2019 OCBA Golf Tournament Ushers in Fall

It was a beautiful day on the River Oaks Golf Club course as over 50 golfers took off on a shotgun start to begin the 2019 OCBA Golf Tournament and usher in fall. Tournament Chair Gary Chilton signed up a record number of hole sponsors as well as the Tournament Sponsor instaScript. Holladay & Chilton hosted the Hole-in-One contest on Hole #4. Proceeds from the tournament benefited Oklahoma Lawyers for Children. Staff members from OLFC assisted with the tournament contests and presented all first place teams with special plates decorated by their clients.

Winners of the tournament were:

**Championship Flight:**
1st Place Team – McAfee & Taft – Tim Bomhoff, Michael Avery, Curtis Thomas & Russ Lissuzo
2nd Place Team – Miller & Johnson – Weston White, Logan Johnson, Lyman Lenker & Andy Gunn

**First Flight:**
1st Place Team – GableGotwals – Nick Merkley, Leo Portman, Jeff Curran & Lincoln McElroy
2nd Place Team – John Martino, Judge Tim Henderson, Judge Mark McCormick & Justin Lowe

**Second Flight**
1st Place Team – Cesar Armenta, Ed Blau, See GOLF, PAGE 10

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From the President

The View From Inside the OCBA Room

by Michael W. Brewer

As the new President of your OCBA, I attended several OCBA Committee meetings along with my first Executive Committee and Board of Directors meeting this past month. This is where the work is done and decisions are made. But first I want to commend your OCBA on a fabulous turnout for the Raising The Bar Dinner Dance. This was the second year of our transition to a more energetic dinner dance environment. There was some dancing, a lot of music, a bar, inter-lawyer fellowship and lots of really good food.

We kept speeches to a minimum and provided awards and thank you(s) to outgoing Young Lawyers Division Chair, Ben Grubb and outgoing OCBA President Judge Sheila Stinson. These two OCBA leaders were upfront for your OCBA this past year and are also fabulous people and professionals. Both have led their respective groups into award’s season, in the Winner’s Circle, in November at the OBA Annual Meeting, which is in Oklahoma City this year. You should make plans to attend.

Several local firms took advantage of the table sponsorship for Raising The Bar, which included a discount for ticket prices, and purchased tables to send their lawyers to Raising The Bar. At Raising The Bar, I met several young attorneys from these firms, at the time law school graduates, who have now been sworn into the Oklahoma Bar. Their path to OCBA membership and active participation, hopefully started at Raising The Bar. Many thanks to their law firm leaders with the vision to support the local voluntary Bar for doing this. The Oklahoma County Judiciary was well represented, as were retired judges, Past Presidents and a spattering of us old members. All and all, the 2019 version of Raising The Bar was a success and hopefully will smooth the way for the continued transition into new ways of thinking and doing at your OCBA.

Young lawyers need to get connected to the OCBA YLD. I attended the YLD Board meeting and left with a high level of excitement about the future of our profession. These young lawyers are energetic, active and creating relationships that will last their career. It’s no secret that the committees are a working part of your OCBA. We need members to sign up and actively participate in the committee assignments and committee events. This is where attorneys roll up their sleeves and decisions are made. You need to be an OCBA member, sign up for a committee and actively participate in that committee to be inside the room. Why not?

An important benefit to our profession from OCBA membership cannot be overlooked. Many non-lawyers who are able to avoid litigation, avoid the courthouse and lawsuits, get their view of lawyers from knowing about lawyers who are involved in charitable, social justice and even social outings. It’s the face of lawyers they see in public and typically much better than what is portrayed in the news and TV shows. It adds so much more to impacting a positive image of the profession when active members show up for volunteer opportunities, reading to children, providing access to civil justice for those underserved or otherwise attending social gatherings.

It adds so much more to impacting a positive image of the profession when active members show up for volunteer opportunities, reading to children, providing access to civil justice for those underserved or otherwise attending social gatherings. Just as in any other decade before, we as lawyers need good quality PR. You can affect the communities’ view of lawyers by becoming involved and attending scheduled events. We need you. If you have not signed up, sign up. If you have signed up and not attended, attend.

