

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

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President's Message

by Eric Begin

As a reminder, our Summer Meeting is quickly approaching from May 31st through June 3rd 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. 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

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)

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)

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

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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