for president, and Senator Mitch McConnell. Is there any chance that Trump appointee, Judge Amy Coney Barrett, will receive the same kind of bipartisan support? I’ll let you answer that yourself.

I am very fortunate to have some current and former colleagues (that are still my friends) who may not share my political views. We know how to listen to one another, ask courteous and respectful questions and engage in thoughtful, and often times, lively discussions where both sides still find common ground in a shared humanity and quest for a better world.

When was the last time you had a productive — even civil — conversation with someone whose view you cannot stand, much less understand? Have you talked to anyone in the past six months — or two years, for that matter — who has felt the sting of racial, gender or ethnic injustice? Do you think screaming into a social media post is helping your cause or anyone else’s? Some will say the time for niceties is past, that we must get rude and crude to push through an agenda.

Scalia, who viewed the Constitution as static and unchanging, and Ginsburg, who saw it as a living and therefore evolving document, no doubt had some pretty intense debates. It would have been interesting to hear how they privately argued consequential issues with passion, but with respect, courtesy, humor, and a desire to come away with a relationship still intact.

At a time when the world seems divided by bitter — and sometimes violent — partisan politics, the story of their unlikely friendship is a symbol of political bridge-building and old-school decency. Which is why, more than ever, it is time to take a step back and learn from the relationship of these two greatly admired Americans.

Oklahoma Lawyers for Children & Friends Cookbook Fundraiser

Oklahoma Lawyers for Children has created a cookbook that will be available during the holidays. The cookbook will be full of recipes from our staff, Board of Directors, court partners, local restaurants and more! Pre-orders for The OLFC & Friends Cookbook are available now until November 15th, 2020 for $40.

Pre-orders can be purchased using this QR code, or on our website at OKEOFC.org/cookbook.

From the President

Oklahoma Lawyers for Children is the only local nonprofit that provides high-quality legal representation for kids in the foster care system. Without the support we receive from our community our efforts would not be possible.
By ROSECOS POUND

Dear Roscoe: It is true that a court in these United States once ruled that an author wri
gled out of a copyright infringement case by arguing that he merely wrote down what was
gdicted by the ghost of the actual author by using a OUIJA Board! L.J. (dearly departed
d from Oklahoma County and now haunting the Pittsburg County Courthouse).

Dear L.J.: Nice sign-off. It is, of course, the spooky season. However, if I were Snopes or Politi-
Fact I’d rate this one “mixed” or “half-true.” Come along with me to 1917. Journalist Emily Grant Hutchings pens a book called Ian Herbert, supposedly dictated by no less a literary light than Mark Twain. Critics at the time panned the tome, but rec-
gnized it to be definitely in Mark Twain’s style. Although Twain himself shufled off this mortal coil some ten years earlier, his estate and his publisher sued to stop publi-
cation and distribution. The case raised some interesting questions: could a dead author write a “new” book?; does death negate
the publisher’s trademark interest in the
title?; if Mark Twain did in fact write it, the estate
would be entitled to it. The suit dragged on for three years. In the end, all
were dismally unhappy.

The big issues focused on the claim that if Mark Twain did in fact write it, the estate
owned it, and Harper and Brothers had the
exclusive right to publish it. Ironically, the
more forcefully the defendants claimed the
otherworldly origin of the work, the more
strengthened the plaintiffs’ case. However, exercising Mr. Twain did not present a via-
blo option. The cover art clearly depicted
Mr. Twain. The defense depicted the Ouija ses-

sions comprise, perhaps, the most interesting
aspect of the most interesting suit. If
by no less a literary light than Mark Twain.

Almost as quickly as it began, the “satanic
panic” largely burned itself out by the 1990s. By that time, musical tastes and trends had
changed, the tabloid press moved on to
celebrity scandals, and some of the Evangelicals, who incited the panic, now
reportedly fueled the scandals the tabloid press
employed techniques now generally viewed as
both inappropriate and ineffectual includ-
ing coercion and leading questions. While
today experts in both criminal justice and psychology have concluded the kids just
knew what they wanted to hear, back then courts and counselors took
the stories at face value regardless of how
fantastic and improbable the allegations
might seem. For example, at the McMartin
School, some children testified they had
seen Mr. Twain. Instead of taking the kids
to distant locations in the course of a school day, and,
of course, suffered sexual abuse.