Active membership in your OCBA is being part of something that makes a difference outside of your professional work. You also get to know lawyers who practice in different areas than you. OCBA members come from varied backgrounds and work, such as solo, small, mid and large firms, or practices that never go to the courthouse, that always go to the courthouse or that work in state or federal government attorney positions. Also, you get to know the local and state judiciary. Many of them began in YLD of the OCBA.

It may have started off as simply getting to know each other at the YLD Chili Cook Off, but it certainly helps with civility when you know the attorney on the other side of your case and also the judge of your case. Not that it gives you a “leg up” in any outcome, but it helps make our profession more civil. No one questions that we need more civility today. I look forward to working alongside you at your OCBA this year. Please call me if you have any questions or want to get involved.

Michael W. Brewer is an attorney, founder, and partner of Hiltgen & Brewer, PC in Oklahoma City, Oklahoma. To contact Mike, email mbrewer@hbokc.law, call (405) 605-9000 or tweet him at @attymikeb. For more information, please visit www.hbokc.law.

Quote of the MONTH

“As Democracy is perfected, the office of President represents, more and more closely, the inner souls of the people. On some great and glorious day, the plain folks of the land will reach their heart’s desire at last and the White House will be adorned by a downright moron…”

H.L. Mencken – Writer (1880-1956)
Dear Roscoe: Against the better judgment of many, I am representing my uncle in a criminal appeal. Let me state that at one time, he had been a practicing Oklahoma attorney, and a very good one. In fact, he inspired me to enter the legal profession. After almost fifteen years in retirement, he took up “advising” people on various issues of law. Unfortunately, somewhere along the line he became obsessed with the Sovereign Citizen movement, and subscribed to a number of conspiracy theories. He advised several people in regard to an imaginary fund that the evil Federal Reserve maintained, which people could access in order to obtain money or retire debt. The District Court in Denver convicted him, along with several of his “clients” for attempting to defraud the government. My question is two-fold. One, was it reversible error to allow him to represent himself when he relied on an obviously insane argument of the Simpson kind? Two, did the court use the “special skills” aggravator? How could he have used “special skills” of an attorney when every pleading and argument he made consisted of obvious nonsense?

Dear D.K.: If it were up to me, I’d join the chorus warning you about representing your uncle in this case too. At least I’d send him the words: “To cite your uncle as an example of the so-called ‘Faretta’ right is a misnomer. This is an attempt to improve the quality of the legal profession by allowing an attorney to have his way. But it’s a misnomer.”

Dear M.H.: Interesting question. The jurisprudence seems to have been left hanging. The law is clear that a defendant has the right to use “legal skills” as a means of either commission or concealment of the crime. It doesn’t seem to matter whether the effort was successful or had any chance of being successful. See: United States v. Atkins, 107 F.3d 1213, 1229 (10th Cir. 1997); United States v. Turner, 272 F.3d 380, 390 (6th Cir. 2001); United States v. Nelson-Rodriguez, 319 F.3d 12, 58 (1st Cir. 2003); United States v. Downing, 297 F.3d 52, 65 (2d Cir. 2002). Also, while the Sixth Amendment guarantees a minimum level of competence that all criminal defense lawyers must meet during a trial, the Supreme Court in McKaskle v. Wiggins, 466 U.S. 668, 686 (1984), that guarantee does not apply to self-representation, see Faretta v. California, 422 U.S. 806, 34 (1975). The right to waive counsel includes the right to waive effective counsel. The self-lawyer thus is free to behave as the eccentric his client selected, and that is no concern of the Sixth Amendment. See: McKaskle v. Wiggins, 465 U.S. 168, 176-78 (1984).

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Gunfight on Broadway: 1895

By: Jeff Massey

While Oklahoma City “enjoyed” a wild and woolly reputation in its early years, it was not without its dangers; these dangers posed a special threat to law enforcement.

