

# OADC OUTLOOK

A Publication of the Oklahoma Association of Defense Counsel

May 2018

## OADC Outlook

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Thank you to our  
Summer Meeting  
Sponsors!

For a complete list of all  
upcoming functions go to:

[www.OADC.org](http://www.OADC.org)

Submissions should be sent to Skoshi Heron  
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## President's Message

by Eric Begin

As a reminder, our Summer Meeting is quickly approaching from May 31<sup>st</sup> through June 3<sup>rd</sup> at the Hyatt Hill Country Resort in San Antonio. The Meeting registration form, with all program details, is available on the OADC website at [www.oadc.org](http://www.oadc.org). We hope to see you there!

As is common this time of year, our Lobbyist and Legislative committee are very active monitoring/advocating on our membership's behalf this Spring. A couple bills you should be aware of include: SB 1299 (limits the number of allowed Requests for Production of Documents) and SB 1136 (which makes Product Liability exposure several). These bills have run into delays in the House due to the leadership not bringing them to the floor for a vote. Be on the lookout for additional details that will follow on our organization's Facebook/Twitter accounts.

Speaking of our organization's social media presence, if you haven't already, I would encourage you to please like/follow our organization on Facebook/Twitter. Important membership updates and upcoming event reminders are posted there frequently. Also, in the coming months, you will notice an increase in our content/services provided to our membership through those platforms.

[www.OADC.org](http://www.OADC.org)

# Juror Misconduct - You Need More than OSCN to Prove It.

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

Have you ever tried a case to a jury, received an adverse verdict, and wondered if the jury understood the facts and evidence, and was truly impartial? Perhaps after trial, you used OSCN to look up the jurors' litigation history to determine whether they answered questions honestly in the jury questionnaire and in voir dire, in consideration of a motion for new trial. A recent Oklahoma Court of Civil Appeals case illustrates the high burden a litigant must meet to overturn a jury verdict based upon alleged juror misconduct.

In *Ward v. Morrison* 2018 OK CIV APP 36, the Plaintiff moved for a new trial after an unanimous jury verdict in the Defendant's favor. The basis for the motion was that several of the jurors failed to disclose in voir dire that they had been involved in prior litigation, thus constituting misconduct. The evidence Plaintiff cited in support of her motion were post-trial OSCN searches conducted by her counsel that purportedly showed that several jurors had been parties in previous litigation (the majority of cases were related to collection and family law matters). However, in voir dire, the trial court had advised the jurors that they did not need to mention whether they had been involved in domestic litigation, unless the experience of being in the courtroom caused stress to the individual juror. The Court of Civil Appeals noted there is no rule to determine whether a juror's involvement in a lawsuit is material and is required to be disclosed in voir dire. Nor is there a rule that a juror's failure to disclose his or her litigation history rises to the level of misconduct that should result in a new trial.

The *Ward* Court noted that an adverse decision alone is not sufficient to establish juror misconduct. The basis for a reversal of a jury's verdict based on misconduct, is related to the failure to disclose material information (i.e. juror's previous or current relationship with the litigants and counsel), or the failure to disclose his/her adverse litigation history that relates to material issues to be tried in the case where the juror may serve. In *Ward*, all of the jurors who had been involved in automobile accidents disclosed that fact in voir dire, and stated they could be fair and impartial in hearing the evidence. The Court also noted that the Plaintiff's attorney was able to conduct unlimited follow-up questioning of the jury pool, and Plaintiff's attorney asked questions on topics such as rules of the road, pre-existing medical conditions and minor damage to a vehicle caused by an accident. There was no indication of juror bias or prejudice against the Plaintiff.

This case also illustrates the limitations of OSCN. While it can be a useful tool in establishing an individual's litigation history, merely producing case docket sheets involving individuals with the same name as a juror who heard the case is not enough to show juror misconduct warranting a new trial. As such, Plaintiff was unable to meet her burden of proof, and the trial court's decision was affirmed.

# Summer Meeting

## Agenda and Continuing Legal Education

**Thursday, May 31 (3.5 CLE includes 1 Ethics)**

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2:00	President's Welcome
2:10 - 3:00	Diminishing Jury Trials
3:00 - 4:00	<i>Legislative Update - Panel Discussion</i>
4:00 - 4:10	Break
4:10 - 5:00	Ethics Hour
5:30 - 6:30	Social Hour

**Friday, June 1 (3 hours CLE)**

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7:45 - 8:45	Continental Breakfast
8:00 - 8:30	Board Meeting
8:45 - 9:35	"Getting Inside the Mind of the Jury"
9:35 - 10:30	Biomechanical Experts- What do they bring to the table?"
10:30 - 10:45	Break
10:45 - 12:00	Panel Discussion - "Current Trends and Trial Tactics"

**Saturday, June 2**

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6:30	Dinner & Cocktails
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### Guest Speakers

**Biomechanical Experts  
What Expertise Do They Bring**  
Lars Reinhart, MD  
Biodynamic Research Corporation  
Eric Begin  
Starr, Begin & King

### Legislative Update - Panel Discussion

Brett Robinson  
Capitol City Associates  
Senator Julie Daniels  
District 29  
Senator John Sparks  
District 16  
Representative Terry O'Donnell  
District 23  
Moderator, Reign Karpe  
Angela D. Ailles and Associates

### Ethics Hour

Joe Balkenbush  
OBA Ethics Counsel

### X-Ray Vision into the Minds of Jurors

Margaret Ward  
Ward and Herzog

### Panel Discussion - Current Trends & Trial Tactics

Joe Farris  
Franden Farris  
Mark Warman  
Mark A. Warman Attorney P.C.  
Jennifer Annis  
Atkinson Haskins

Moderator Tom Manning  
Angela D. Ailles and Associates

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