The prosecution of the McMartin faculty
dragged on for three years. In the end, all
defendants obtained “not guilty” verdicts or
mistrails. Still, the publicity generated by the
prosecution quickly spawned similar cases
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COVID-19 Goes to Washington: The Potential Impact of the Coronavirus on the Supreme Court Confirmation Process

By: Benjamin Grubb

The “October Surprise” during the 2020 election cycle may be no surprise at all in a year defined by a global pandemic. After the passing of Ruth Bader Ginsburg on September 18, 2020, President Trump announced his nomination of Amy Coney Barrett, a Judge on the Seventh Circuit Court of Appeals, to assume Ginsburg’s vacant seat on our nation’s highest Court eight days later. The nomination set the stage for a fast-track confirmation—to occur prior to the November 3, 2020 general election—the tightest timeline since the confirmation of Ginsburg herself in 1993.1 The Coronavirus has since reached the President of the United States, several White House officials, and now the Senate chamber. As of October 3, 2020, three Republican senators were confirmed positive for COVID-19: Senator Ron Johnson (R-Wisconsin); Senator Mike Lee (R-Utah); and Senator Thom Tillis (R-North Carolina).2 When the Senate reconvened to begin confirmation hearings for Judge Amy Coney-Barrett on October 12, 2020, Lee appeared in the Senate Chamber—without a mask—to participate in the process.3 The stage now set, we consider the possibilities.

The United States Senate Committee on the Judiciary has twenty-two members, consisting of twelve Republicans and ten Democrats—virtually cementing quorum for the committee to meet and advance the nomination to the Senate floor.4 Senator Lee and Senator Tillis are Republican members of the Judiciary Committee; their votes are needed to both advance Barrett’s nomination from committee and to confirm her on the Senate floor. Senate Judiciary Committee rules allow members to vote by proxy.5 Lee is present (and COVID-19 positive). Tillis could cast a “yea” vote by calling into session or sending his vote in writing. If neither Johnson nor Tillis have recovered by the time the Senate returns on October 19, 2020, the committee could be theoretically deadlocked with 10 Democrats and 10 Republicans. Barring further positive testing of Republican Senators or other extraordinary unseen circumstances, Judge Barrett’s nomination will likely move to the Senate floor for a vote. There, Democrats could employ a number of strategies in an attempt to stall the confirmation vote until after the November 3 election. The possibility of multiple Senators (on both sides of the aisle) being afflicted by the Coronavirus could prevent Senators (like Senator Republicans like Senators Johnson, Tillis, and Lee) from being on the floor, meaning Democrats could feasibly succeed with a motion to move forward with “legislative business” instead of “executive business” of the Supreme Court nomination.

Alternatively, Senate Democrats could invoke Rule XIV concerning Bills, Joint Resolutions, Resolutions, or Preambles Thereeto.6 “Senate Rule XIV, paragraph 1, states: ‘Every bill and joint resolution introduced on leave, and every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committee, shall, if objection be made to further proceeding thereon, be placed on the Calendar.’” Thus, any Senator can have any legislative measure placed on the calendar in two legislative days under Rule XIV. Introduction of multiple bills by Democratic Senators pursuant to Rule XIV could necessitate an almost endless series of votes on motions, running the clock out on Barrett’s nomination.

Denial of quorum is another possibility. Two of the Senate’s 53 Republicans, Susan Collins of Maine and Lisa Murkowski of Alaska, have already indicated their opposition to taking action before Election Day. Three more (Johnson, Lee, and Tillis) have COVID-19.51 Senators need to be present for a quorum. The Majority Leader has the power to dispatch the Senate’s Sergeant at Arms to track down absent senators, arrest them, and physically force them onto the floor to have a quorum while Barrett has not happened since 1988, when Senator Robert Packwood (R-Oregon) was carried to the Senate floor by then-Sergeant at Arms Henry Guigni.8

The highest likelihood of COVID-19 affecting the confirmation process is with the confirmation vote itself. The Senate requires a presence from a majority on the Judiciary Committee when it comes time to vote to send the Barrett nomination to the Senate floor for confirmation. Presuming all Democratic Senators on the Committee vote against the nomination, all 12 Republican Senators on the panel would need to be present. However, in theory, the Senate Majority Leader could have the full Senate vote to force the committee to discharge the nomination to the floor for final voting. In contrast to Committee, Senate rules do not allow for proxy voting on confirmation.

The Senate vote on Barrett’s confirmation is expected the week of October 26, 2020—a week before the election. While it’s no secret Senate Republicans “have the votes” to confirm the nominee, with three Republican senators now infected with COVID-19 and others in quarantine, the margin could be sufficiently thin to allow Vice President Pence to cast a tie-breaking vote. Then, afflicted Senators may also simply be permitted to vote from the galleries overlooking the Senate floor. There’s a long tradition of ill senators “being wheeled in to cast critical votes,” Sen. Tom Cotton, R-Ark., recently told Fox News.9 As November 3 looms, there are many “malls in the air.” The American public will watch with interest as this decidedly extraordinary process unfolds.

Endnotes

Additional Works Consulted:

Note: The white house is not listed among the references.
2020 State Questions

By: Miles Pringle

Voting is already underway and Oklahomans have two state questions to consider this November. These are actually the second and third state questions in 2020. You may recall State Question 802 narrowly passed 50.49% to 49.51% on June 30, 2020. SQ 802 expanded Medicaid coverage to Oklahomans with income that is 133% of the federal poverty level or below (e.g. $16,612 for an individual and $34,248 for a family of four).