After the 1889 land run, the Oklahoma County jail was at 1200 North Broadway and Grand Street. These “guns for hire” were near Broadway and Grand (renamed Sheridan in 1963). A jail break in 1894 had sullied the reputation of the previous Oklahoma County Sheriff (Sheriff) Milligan.

The Oklahoma County jail was at the intersection of Maiden Lane and Wall Street. These “guns for hire” were near Broadway and Grand (renamed Sheridan in 1963). A jail break in 1894 had sullied the reputation of the previous Oklahoma County Sheriff (Sheriff) Milligan.

On Sunday night, June 30, 1895, for their escape. The day had been hot. Around 6:30 PM, Jailer John H. Garver arrived with his wife to feed and fasten down the prisoners. After eating, the prisoners jumped Garver and forced his wife to open the outside door of the jail. The triumphant man south down South Wall Street toward Grand (Sheridan). [Author Note: these streets no longer exist but were around the blocks occupied today by the Cox/Myriad Convention Center and the Sheraton Century Hotel]

As they turned east on Grand (Sheridan), William Christian noticed a police horse hitched in front of the Oklahoma City Building. Bill grabbed the horse and rode break-neck to Broadway and then south to the river. Black Jack and young Casey then rushed out and saw single horse-drawn buggy was being driven by carpenter Gus White headed west. White was accompanied by Mrs. Ella Hurt, his paramour. Christian jumped into the buggy front where a scuffle ensued. During this scuffle the young horse suddenly staid and would not move. Hurst was thrown from the buggy, landing hard on the street.

Almost simultaneously with the attempted “buggyjacking,” Oklahoma City Police Chief Milton Jones walked toward the commotion from the southwest corner of Broadway and Grand (Sheridan). He may have observed William Christian take off upon his stolen horse and then observed the acousting of White and Hurst by the two outlaws.

Jones drew his revolver and began running toward the buggy from across the street. Casey, now armed, stood in the buggy and fired at Chief Jones. The bullet entered the side of the Chief’s neck traveled down into his chest. With a fatal arterial neck wound, Milton staggered and yelled to a bystander to take his weapon. W.S. Burns and Charles Parker assisted the Chief onto the wooden boardwalk, where he died within minutes. By now the gunfire had brought two other Oklahoma City officers, Stafford and Jackson to the scene. Stafford, grabbing the reins of the horse, fired at Casey as Chief Jones was shot, striking the horse below his left jaw, near his withers, with the bullet exiting above his ear. As Casey fell back into the buggy compartment, Black Jack Christian, also with a neck wound, escaped east along Grand toward Santa Fe. Christian accepted blackmail Frank Berg, who was driving his wagon northbound. Christian commandeered the wagon from Berg and drove the wagon northbound along Santa Fe, eventually abandoning it near the Moore family claim. After that he worked his way toward the North Canadian River.

James Casey’s body was left in the buggy for over an hour, while onlookers gazed upon his face, covered in congealed blood. When the revoler he used to gun down Chief Jones, by Deputy Frank E. Moore. Ironically, James Casey’s father had arranged a bond for his son, in the day of his escape. Casey was to be released the following morning.

Chief Jones and his wife had just lost their infant child a few months earlier. Mrs. Jones had asked the young Chief to step down from policing. He never got that chance. Chief Jones was buried with honors on July 2, 1895 in the beautiful Fairlawn Cemetery. His funeral was the largest in City history at the time with over one thousand present.

Black Jack Christian was presumed drowned when posse members found large amounts of blood along the North Canadian River. He survived, however, by floating on a log and made his way back to friends and family in Pottawatomie County. He soon met up with his brother, who had also eluded officials. The Christians headed west and organized a group of outlaws named the “High Five Gang.” The gang was later responsible for additional bank robberies, thievery, and murders, including the death of Special Deputy Frank Robson near Skeleton Canyon in Arizona. Eventually, fate caught up to the gang when they were cornered along Cole Creek near Clifton, Arizona and were killed to the last man in April, 1897. Or almost. Black Jack Christian apparently broke from the family gang just prior to the ambush. He escaped to Mexico, where allegedly he was arrested by authorities in Chihuahua. He then made his final escape into lore and legend, and was never heard from again—unless you believe Tom Horn (an alleged assassin), who reportedly killed Black Jack in Mexico in 1897. But that’s another story.

