



OADC NEWS

A PUBLICATION OF THE OKLAHOMA ASSOCIATION OF DEFENSE COUNSEL

August 2003

FROM THE DESK OF THE PRESIDENT San Antonio Summer Meeting - A Big Success

The OADC's Annual Meeting held at the beautiful Hyatt Hill Country Resort in San Antonio, Texas, featured sun, fun, and camaraderie mixed with some very useful and educational CLE presentations. The resort property provided a great setting for members and their families to socialize and relax.

The CLE presentations included some very intriguing insights into the depth of available investigative tools and resources on the Internet. Members were provided a book by Mr. Alan M. Schlein of Great West Investigations entitled, "Find It Online" which is a great resource of websites through which information on just about any topic can be obtained. I am sure that many of our members have been "googling" witnesses and parties since their return to Oklahoma.

The Internet was not the only technology that was featured at the meeting. Representatives from Professional Reporters and National Legal provided high tech current presentations on available resources for video conferencing and depositions, real time transcript use and document management with the latest computer technology.

Dan Folluo provided a first rate ethics presentation which was very timely and topical for insurance defense practitioners. All of us benefited from an update on the unique tripartite relationship which characterizes most of our practices.

Technology was also featured on the golf course where some pretty fancy computerized carts were available to assist tournament

participants. The tournament, won by Dale Kimsey, Brock Bowers, Grady Parker and Mike Brewer was great fun. The meeting ended with the Annual Dinner Dance featuring some delicious food and some fun on the dance floor.

I want to personally thank all of those who came to the meeting for making it a great success and an enjoyable weekend. I look forward to seeing you all at Los Colinas next summer.

Very truly yours,
Gerald P. Green
OADC President, 2003

WORKERS' COMP UPDATE

When a workers' compensation claimant brings an action against the third-party tortfeasor in district court, the district court lacks the authority to approve any settlement arising out of the district court claim.

The Plaintiff was injured during the course of his employment. The Insurer provided the Employer's workers' compensation coverage, and the Plaintiff received \$86,101.09 in total compensation and medical benefits. The workers' compensation claim was resolved between the parties by a joint petition settlement.

The Plaintiff subsequently filed an action against the third-party tortfeasor. In addition to his injuries, the Plaintiff's wife also sought damages for loss of consortium. The Insurer claimed a right of subrogation for the workers' compensation benefits paid to the Plaintiff, and the trial court granted the

Insurer's motion to intervene. However, the Insurer declined to participate in the trial.

Unbeknownst to the Insurer, the parties reached a settlement for \$275,000.00. The proceeds were to be divided so that \$75,000.00 went to the Plaintiff for his injuries, and the other \$200,000.00 went to the Plaintiff's wife for her consortium claim. At a hearing conducted without the Insurer's knowledge or participation, the trial court approved the settlement and the division of proceeds.

Pursuant to 85 O.S. §44, the Insurer then filed an application asking the trial court to apportion the settlement in satisfaction of its workers' compensation lien. Disputing the division of the proceeds, the Insurer believed the apportionment should be based on the entire amount of the settlement. However, the trial court disagreed, and the

apportionment between the Insurer and Plaintiff was based solely on the \$75,000.00 amount. The Insurer appealed this decision.

The Oklahoma Court of Civil Appeals reversed and remanded, holding: 1) despite Plaintiffs' arguments to the contrary, the Workers' Compensation Court did not lose its jurisdiction over this matter even though the Plaintiff and Insurer settled the Workers' Compensation Claim; 2) when an injured worker pursues a third-party claim in district court, the settlement of that action by the worker for any amount less than the compensation provided by the Workers' Compensation Act requires the written approval of the Workers' Compensation Court; and 3) therefore, without such approval, the settlement reached between the parties in this matter was invalid. *HALLMARK V. HALLIBURTON ENERGY SERVICES, INC.*, 2003 OK CIV APP 8, 63 P.3d 556.

Shop Talk

Please note the changes for the following members:

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Law firm name changes:

Abowitz, Timberlake & Dahnke
Blake Bittel and William
McAlister

Daniel, Baker & Associates
Thomas Baker, David Fisher and
James Daniel

Feldman, Franden, Woodard, Farris
& Boudreaux
Paul Boudreaux, John Woodward III

Frailey, Chaffin, Cordell, Perryman,
Sterkel & McCalla LLP
Jeromy Brown, F. Thomas Cordell,
Stephen R. McCalla, Jason West

OADC welcomes the following new members:

**Short Wiggins Margo &
Butts
William Todd Blasdel**

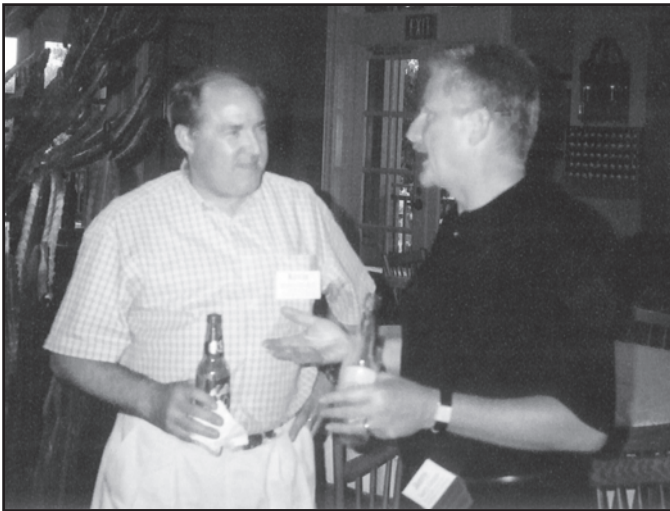
**Jones, Kurth, Andrews &
Ortiz, P.C.
David V. Jones**

**Hiltgen & Brewer, P.C.
Cary E. Hiltgen**



Robert Margo to Serve on Judicial Nominating Commission

Robert C. Margo, longtime member of OADC and one of the founding members of Short Wiggins Margo & Butts in Oklahoma City, has been elected to the District 5 office of the Oklahoma Judicial Nominating Commission. The Judicial Nominating Commission is the constitutionally created body which submits nominees to the Governor for judicial appointment at all levels of Oklahoma courts. Robert has been elected to a six year term. Congratulations to Robert.



Exchanging ideas at the summer meeting

Deadline for OADC Newsletter

OADC Welcomes articles, news of upcoming events and information about its members for inclusion in the Newsletter. Deadline for the upcoming issue is as follows:

October 15, 2003

* Please send your material to:
Cynthia L. Sparling
Short Wiggins Margo & Butts
3100 Oklahoma Tower
210 Park Avenue
Oklahoma City, OK 73102

CLSSWMB@Logixonline.com

Young Lawyers Update

By Leslie Guajardo and Roe Simmons

You don't have to be a first year attorney to take advantage of the guidance and networking opportunities available from OADC's Young Lawyers Committee.

Young Lawyers is open to all OADC members in their first ten years of practice. As Young Lawyers, we strive to build a network for young defense attorneys to address specific issues and situations in which guidance is needed for many newer attorneys.

To facilitate this network, the Young Lawyers Committee will host several social events throughout the year. These events will also serve as a quasi-membership drive for attorneys in the state who may qualify for membership and are interested in learning about OADC and the Young Lawyers Committee.

Look for information about social events in upcoming newsletters. The Committee is currently planning "A Night at the Ballpark" for Committee members, their families and anyone wanting to find out what the Committee is all about.

Anyone interested in joining the Committee should contact Stacy Acord at 918-599-0700, or by e-mail at sacord@jpm-law.com.

THANK YOU

2003 Summer Meeting Sponsors

We would like to express our appreciation to our sponsors for making this year's Summer Meeting a tremendous success. On behalf of all OADC members, we thank the following sponsors for their very generous support:

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FRENCH QUARTER HOSTS SOUTHWEST REGIONAL DRI MEETING

By Jerry Green

Due to unfortunate circumstances, our DRI State Representative, Mike Brewer was unable to attend the Southwest Regional Meeting in New Orleans, Louisiana, held on June 7, 2003. Pressed into service, I braved the heat, humidity and bacchanalian atmosphere of the French Quarter to attend the meeting on behalf of OADC. It was an arduous task. I was made to endure dozens of oysters, rowdy throngs in the street and a number of cocktails.

There was also a meeting.

The meeting was well-attended particularly so by our neighbors to the

south and members of the host association. We were provided reports on legislative efforts (and in the State of Texas some really interesting political maneuvering) and dealt with issues common to all of our state defense organizations. The primary topic of concern had to do with legislative lobbying and the many variations on "tort reform" which resulted from the most recent legislative session in each of the states. The Executive Director from DRI, Mr. John Kouris, was present at the meeting. He provided an interesting report on the progress of updating the DRI offices in Chicago

and a look at the future of many of DRI's member services, particularly involving the expert witness service which has been enhanced over the past year and which will become even more user friendly in the year to come.

The possibility of a regional CLE presentation to be jointly sponsored by member organizations in February (presumably at some ski resort) was discussed, and OADC may be asked to assist in the preparation of such plans along with the Texas and Louisiana organizations.

In all it was a productive meeting. For details on DRI member services, visit the DRI website at www.dri.org.

Don't Forget about the Fall Meeting!



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