The first question you’ll see on your November ballot is State Question 805. It relates to criminal justice reform and seeks to amend the Oklahoma Constitution to prohibit the use of a former felony conviction to increase the statutorily allowable base range of punishment for a subsequent felony. Currently, after a person is convicted of a felony, his or her sentence may be “enhanced” based on one or more former felony convictions.

There seems to be bipartisan support for the measure. For example, former Republican Congressman J.C. Watts states “our incarceration crisis is largely driven by the use of sentence penalties and extreme prison sentences... Compared to other states, people in Oklahoma spend nearly 70% longer in prison for property crimes and 79% longer for drug crimes.” Former Democratic Governor Brad Henry also supports the measure stating: “State Question 805 is a moderate, bipartisan approach to ending disproportionate sentences, restoring families and saving taxpayers millions. This reform would end the use of sentence extension penalties for repeat nonviolent crimes. Prosecutors could still seek the maximum punishment set by legislators, but they won’t be able to use past mistakes against someone to add years past that maximum.”

Opponents of State Question 805 tend to be those involved in law enforcement. For example, Angela Marsee, president of the Oklahoma District Attorneys Association, states that “SQ 805 is a terribly dangerous proposition that is marketed, using terms like ‘non-violent crimes’ without explaining which crimes are included. Habitual offenders who will benefit from SQ 805 include those committing serious crimes such as domestic violence (even if against a pregnant woman, by strangulation, or in the presence of a child); online predators who use a computer to solicit sex from a minor; animal cruelty; identity thieves; home burglars; repeat drunk drivers; vulnerable adult abusers; and many others.” To put SQ 805 in context, despite all of the criminal justice reform measures taken in the last few years, including Governor Stitt issuing more than 1,000 pardons, commutations and paroles in his first year – Oklahoma imprisons its citizens at the 2nd highest rate in the county. Part of the issue, which Rep. Watt identified in his remarks, is that Oklahoma’s sentences are longer than most other states. While opponents take the position that SQ 805 is soft-on-crime, the conservative think tank Oklahoma Council of Public Affairs points out that SQ 805:

Endnotes

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Board of Directors Celebrates A New Year

ABOVE: OCBA President Don Andrews thanks former Past President Sheila Stinson for her years of service to the OCBA.

RIGHT: Incoming Board Members, Judge Susan Stallings, Amy Pierce, Katherine Mazaheri-Franze and Judge Heather Coyle were welcomed by OCBA President Don Andrews.

ADVOCATES
continued from page 1

the headlines, but the reality is these two elements of abuse rarely constitute the majority of a victim's experience. Power and control are just two tactics from an arsenal of tools used by abusers to maintain that power and control in their relationships. Rarely does the physical violence present itself early in an abusive relationship. Instead, a careful web of isolation, control, and the destruction of the victim's sense of worth is woven by abusers. The goal of an abuser is to never let the level of violence exceed the victim's level of investment in the relationship. It's a balancing act. By the time a victim reaches the point of needing a protective order, they are often in high lethality situations, alienated from support of friends and family, and have access to limited resources. Victims have been conditioned to think that no one will believe them, the abuser knows how to beat the system, that they are all alone in their fight for safety, or all of the above.

Trained Domestic Violence Advocates strive to disrupt that narrative by believing the victim's disclosed experiences, empowering the victim to make informed decisions as they navigate the court system, and providing wrap-around support for victims. Advocates help victims understand their rights, gain insight about relief requested of the court, help organize their thoughts while drafting personal narratives, and create safety plans around identified risks. Domestic Violence thrives in darkness where power and control are most effective. Any attempt the victim makes to shed light on and expose their abuser creates a more dangerous and lethal situation. They reach out for help at great personal risk. Safety planning around those risks is a vital part of the advocacy role. It is vitally important for those assisting a victim of Domestic Violence to remember that the victim is the expert when it comes to identifying their safety risk. The victim knows the abuser better than anyone else, knows the rules, and knows the consequences for breaking them. Trusting the victim is key to navigating those safety concerns.

In addition to processing traumatic experiences, managing safety and, in some cases, healing from physical injury, victims are required to navigate a court system that may be entirely foreign. Trained Domestic Violence Advocates step in to guide victims through the hearing process, answer questions, alleviate fear of the unknown, and provide emotional support and on-scene safety planning. With so much on the line for many victims, having the support of Advocates gives them the courage to take those brave steps towards freedom from violence while operating from a more informed perspective of both the risks and possible rewards.

The Oklahoma Domestic Violence Fatality Review Board indicates that 98% of Domestic Violence Homicide Victims never interacted with a victim's services agency. Simply put, advocacy saves lives. With this in mind, trained Advocates also look for ways to educate the public about available resources. Court Advocates, primarily stationed in the Victim Protective Order docket, watch for victims who may not be connected to those lifesaving services. Trained Advocates provide packets of information about community resources such as YWCA OKC, Palomar, Legal Aid, and information about the cycle of violence to as many petitioners as possible.