Sources:
Oklahoma History Center, photograph of Grand and Broadway
And Satan Came Also (1955) by Albert McRill, revised/annotated by Larry Johnson (2013) Print
Born Grown: An Oklahoma City History (1974) by Roy P. Stewart Print

Excerpt from OCBA News

October 1973
Vol. 5, No. 8

**OCBA Luncheon To Kick Off Criminal Law Workshop**

by George Davis

For most attorneys the thrill of being appointed to represent indigent defendants in federal criminal proceedings ranks right up there with such pleasurable activities as being subjected to a tax audit or finding out that your biggest client has a lame brain son who just graduated from law school. But, such an appointment, like death and taxes, is almost a certainty for all but the most experienced trial lawyers. Mr. Jones selects about 2 out of every 3 cases through the appellate process. Mr. Tabor will cover the trial of a federal criminal case from the time of the appointment to the time of trial. Mr. Tabor is a 1966 OCU Law graduate with an undergraduate degree in engineering from the University of Tulsa. He is a general practitioner with heavy emphasis in criminal law.

The final thirty minute segment will be directed by James W. “Bill” Berry and will cover the trial of a federal case through the appellate process. Mr. Berry is one of the most experienced and respected criminal lawyers in the state. He has served as guest lecturer on criminal law for the OU Law School and was himself the district attorney for Oklahoma County from 1957-1960.

Considering the subject matter and quality of instruction this workshop is a must for all but the most experienced trial lawyers.
No More Secrets Between Spouses

by Miles Pringle

In August, the Supreme Court of New Mexico abolished the spousal communication privilege.1 The decision has drawn a lot of headlines, some of them quite clever, such as Elie Mystal’s “New Mexico Abolishes Spousal Privilege And I Have No Idea Who To Talk To About That” in Above the Law. The decision has also received a lot of criticism. For example, Mystal contends in her article that the Spousal Communication Privilege is the “most grounded in real, equitable concerns” of all the privileges.

The spousal communication privilege is an ancient one in common law. The United States Supreme Court has cited Lord Coke in 1628 for the proposition that English Courts had then determined “that a wife cannot be produced either against or for her husband.”2 When recognizing the rule in 1839, the Supreme Court stated that the privilege “is founded upon the deepest and soundest principles of our nature. Principles which have grown out of those domestic relations, that constitute the basis of civil society; and which are essential to the enjoyment of that confidence which should subsist between those who are connected by the nearest and dearest relations of life. To break down or impair the great principles which protect the sanctities of husband and wife, would be to destroy the best solace of human existence.”3

The Supreme Court has since noted that the original rational for the privilege has long since become outdated, such as “the concept that husband and wife were one”. Nevertheless, despite its “medieval” origins, there continues to be strong rational for the privilege for the “perceived role in fostering the harmony and sanctity of the marriage relationship.”

The privilege has had its critics over the years. In 1938, the American Bar Association called for its abolition with some arguing that the privilege prevented discovery of the truth.4 After reviewing arguments from the critics, the Supreme Court determined that the arguments against the privilege were “anathetical to the widespread belief, evidenced in the rules then in effect in a majority of the States and in England, ‘that the law should not force or encourage testimony which might alienate husband and wife, or further inflame existing domestic differences.’”5

In Oklahoma, the spousal privilege is codified at 12 O.S. § 2504. Under the statute, a communication is confidential if it is made “privately” and is not intended for disclosure to any other person. In order to assert the privilege the accused must prove by clear and convincing evidence the existence of a valid marriage.6

Thus, as in many marriages, it will be intriguing to see who gets the last word.

