

OADC OUTLOOK

A Publication of the Oklahoma Association of Defense Counsel

October 2016

OADC Outlook

Page 1

President's Message

Page 2

12 O.S. 3009.1
Declared Constitutional

Page 3

Trial College
October 28

For a complete list of all
upcoming functions go to:

www.OADC.org

Submissions should be sent to Skoshi Heron
at: Skoshi@GoBaker.com

Skoshi Heron
PO Box 5445
Edmond, OK 73083

Fax:: 405-415-7366

President's Message

by James Secret III

It has been a busy 50th year for OADC, and I am honored to be serving as your President during this milestone year. While the Legislature was in session, we monitored a proposed bill that would require the election of appellate court judges. While this bill did not go very far this legislative session, it will likely arise again next year. Thank you to everyone who contacted their legislators to express their concerns regarding this bill. We will continue to monitor this issue in future legislative sessions.

We had a great turnout for our Summer Meeting at the Four Seasons in Las Colinas. The CLE was outstanding, and we were honored to have Dean Strang as our keynote speaker at the President's Dinner. Thank you to all the past presidents who were in attendance. Your leadership has built the foundation for this great organization that will continue on in the future.

As I enter into the final few months of my presidency, we have several events coming up, including our Trial School on October 28th and the Winter Meeting, on January 20, 2017. I hope you will be able to join us at these events.

12 O.S. 3009.1 DECLARED CONSTITUTIONAL BY THE OKLAHOMA SUPREME COURT

Amy Bradley-Waters
Pierce Couch Hendrickson Baysinger & Green, L.L.P.

On September 20, 2016, in the case of Lee v. Bueno, 2016 OK 97, the Oklahoma Supreme Court ruled that Oklahoma's paid vs. incurred statute was constitutional. The Court held that the statute was not an unconstitutional special law, as it is applicable to all personal injury claimants, and not a targeted subclass. All claimants can admit at trial are the amounts paid or owed for medical services. The Court also held this statute does not violate a personal injury claimant's right of access to the courts, nor did it violate the due process clause of the Oklahoma Constitution.

Five justices concurred with the majority opinion, while Justice Kauger specially concurred. In her opinion, Justice Kauger stated this statute is a reaction to medical pricing and billing practices. She indicated that the amount billed for medical services and the amount owed should be same, and not inflated, then negotiated to a reduced rate. Justice Gurich concurred in part and dissented in part, while Justices Watt and Colbert dissented. This opinion has not been released for publication, so it could be revised or withdrawn.

This is a significant ruling for both the plaintiff and defense bars. Plaintiffs will not be able to claim the full amount of their billed medical expenses as damages, which will have the effect of reducing settlements and jury verdicts. Defendants will need to obtain the necessary affidavits from the medical providers to establish the paid amount for each provider.

Board member Erin Renegar and her colleague Caroline Lewis filed an amicus brief on behalf of OADC. Their time and effort in preparing the brief is very much appreciated.

OADC Trial School: "Pretrial Litigation"

October 28, 2016

OCU Law Building - J. William Conger Courtroom

7.5 CLE Hours .5 Ethics

Winter Meeting

January 20, 2017

21c Museum Hotel

2017 Summer Meeting: Las Vegas

The Cosmopolitan - June 8 - 11, 2017

2018 Summer Meeting: San Antonio

Hyatt Hill Country

5/31 - 6/3

OADC Trial Academy "Pre-Trial Litigation"

Friday, October 28

- ✓ **Seminar Location:** Oklahoma City University
J. William Conger Courtroom
800 N. Harvey
Oklahoma City, OK
- ✓ **Times:** 8:30am - 5:00pm

- 8:30 Registration & Continental Breakfast **CLE: 7.5 Hours .5 Ethics**
- 9:00 – 9:55 **File Review, Investigation & Basic Discovery:** Mark Warman
- 9:55 – 10:50 **E-Discovery & Social Media:** Randall Wood & Liz Oglesby
- 10:50 – 11:00 *Break*
- 11:00 – 12:00 **Taking Depositions as well as Preparing Witnesses to Give One:** Dave Russell
- 12:00 – 12:45 *Lunch*
- 12:45 – 1:45 **Depositions of Experts & Ethical Rules for Depositions:** Phil Richards
- 1:45 – 2:45 **Mediation & What to Expect at PTC Hearing:** Mike Chitwood
- 2:45 – 3:00 *Break*
- 3:00 – 4:30 **Panel Discussion - Trial Preparation & Open Discussion:**
Mark Warman, Dave Russell, Phil Richards and Malinda Matlock
Moderator Jennifer Annis
- 5:00 – 6:00 Social Hour: Location TBD

PANEL OF EXPERTS

Mark Warman, Of Counsel
Franden, Farris, Quillin, Goodnight & Roberts
MWarman@tulsalawyer.com

Mike Chitwood
Angela Ailles & Associates
Michael.Chitwood.cgcd@statefarm.com

Randall Wood
Pierce Couch Hendrickson Baysinger & Green
www.PierceCouch.com

Jennifer Annis
Atkinson, Haskins, Nellis, Brittingham, Gladd & Fiasco
www.AHN-law.com

Dave Russell
Rodolf & Todd
www.RodolfTodd.com

Malinda Matlock
Pierce Couch Hendrickson Baysinger & Green
www.PierceCouch.com

Phil Richards
Richards & Connor
www.RichardsConnor.com

Liz Oglesby
Angela Ailles & Associates
Liz.Oglesby.dre8@statefarm.com

Firm Registrations

Name: _____ Firm: _____

Email: _____

\$150 OADC Member

\$200 Non Member

\$25 Student

Name: _____ Firm: _____

Email: _____

\$150 OADC Member

\$200 Non Member

\$25 Student

Name: _____ Firm: _____

Email: _____

\$150 OADC Member

\$200 Non Member

\$25 Student

Mail Check to: OADC | PO Box 5445 | Edmond, OK 73083