Domestic Violence can only rise to the level that the community is willing to accept. Nationally, one in four women and one in seven men will experience Domestic Violence in their lifetime. The CDC ranks Oklahoma as 1st in the nation for lifetime prevalence of violence against women. While it disproportionately impacts minority and marginalized communities, Domestic Violence knows no boundaries. It is in our neighborhoods, places of worship, schools, and places of business. We have work to do; and we must do it together.

If you or someone you know is experiencing Domestic Violence or Sexual Assault, please reach out to the 24-hour Oklahoma State Safe Line at 1-800-522-7233.
If you, like me, are something of a history nut, you need to read *A Game of Birds and Wolves*, by Simon Parkin (Little, Brown & Co., 278 pages). It’s sort of a backstory of the Battle of the Atlantic, in World War II.

This non-fiction history starts in 1940, in England. An 11-year-old English boy is on a ship being evacuated from England to Canada to escape the German bombing of England in the Battle of Britain. The ship he is on, an ocean liner converted for war use, is torpedoed and sunk off the coast of Ireland. The book tells the story of the German submarine crews which torpedoed his ship and of the Royal Navy escort ships which fought the German submarines throughout the war.

The emphasis of the book is on the Wrens (which stands for Women’s Royal Naval Service) and became the way in which many young, British women served their country during the war. The service had originated, but had not had much success, in World War I and was reactivated in WWII.

The Wrens (the “birds” of the title) came to be central to the ultimate success of the British (and later, American) victory in the Battle of the Atlantic. The “Wolves” in the title refers to the tactic used by the submarines to sink Britain off from its supply of food and fuel, thus forcing it out of the war.

At first, the Germans were successful. The submarines were sinking ships faster than Britain and its former colonies could build them. It appeared Britain would have to make peace with Hitler and the Germans.

The Royal Navy was stretched to its limits trying to keep up with the Atlantic War, along with its other WWII commitments. It was for this reason that the Wrens came back into existence and Commander Roberts was recalled from retirement.

The British Admiralty put Roberts in charge of a program to develop tactics to defeat the submarine wolfpack attacks and train the Royal Navy escort crews to use these tactics to sink submarines. The Navy staffed Commander Roberts’ program almost entirely with Wrens.

The tactics they developed proved to be successful beyond their expectations. He discovered that the ships escorting the convoys, upon a ship being torpedoed, would go to the outer limits of the convoy where the escort vessels, destroyers and the smaller corvettes and even smaller trawlers, would use underwater electronic equipment to find and depth charge the submarines. They assumed the submarines were attacking from the outside of the convoy to avoid detection and attack by the escorts.

This proved not to be the case. Commander Roberts, at least partly on the basis of what British submarine officers told him, concluded that submarines were more likely to move into the middle of the convoy and fire torpedoes and then submerge and hide until the convoy passed over them.

In the change in tactics Roberts recommended, the escort ships would head into the convoy, which was spread out over several miles, and search for the hiding subs there, dropping depth charges when they found one of the subs. The depth charges were something like large trash cans of metal filled with explosives set to explode at preset depths and open the submarines up to the sea water, causing them to either sink or come to the surface where they were likely to be scuttled and sunk to avoid capture by the British.

The officers of the escort ships were skeptical of the tactics developed by Commander Roberts and his Wrens. The training was developed in a large classroom laid out to allow them to show a large convoy and the attacking submarines. The Wrens would move model ships around to show the positions of the cargo ships, the escorts and the subs.

The opposing forces would be directed by Wrens behind curtains somewhat approximating the inability of the crews on the bridges of the escort vehicles to see around them. The big test of the training program came when the commander of the escort forces used his chosen tactics against Wrens using the new tactics. There was great chagrin when the commander of the escort forces realized, at the end of the game, that he had been defeated by some women barely out of their teens! But he was persuaded and the tactics changed.

And, they worked. At the end of the really big game, the War itself, 40,000 Germans went to sea in submarines; 10,000 of them survived. 30,000 of them were killed or a few captured. The British and Americans, after the attack on Pearl Harbor brought America into the war, came to be able to produce ships faster than the subs could kill them. The Battle of the Atlantic and the War was won, in some large part because of the efforts of the young women and an old, invalided naval officer.

I recently saw a piece of film on the internet of a Scotswoman, in her nineties who had been a Wren in WWII. She had been eligible for, but had not received, several medals. The Royal Navy sent a Captain and a piper to Scotland to present the old lady her medal. After the presentation of the medal, the Captain and the piper marched off through her village while the piper played “Scotland the Brave” and the villagers cheered. (You can watch this film at https://www.youtube.com/watch?v=rebeltitem1) I appreciated that film much more because of having read *A Game of Birds and Wolves*. 

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An Assassin and a Boxer Walk Into A Bar...