2 Trammel v. United States, 445 U.S. 40, 100 S. Ct. 906, 63 L. Ed. 2d 186 (1980); citing 1 E. Coke, A Commenarie upon Littleton 6b (1628).
4 Trammel.
5 Id.
6 Davis v. State, 2004 OK CR 36, ¶ 41, 103 P.3d 70, 82.
7 Taylor v. State, 1982 OK CR 8, 640 P.2d 554, 556 (Most significantly it limits the marital communication privilege from preventing a spouse in a criminal proceeding from testifying as to any confidential communications between the accused and the spouse. The intent of the Legislature to change prior Oklahoma law is evident); see also West, Comment 1 to Okla. Stat. Ann. tit. 12, § 2504 (“Contrary to proposed Federal rule 505, § 504 recognizes only a privilege for confidential communications between spouses in criminal cases”).
Book Notes

By Bill Gorden

Our Man
George Packer Knopf, 2019, Hardback, 592 pages, $30.00

It is very hard to nail down what sort of book this is. It masquerades as a biography, but it is written with a three-way split. In one path, the author sees the subject as flawed but seeking to change the world in a very positive way. A second thread sees the subject almost as a quirky personal friend. A third allows the subject to speak for himself by way of diary entries, said entries excusing faults with a touch of paranoia. Head spinning.

The subject is Richard Holbrooke, a foreign policy guru whose career ran from small time advisor in Vietnam in the 60’s all the way to working in the intricacies of Afghanistan in the 2000’s. He was not quite blue-blood, but he felt he deserved to be. He was very ego driven, always, always, feeling that he deserved at least the next rung in the foreign policy establishment, at least. He was clearly flawed. In some fifty years of service, his only notable success was cementing the peace in Bosnia; cementing instead of causing, as the bombing of the Serbs caused their submission.

Holbrooke’s major flaw has to do with something called the “effectiveness trap”, where a person feels that justice or progress is not being served by one’s superiors, but if one fights for what is right, that person’s career ends. Holbrooke spent most of his life in this vein, blustering all the while. With his huge ego, he saw himself as knowing more than about anyone, particularly superiors. Added to that, he saw almost any foreign problem through the lens of the Vietnam failure.

The subtitle of the book attempts to link Holbrooke with something sounding noble: “Richard Holbrooke and the end of the American Century”. The problem is, it is hard to mark the American Century as starting much before December 7, 1941, a day of defeat, but from that date America was basically in charge of the free world, at least. That would mean 2045 would delineate a century. Holbrooke has been dead for a while. This attempt to link Holbrooke with a bigger destiny than what was his is not explained in the book. It only echoes his desire to have a vaunted place in history.

So, with a very flawed subject, who didn’t really get much done despite all the dithering, and a crazy quilt method of writing, should the reader shell out Thirty Dollars? Seldom has it been suggested in this corner that the answer is no. This is one of those times. Some of it is interesting stuff, but it doesn’t warrant almost 600 pages. If you wish to endure it, get it at the library.
Raising the Bar 2019 Highlights

President Brewer's family – Nick & Jessica Holsomback, Kelly & Mike Brewer, Allison Hernandez

Michelle Edstrom, Faye Rodgers & Christina Getona Hendrickson

Shanda McKenney & Judge Sheila Stinson

Ben Grubb, Leah & Bob Jackson

Barbara & Judge Ken Stoner

Hailey Hopper, Ashley Rahill & Jessica Dark

Luke Abel & Matthew Wade

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David Cheek & Judge Sheila Stinson

Incoming YLD Chair Amber Martin with Outgoing YLD Chair Benjamin Grubb

Reid Robison, Mike Brewer & Jean Ann Robison

John Heffly, Gary Chilton, Steve Bargholtz & Cody Cooper

Rex & Margaret Travis

Judge Heather Coyte, Judge Bryan & Margaret Dixon, Michelle Edstrom
Lance Phillips & Marna Franklin
2nd Place Team – Keith Givens, Mark Engel, Tyler Gentry, Roger Reneau & John Barbush

Hole Contest Winners:
- Longest Drive – Leo Portman
- Straightest Drive – Roger Reneau
- Longest Putt – Andrew Harroz
- Closest to the Pin on Hole #7 – Tim Bomhoff
- Closest to the Pin on Hole #12 – Ben Butts

A special thanks to all of our sponsors and participants for making this tournament such a success!