By: Jeffery W Massey

Well, it was actually more like punching, kicking and biting, but I’m getting ahead of the story. The end of the War Between The States (Civil War) did not end the resentment and ill feelings which existed between former friends, families and neighbors. The Guerrilla warfare in the Ozarks was scorched earth, literally and figuratively. The burning of homes, barns, stealing or slaughtering livestock, and “outrages” upon women (the kinder Victorian word) had forced abject poverty upon a huge segment of the civilian population (pro-Southern or pro-Union) of southwest Missouri and northern Arkansas. Out of this chaos spewed the legend of Jesse James, former Confederate cavalryman turned outlaw. The death of the unarmed Jesse on April 3, 1882, in St. Joseph, Missouri, at the hands of little Bob Ford provides the genesis of today’s article. You see, Bob shot the unsuspecting Jesse in the back of the head while he was standing on a chair adjusting a picture on the wall. To ensure success, Bob Ford was backed up by his brother, Charlie Ford, who also had Jesse covered with his six shot revolver, if needed.

After assassinating Jesse, the Ford brothers were caught, tried and convicted and sentenced to be hanged. And then the post-war politics started. It was revealed that the Fords had an agreement with the Governor for a pardon—and payment of $10,000. Pro-Union Governor Thomas T. Crittenden did pardon both Fords, citing their public contribution in gunning down Jesse. Governor Crittenden had been a colonel in the 7th Missouri State Militia Cavalry (Union Army). Crittenden and his unit had participated in the horrific burnings, lynchings and lootings of many Confederate/possible Confederate areas in the Ozarks. Evidently, the Fords were denied their application for the $10,000 reward money for killing Jesse.

After the assassination, Bob and Charlie attempted to cash in on their notoriety by touring the country in a theater troupe called The Outlaws of Missouri. But the public turned on the two avarice-bound siblings. Stung by four years of civil war, the public sentiment of an unfair fight doomed the notorious thespians. The Confederate Jesse James was now becoming a martyr, and men throughout the country wanted to see justice bestowed upon the Ford brothers. Fearing for his life, Bob fled Missouri and spent two years with P.T. Barnum’s freak shows. Brother Charlie fared little better. Charlie Ford died by suicide on May 6, 1884. His terminal tuberculosis, debilitating morphine addiction and deep depression became his fatal undoing.

Bob bounced from town to town in the west. In 1891, he had settled in the wild west town of Creede, Colorado. Creede was a silver ore mining town where anything and anyone could be bought for a price. Liquor was amber gold and the miners were willing to pay handsomely for both drink and companionship. Ford purchased a lot on the main street in Creede and constructed a two-story, rough, board building. He and his wife/mistress Nellie Waterston (a/k/a Dottie) lived upstairs and operated the Creede Exchange on the lower floor. Waterston had been a co-star in the ill-fated Outlaws of Missouri production. Ford ran the Faro tables and Nellie ran the girls. They quickly became favorites among Creede’s lawless element. After the Exchange was forced to close when a school was constructed next door, Ford remained in Creede and opened a new dance hall in early 1892. On June 6 of the same year, a fire broke out and quickly consumed the wooden buildings of downtown Creede. Amongst the losses was the Fords’ Exchange. But the entrepreneur Ford was not going to be denied. He located, purchased and erected a large bivouac-looking tent. Ford divided it into a combination dance hall and bar with his and Nellie’s living quarters in the rear. Although very primitive, the place was the only dance hall in Creede at the time. Ford was ever-mindful of those that sought his life for killing Jesse. That paranoia was not unwarranted. The local town Marshal in Creede was Edward “Red” Kelly (or O’Kelly). Kelly had grown up in Missouri and was either a life-long friend of the James family or married into the Younger family. Either version puts him on the other side of Jesse’s assassin. Red was longtime friends with numerous Confederate families, while his own father (the doctor) had served as a surgeon in the marauding Union Cavalry in the Ozarks. A conflicted, hard life was sure to follow Red, and he was always willing to make it harder. The tall, lanky, ill-tempered Red had a set-to with Bob Ford in early 1892, when Red raided Bob’s saloon and slightly wounded Bob in the scuffle. Bob left town for a few weeks, but returned in May of that year.

On June 8, 1892, a day after Ford’s dance hall opened, Constable Kelly stood at the tent flap getting the layout and noting Ford behind the wooden bar. Kelly was making time with one of the “ladies” of the dancehall as he cased the hall. Nellie Waterston was near the bar conversing with Charlie. At approximately 3:40 PM, an accomplice of Kelly’s rode down the street on horseback. As he came parallel to Kelly, he tossed Kelly an over-loaded shotgun. Kelly ducked through the tent with the shotgun and quickstepping toward Ford. Nellie saw Kelly and warned Bob of his approach. Ford was standing at the bar and was busy raising money to bury Nellie Russell, a dance hall girl who had died of a morphine overdose. Ford started for the back of the room to get his guns when Nellie first warned him, but he did not get far. Kelly yelled, “hello, Bob!” and pulled both triggers on the old short-guns. Ford had instinctively turned when Kelly had called his name. Both barrels discharged into Ford’s head/throat at point-blank range and practically decapitated him. Kelly was arrested for the murder and was sentenced on July 12, 1892 to 99 years in the state prison at Carson City, Colorado.