GOLF, CONTINUED FROM PAGE 1

1st Place Championship Team – Russ Lissuzo, Tim Bomhoff, Michael Avery & Curtis Thomas

2nd Place Championship Flight – Weston White, Logan Johnson, Lyman Lenker & Andy Guhn

2nd Place First Flight – Justin Lowe, Judge Mark McCormick, John Martino & Judge Tim Henderson

1st Place First Flight – Lincoln McElroy, Nick Merkley, Leo Portman & Jeff Curran

1st Place Second Flight – Lance Phillips, Cesar Armenta, Marna Franklin & Ed Blau

2nd Place Second Flight – Mark Engel, Tyler Gentry, Roger Reneau, John Barbush & Keith Givens
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Impeachment—How Does That Work?

Part I: The House Process

By: J. Renley Dennis

As provided in the U.S. Constitution, removal of federal officials is a two-step process bifurcated with the House of Representatives having the singular authority to formally charge—or impeach—a federal official and the Senate having the exclusive power to convict the accused at a trial of impeachment.1 This article is the first part of a series on impeachment in the House of Representatives.

Those subject to impeachment in the United States are the president, vice president and all civil officers, including Cabinet members and judges, of the U.S.2 This would include those elected and appointed officials of the U.S. However, members of the Congress, as exemplified by decision by the Senate in 1799, and officers of the Army and Navy are generally not considered impeachable.3

The House may impeach federal officials by a vote of the simple majority.4 A simple majority view is that impeachments are not commonly involved charges that fit into three extensive categories: (1) abusing or exceeding the constitutional authority of the office; (2) behaving officiously or personally in a manner grossly incompatible with the proper function or purpose of the office; and (3) exploiting the authority of the office for an improper purpose or personal gain.5

There are three phases of the House impeachment process: (1) initiation of the impeachment proceedings; (2) Committee investigation, hearings, and drafting of articles; and (3) full House consideration.6 Typically, although not always, the initiation process begins with the introducing of a resolution to the full House calling for a committee investigation of charges, either through the hopper or as a matter of privilege.7 However, there have been other methods of initiation, such as petition by citizens, request of the president, grand jury investigation, request of a state legislature, and as a result of an independent counsel investigation.8 Once the investigating committee is engaged—most commonly the Committee on the Judiciary—the committee investigates, conducts hearings, and, then, if appropriate, drafts the articles of impeachment—a process called “markup.”9 Once the House adopts a resolution with articles of impeachment, the House then appoints managers to argue the articles at the impeachment trial before the Senate.10 Of course, the House could vote against the resolution to impeach or the committee could recommend not to impeach.

To date, impeachment proceedings have been formally initiated more than sixty times by the House and nineteen of those proceedings resulted in the adoption of impeachment articles by the House.11 The history of the Impeachment proceedings in the House is telling on the future uses and standards of impeachment.


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Bar Observer

OU Law Tops Oklahoma Bar Exam Passage Rate

Graduates of the University of Oklahoma College of Law achieved a 95% pass rate on the Oklahoma Bar Exam for first-time test takers—the highest in the state.

The complete results of the July 2019 bar exam were released Sept. 10 by the Oklahoma Board of Bar Examiners.

A total of 120 OU alumni took the exam. The overall passage rate for OU graduates was 92%, exceeding the statewide overall pass rate by 15%. For over 15 years, OU Law has consistently achieved the top overall pass rate on the July Oklahoma Bar Exam.

Hartzog Conger Cason Welcomes New Attorneys

Hartzog Conger Cason is proud to welcome Benjamin K. Davis, Katie Colclazier and Wil Norton to our Firm.

Benjamin K. Davis graduated from the University of Oklahoma College of Law in 2015.

While in law school, Davis was a member of the American Indian Law Review. Davis has significant experience in real estate transactions, commercial lending and financial transactions and general corporate and business matters.