. . . to be concluded. (Part 2 will be in the November edition of the Briefcase)
Allen K. Harris Jr.

By: Travis Pickens

Allen K. Harris, Jr. was born in Amarillo and died unexpectedly around September 4, 2020, at his home in Oklahoma City, Oklahoma. A graduate of Bishop McGuinness Catholic High School, he attended George Washington University (1965), and law school at the University of Oklahoma and Oklahoma City University (1970).

Allen’s legal career started as a law clerk to Hon. Fred Daugherty, Judge of the United States District Court for the Western District of Oklahoma. From there he had a long career working within governmental agencies and holding several leadership positions. He also spent time in private practice and as an owner in the nursing home industry.

Old News

OCBA News - October 1973, Vol. 5 No. 8

Complaints About Fees A Risk Of The Profession?

By: Shanda McKenney

Quarantine has apparently not dampened the desire of our local community to maintain membership in the State’s preeminent County Bar Association. Although the OCBA braced itself for a decline in membership due to COVID-19-related issues, it is a pleasure to report that not only have our membership numbers remained strong, but we have actually experienced a small amount of growth, when compared to this time last year. We have the greatest appreciation for all of our renewing members and send a giant THANK YOU to all of the new members who joined our ranks for the first time, or maybe the first time in a long time.

This continued drive for increased membership serves an important function in the Oklahoma City Metropolitan area. Membership fees are the basic financial support we need to keep providing essential services to the community, including funding the Food Bank through the YLD’s Annual Harvest Food Drive, supporting the negotiation of fee disagreements between members and their clients, providing staff support for the Oklahoma County Bar Foundation, and sponsoring the courthouse proximity cards. If you, or someone you know, has ever taken advantage of any of these programs, you have the OCBA to thank.

Your membership fees also support the facilitation of countless volunteer projects, including reading to elementary school children; collecting gloves, hats, and donations for those who need them; providing free or very inexpensive CLE programs, hosting events where members can grow their personal and professional networks while at the same time expanding their own knowledge, which benefits the entire public who consumes legal services.

For those of you who live and/or work in the Oklahoma County area who are NOT members of the OCBA, I challenge you to think about why you’ve made that conscious decision. Our membership fees are some of the lowest of any voluntary bar association in the region, and the only time investment required is that which you choose to make.

As with any organization, what you get out of being a member depends largely upon what you invest in your membership. Those who have renewed their memberships understand this quid pro quo and our new members will soon see the value, as well.

As an organization, we strive to be the very best we can be. As our new members continue to join us, we will continue to grow and develop, providing the very best service we can for you, our valued members. Thank you.
Seven 2020 Law School Graduates Join McAfee & Taft

McAfee & Taft has announced the addition of Jacob A. Black, Robert J. Clougherty, Evan J. Crumpley, Thomas P. Goresen, Courtney D. Keeing, Haley J. Maynard, and Elke C. Meeüs as new associates.

Jacob A. Black is a transactional lawyer whose practice encompasses the areas of business and commercial transactions as well as complex business litigation in state and federal courts. Black graduated magna cum laude with a bachelor’s degree in letters from the University of Notre Dame and with highest honors from the University of Oklahoma College of Law. While in law school, he served as an editor of the Oklahoma Law Review, was a member of Phi Delta Phi and the Board of Advocates, and was the recipient of numerous scholarships and honors, including the Nathan Searratt Prize for the highest academic record in his graduating class.

Robert J. Clougherty advises and represents clients in business and commercial transactions, including contract negotiations, mergers and acquisitions, divestitures, corporate financing, business entity formation and organization, and real estate transactions and financing. Clougherty earned his bachelor’s degree from Oklahoma State University in 2012 and went on to serve in the U.S. Navy for five years before returning to Oklahoma and graduating with highest honors from the University of Oklahoma College of Law in 2020. While in law school, he served as a legal intern at a Fortune 500 company, was recognized by TU Law for the pro bono hours he provided to the U.S. Attorney’s Office of the Eastern District of Oklahoma, and served as an editor of the Tulsa Law Review.

Evan J. Crumpley is a transactional lawyer whose practice encompasses a range of corporate and business matters, including real estate transactions, mergers and acquisitions, business entity formation, contract negotiations, general business transactions, and related business and transaction financing. He graduated with honors with his bachelor’s degree in sports management with a minor in accounting from the University of Oklahoma in 2017 and with honors from the University of Oklahoma College of Law in 2020. While in law school, he served as the scoring director of the Board of Advocates and as an assistant articles editor of the Oklahoma Law Review. Crumpley also worked as a legal extern with the University of Oklahoma’s Sooner Club, where he performed risk analysis for the University’s Athletic Department and the University’s Football Operations.