Katie Colclazier graduated with honors from the Oklahoma City University School of Law in May 2019. While in law school, Colclazier was a member of the Oklahoma City Law Review, President of OCU’s Women’s Bar Association, and a judicial extern for Oklahoma Supreme Court Justice Noma Gurich. Colclazier will join the Firm’s litigation practice area.

Wil Norton graduated with honors from the University of Oklahoma College of Law in May 2019. While pursuing his law degree, Norton served as the assistant managing editor of the Oklahoma Law Review and was judicial extern for Magistrate Judge Suzanne Mitchell. Norton will join the Firm’s corporate law practice area.

OU Law Brings Student Mental Health and Well-Being to the Forefront

Preparing law students to become lawyers involves more than just the knowledge obtained in the classroom. Addressing student well-being by promoting candor dialogue and providing access to health resources is a key focus area at the University of Oklahoma College of Law.

In comparison to other professions, lawyers and legal professionals experience higher levels of mental health distress, substance use and addiction—issues that can begin in law school. To promote awareness, to help students manage their own health and to reduce the stigma associated with seeking assistance, OU Law offers a number of wellness initiatives and resources throughout the year.

As part of the college’s wellness program, three lunchtime seminars featuring lawyer well-being experts will be held at OU Law this semester. Students are required to attend one session, but are encouraged to attend all three. The first seminar will be held this Monday at noon at the College of Law. District Judge Ken Stoner (OU Law ‘01), who presides over the Oklahoma County Drug Court, will speak on the intersection of addiction and the law and on using artificial intelligence to battle addiction. The second wellness seminar will be held Oct. 7 and will feature Law.com editor-in-chief Leigh Jones (OU Law ’96), who will discuss Law.com’s year-long series on attorney and law student well-being. Speaking at the third wellness seminar on Nov. 11 will be Reggie Whitten (OU Law ’80), co-founder of the Whitten Burrell law firm and founder of FATE (Fighting Addiction Through Education), a nonprofit organization dedicated to educating the public and state leaders on substance abuse and addiction.

In addition, professional mental health counseling services are now being offered within Andrew M. Coats Hall. Appointments are offered weekly, and students are encouraged to schedule an appointment if desired. While law students previously had access to mental health and wellness services through the University Counseling Center, they now have direct access, by appointment, to a licensed professional at the OU Law Center.

In the college’s peer mentoring program, OU Law has appointed 19 upper-year student mentors to assist and advise students in their first year of law school. As part of their duties, mentors are trained on the mental health counseling treatment options available to all students, including where to find these resources and how to refer a fellow student for help.

This year, OU Law’s Student Bar Association has appointed two student wellness officers, and the association is looking into making this a permanent position in future years. The wellness officers will plan two SBA Wellness Weeks—one in the fall and one in the spring—featuring activities and speakers focused on topics such as attorney/student wellness, mindfulness, diet, exercise, and drug and alcohol abuse.

Additionally, the OU Law Library is increasing its collection of wellness-related books and materials, and is bringing them together in a central yet quiet location.

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See OBSERVER, PAGE 14
“The Journal Record is the state’s go-to business publication for not only our for-profit business leaders, but nonprofit leaders as well. There is enormous value in this publication, and I couldn’t imagine not having such an excellent resource for business and economic news.”

Marnie Taylor
President & CEO
Oklahoma Center for Nonprofits
Recent law school graduates join McAfee & Taft

Phoebe B. Mitchell
While in law school, Phoebe had the opportunity to clerk as a judicial intern for the Honorable Judge Rob Hudson of the Oklahoma Court of Criminal Appeals. She was a member of the Order of the Coif, Order of the Barristers, and National Order of Scribes. Phoebe also represented the Oklahoma Law Review, served on the Dean’s Leadership Award Committee, and was a member of the Delta Phi Legal Honor Society. Phoebe also was an editor-in-chief of the Oklahoma Law Review.

Justin G. Bates
Justin was born and raised in the metro area, where he currently lives. In his free time, he enjoys traveling, watching college football, discussing what could have been for the Oklahoma City Thunder, and spending time with friends and family.

Attorney Chelsea Celsor
Smith joins Hall Estill

Hall Estill has announced that Chelsea Celsor Smith will join Of Counsel for the firm’s Oklahoma City office. Smith has experience in civil litigation in both state and federal court with an emphasis in government ethics, constitutional law, administrative law and employment law. She also serves as acting General Counsel to the Oklahoma House of Representatives and was previously in-house General Counsel to the Oklahoma House of Representatives.

Smith regularly provides advice and training regarding compliance with employment and ethics laws. Smith received her J.D. from Oklahoma City University School of Law, cum laude and Phi Delta Phi. She also was a member of the Order of the Coif, Order of the Barristers, and National Order of Scribes.

OU Law Celebrates Ada Lois Sipuel Fisher: Announces Fund

In commemoration of the 70th anniversary of Ada Lois Sipuel Fisher’s admission to the OU College of Law, the college and the university’s main campus devoted the week of Sept. 23 to Fisher and other civil rights leaders, with acknowledgment of the ongoing pursuit of equality.

Fisher was a leading activist, attorney and educator who fought to become the first African American student admitted to OU Law in 1949. Her landmark case opened the doors to a new generation of “social engineers,” allowing Fisher’s children, Charlene Factory and Bruce Fisher, who shared memories of their mother, including when they first learned about her legal case. They said since their mother taught for many years at Langston University, she was able to inspire the next generation of “social engineers,” allowing her legacy to live on.

The event also featured a performance of “1 Know Where I’ve Been” by OU Law alumna (’98) and vocalist Chanda Graham. At the close of the event, the OU Law community acknowledged the support of Assistant Professor Sandy Yana, who with her husband, Saundra Evans, whose gift enabled the college to display a portrait of Fisher in Coats Hall. Portrait artist Mitsuji Ishi Reedy, who donated the giclée print to the College of Law, was also recognized at the event.

A celebration of Fisher also was held Sept. 26 at Monnet Hall, the location of the OU College of Law while Fisher was a student. A display depicting her law school admission journey was unveiled at a dedication ceremony, and a reception followed in the Conoco Leadership Courtyard at the Oklahoma Memorial Union. During the reception, members of OU Law’s Black Law Student Association (BLSA) presented “Fisher Reflections,” inspired by her experiences.

The event was adapted from a full-length play written by former OU Law Professor Cheryl Watley. As part of the celebration of Ada Lois Sipuel Fisher’s life and enduring impact on OU Law and civil rights, the college announced an award named in her honor, furthering the legal study of civil rights, race and justice. The announcement of the Ada Lois Sipuel Fisher Fund endowment was made during the Sept. 26 event in the Dick Bell Courtroom with Fisher’s children.

The Ada Lois Sipuel Fisher Fund endowment would be one of the highest academic awards at OU Law. Endowed chairs and professorships are prestigious and enduring awards provided to faculty through private gifts. Scholarships created by gifts of any amount are encouraged. It is anticipated that the award of an endowed chair or professorship named for Ada Lois Sipuel Fisher will used to elevate an existing or prospective professor who demonstrates an established interest and commitment to critical race theory (CRT) or other antidiscrimination law or critical race theory. With the Ada Lois Sipuel Fisher Fund, OU Law Associate Professor Melissa Mortazavi said gifts of any amount are encouraged.

Should the fund not meet the funding requirements, donations shall be transferred to the existing, endowed scholarship fund established in honor of Fisher for OU Law students.
DIVORCING THE HOME

USE, OWNERSHIP, AND CAPITAL GAINS

Some divorcing couples may decide to keep the marital home and then sell it at a later date, for example when their kids finish school. If there’s a possibility of capital gains when the home is sold, your client should consult with you and their financial planner.

The current capital gains tax law allows a $500,000 marital couple exclusion or a $250,000 single exclusion. To qualify for the higher exclusion amount, your client must meet both the ownership and use requirements.

- **Ownership**: Both divorcing spouses must stay on the title.

- **Use**: The marital home must have been used as the primary residence during the marriage. Even if one spouse moved out at any time, they can still comply with the use rule if they lived in the home as their marital residence during the marriage.

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