Thomas P. Goresen, Courtney D. Keeing, Haley J. Maynard, and Elke C. Meeüs also joined McAfee & Taft as new associates.

Hall Estill Named To Vault’s 2021 Top 150 Under 150 for Leading Small and Midsize Law Firms To Work For

Hall Estill, Oklahoma’s leading law firm with offices in Tulsa, Oklahoma City, Denver, and Northwest Arkansas, has been named to the 2021 Vault Top 150 Under 150 list of Leading Small And Midsize Law Firms with 150 lawyers or fewer. In addition, Hall Estill has been ranked in five categories of the 2021 Best Midsize Law Firms to Work For, including fourth for Best Midsize Law Firms for Hours, tenth for Best Midsize Law Firms for Quality of Work, thirteenth for Best Midsize Law Firms for Transparency, and twenty-second for Best Midsize Law Firms for Associate/Partner Relations. Hall Estill is the only Oklahoma-based firm to be listed in the Top 150 Under 150 list and also be ranked in any of the 2021 Best Midsize Law Firms to Work For categories.

Vault’s Top 150 Under 150 is developed from Vault survey data, news stories, trade journals and other publications as well as interviews with lawyers in the field and review of other published rankings to determine the list. Firms are evaluated based on prestige, quality of life and professional growth opportunities and are recognized for their delivery of notch service and delivering big results.

Hall Estill is a full-service firm with a diverse range of business transactions, including mergers and acquisitions, business and transaction financing, contract review and negotiations, and real estate leasing, sales, development and financing. Maynard graduated with distinction with her bachelor’s degrees in public affairs and administration and sports management from the University of Oklahoma in 2017 and with distinction from the University of Oklahoma College of Law in 2020. While in law school, she served as assistant executive editor of the American Indian Law Review, earned American Jurisprudence Awards in criminal law and family law, and was a member of the Board of Advocates, Business Law Society, Sports and Entertainment Law Society, and Phi Delta Phi legal honor society.

Whitney focuses on a broad range of corporate and business transactions, as well as business litigation. She works with clients in the areas of business entity formation and structuring, business financing, contract negotiations and disputes, securities, real estate matters, and general corporate and commercial business litigation. Whitney received her Juris Doctorate with highest honors from the University of Tulsa College of Law. Elizabeth is a graduate of Oklahoma City University School of Law. She practices in the areas of general and corporate litigation, representing clients in nearly every matter. She represents both individual and corporate clients, spanning an array of industries, including oil and gas, construction, real estate, financial services, and insurance.

Prior to joining DSBA, Anna attended Regent University School of Law and earned her Juris Doctorate with highest honors from the University of Oklahoma College of Law. Anna was recognized by Vault for its Best Law Firms for Hours, tenth for Best Law Firms for Transparency, and twenty-second for Best Law Firms for Associate/Partner Relations. Anna represents and counsels clients in a diverse range of business transactions, including mergers and acquisitions, business and transaction financing, contract review and negotiations, and real estate leasing, sales, development and financing. She works with clients in the areas of corporate and business transactional matters, as well as business litigation. She represents individual and corporate clients in a diverse range of complex business and commercial lawsuits. The Belgium native graduated magna cum laude with a bachelor’s degree in international and comparative law from the University of Leuven and earned an LL.M. in international business law from the University of Arkansas at Little Rock. Whitney N. Humphrey, Elizabeth V. Salomone and Anna M. Sanger have joined McAfee & Taft as new associates.

Phillips Murrah Welcomes Two New Attorneys to Litigation Team

Phillips Murrah is proud to welcome Natalie M. Jester and Laurie L. Schweinle to our Firm’s Litigation Practice Group as associate attorneys.

Anna M. Sanger and Laurie L. Schweinle represent individuals and both privately-held and public companies in a wide range of civil litigation matters. Anna attended the University of Oklahoma College of Law where she earned the American Jurisprudence Award for Professional Responsibility, Litigation Skills, and the Criminal Defense Award as the Staff Editor on the Oklahoma Law Review and was on the Dean’s Honor Roll.

Phillips Murrah is a full-service firm with a diverse range of business transactions, including mergers and acquisitions, business and transaction financing, contract review and negotiations, and real estate leasing, sales, development and financing. Anna graduated magna cum laude with a bachelor’s degree in international and comparative law from the University of Leuven and earned an LL.M. in international business law from the University of Arkansas at Little Rock. Laurie attended the University of Oklahoma College of Law where she earned multiple CALI Awards for Excellence and was on the Dean’s List and Faculty Honor Roll. She served as a Staff Editor on the Law Review and received the Oklahoma Bar Association’s Outstanding Senior Law Student Award for OCU. She was also a member of the Phi Delta Phi Honor Society.

Laurie was raised in the Holdenville, Oklahoma area and received a Bachelor’s Degree from East Central University in Ada, Oklahoma. Prior to law school, Laurie worked for the Council on Law Enforcement Education and Training as the Executive Assistant, Public Information Officer, and Legislative Liaison.

McAfee & Taft earned top marks in the recently released 2021 edition of Benchmark Litigation, a leading independent guide to the nation’s top

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Palomar Launches Civil Legal Program

By Kelly Masters-Newton

Palomar: Oklahoma City’s Family Justice Center has announced the launch of a pro bono legal program that will increase the availability of civil legal services to survivors of domestic violence, sexual assault, stalking, human trafficking, child abuse and elder abuse. Since opening its doors in 2017, Palomar has served over 12,000 clients, companions, and children escaping violence. However, a consistent barrier of those escaping violence is the lack of civil legal services. While a large majority of Palomar’s clients experiencing violence or abuse would like to initiate civil court proceedings, such as a victim protective order (VPO), divorce, or child custody actions, these clients lack the financial resources to hire a private attorney. Kelly Masters-Newton, Palomar’s Legal Director, who was hired to develop and manage the program, discussed the immediate need for Palomar clients:

Survivors of domestic abuse entering the courthouse face a challenging experience. Engaging in legal matters for any individual can be intimidating and complicated. However, this experience can be dangerous for a victim. While being forced to face their abuser in court, they are simultaneously having to navigate a system where they fear they won’t be believed, or possibly be blamed for their abuse. I am hoping through this program survivors will be empowered, and that they will find the proper support and resources necessary for recovery.

Palomar has a current partnership with Legal Aid Services of Oklahoma (LASO) to provide civil legal services to Palomar clients. Staff attorneys are located onsite at Palomar’s offices, and clients can request assistance from LASO when seeking other services at Palomar. However, given the large volume of requests for civil legal services by Palomar’s clients, LASO is only able to accept a percentage of the requests received. This leaves a large number of domestic violence victims without needed legal representation. And yet, the Chief Operating Officer of Palomar, discussed the ongoing partnership between Palomar and LASO:

Palomar: Oklahoma City’s Family Justice Center and LASO formed a partnership in 2016 to provide comprehensive civil legal services at Palomar to victims of domestic violence, sexual assault, child abuse and elder abuse. Over the last four years, the partnership between Palomar and LASO has flourished and provided much needed civil legal services on over 2,000 cases. Civil legal services is one of the most requested services at Palomar, and while the partnership between Palomar and LASO has been successful, four LASO attorneys cannot keep up with the demand. From my first year as CEO, I took over examining Palomar’s legal programming and quickly determined that a pro bono program was greatly needed, but that in order for the program to be successful Palomar needed an attorney solely dedicated to managing the pro bono program. Over the last three years, my dream was placed on the back burner as we searched for funding and the right person for the job. We are ecstatic for Palomar and our clients that our dream has finally become a reality!

The Palomar Legal Network will utilize volunteer attorneys willing to accept case referrals on a pro bono or low bono basis. In exchange for offering free or reduced rate representation, The Palomar Legal Network plans to provide training on the dynamics of domestic abuse and trauma informed care through free continuing legal education held annually, as well as written materials and video training recordings in areas such as victim protective orders, stalking, domestic violence, strangulation and human trafficking laws in Oklahoma. There is an immediate need for attorney volunteers in the area of family law. However, pro bono attorneys from all legal backgrounds are encouraged to apply to volunteer. Celeste England, a volunteer with the Palomar Legal Network, had this to say about the program:

The first time I took a case with a domestic violence victim many years ago, it touched my heart in a way no other case had. The nightmare victims live every single day is indescribable. From that day forward I have dedicated myself to becoming educated about domestic violence so I could better assist victims. The program at Palomar allows victims who need legal services to get a trained attorney to help them escape their nightmare. Helping someone get a chance at a new life is priceless, and reminds us why we became lawyers. Domestic violence is far from disappearing, and until it does, my firm and Palomar will be here for them. If you have any previous experience helping clients of domestic violence, and can only take one case, I highly urge you to volunteer at Palomar. It will change your life, and remind you of the reason you became an attorney.

In addition to client referrals for full representation to pro bono attorneys, Palomar Legal Network plans to hold monthly virtual clinics where clients can receive limited legal advice regarding their civil legal issues. The virtual clinic, “Attorney Q&A Day,” will be staffed by a combination of volunteer attorneys, Palomar’s Legal Director, and Licensed Legal Interns. The volunteer attorneys will provide consultations via telephone, email and zoom. PALOMAR clients that meet the Network’s guidelines. At this time, clients will receive a one-time telephone consultation with a volunteer attorney to provide answers to specific questions and guidance on Pro Se forms or motions. Depending on the complexity of the case, a client may be referred out to a pro bono attorney for full representation.

Those interested in volunteering through the Palomar Legal Network are encouraged to contact Palomar’s Legal Director, Kelly Masters-Newton, by email at kelly.masters.newton@palomaroke.org, or requests to volunteer can be submitted directly through the Palomar website at: https://palomaroke.org/volunteer-application/.

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