

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

MARK E. SCHELL,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-2019-281-H
)	
NOMA GURICH, Chief Justice of the)	
Oklahoma Supreme Court; et al.,)	
)	
Defendants.)	

**OKLAHOMA BAR ASSOCIATION BOARD OF GOVERNORS DEFENDANTS'
MOTION TO DISMISS FIRST AMENDED COMPLAINT UNDER RULES
12(B)(1) AND 12(B)(6), FED.R.CIV.P., AND BRIEF IN SUPPORT**

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**ATTORNEYS FOR OKLAHOMA BAR
ASSOCIATION BOARD OF
GOVERNORS DEFENDANTS**

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Rules Creating and Controlling the Oklahoma Bar Association (“RCAC”) passim
(5 O.S. Supp., Chapter 1, App. 1)

Defendants Charles W. Chesnut, President, Oklahoma Bar Association Board of Governors; Susan B. Shields, President-Elect, Oklahoma Bar Association Board of Governors; Lane R. Neal, Vice President, Oklahoma Bar Association Board of Governors; Kimberly Hays, Past President, Oklahoma Bar Association Board of Governors; Brian T. Hermanson, Member, Oklahoma Bar Association Board of Governors; Mark E. Fields, Member, Oklahoma Bar Association Board of Governors; David T. McKenzie, Member, Oklahoma Bar Association Board of Governors; Andrew E. Hutter, Member, Oklahoma Bar Association Board of Governors; D. Kenyon Williams, Jr., Member, Oklahoma Bar Association Board of Governors; Matthew C. Beese, Member, Oklahoma Bar Association Board of Governors; Jimmy D. Oliver, Member, Oklahoma Bar Association Board of Governors; Bryon J. Will, Member, Oklahoma Bar Association Board of Governors; James R. Hicks, Member, Oklahoma Bar Association Board of Governors; Brian K. Morton, Member, Oklahoma Bar Association Board of Governors; Miles T. Pringle, Member, Oklahoma Bar Association Board of Governors; and Brandi N. Nowakowski, Member, Oklahoma Bar Association Board of Governors; all in their official capacities (collectively “Defendants” or “Members of the Board of Governors”)¹ respectfully move to dismiss in its entirety the First Amended Complaint [Doc. 19] (“Amended Complaint”) filed in this

¹ The individually named members of the Board of Governors, sued only in their official capacities, use the collective term “Members of the Board of Governors” solely for convenience, without waiver. The individual members named as defendants are immune from suit as they are under the exclusive control of the state, and plaintiff has not made sufficient allegations to connect them individually to the relief requested, as established, *infra*. See *Barrett v. Univ. of N.M. Bd. of Regents*, 562 Fed. App’x 692, 694 (10th Cir. 2014).

matter under Fed.R.Civ.P. Rule 12(b)(1) and (b)(6).² In support thereof, Defendants would show the Court:

INTRODUCTION AND BACKGROUND

Plaintiff asks this Court to declare mandatory membership in and payment of dues to the Oklahoma Bar Association (“OBA” or “Association”) unconstitutional under the First and Fourteenth Amendments of the U.S. Constitution, to enjoin the collection and use of member dues, and to obtain additional relief concerning other aspects of the OBA’s operations.

In exercise of its plenary powers over the state’s courts, OKLA. CONST. arts. 4, 7, the Oklahoma Supreme Court in 1939 created the OBA, by adopting the Rules Creating and Controlling the Oklahoma Bar Association (“RCAC”).³ *See In re Integration of State Bar of Oklahoma*, 1939 OK 378, ¶¶ 12-14, 95 P.2d 113, 116. The Preamble states the Association’s broad purpose and function:

² Defendant Timothy E. DeClerck, also named in his official capacity as a Member of the Oklahoma Bar Association’s Board of Governors, is not a party to this Motion, but has filed his own response to the Amended Complaint.

³ OKLA. STAT. tit. 5, Ch. 1, App. 1, *et seq.* (2005). *See* Ex. 1, RCAC. While codified in the Oklahoma statutes, the RCAC are not statutes created by the legislature, but rules promulgated by the Oklahoma Supreme Court. *See In re Integration of State Bar of Oklahoma*, 1939 OK 378, ¶¶ 12-14, 95 P.2d at 116. Defendants respectfully request that the Court take judicial notice of these and other public records referenced herein. *See Tal v. Hogan*, 453 F.3d 1244, 1264 n.24 (10th Cir. 2006) (“facts subject to judicial notice may be considered [in a Rule 12(b)(6) motion] without converting a motion to dismiss into a motion for summary judgment. This allows the court to take judicial notice of its own files and records, as well as facts which are a matter of public record. However, the documents may only be considered to show their contents, not to prove the truth of matters asserted therein.”) (internal quotations, citations and brackets omitted).

In the public interest, for the advancement of the administration of justice according to law, and to aid the courts in carrying on the administration of justice; to foster and maintain on the part of those engaged in the practice of law high ideals of integrity, learning, competence and public service, and high standards of conduct; to provide a forum for the discussion of subjects pertaining to the practice of law, the science of jurisprudence, and law reform; to carry on a continuing program of legal research in technical fields of substantive law, practice and procedure, and to make reports and recommendations thereto; to prevent the unauthorized practice of law; to encourage the formation and activities of local bar associations; to encourage practices that will advance and improve the honor and dignity of the legal profession; and to the end that the responsibility of the legal profession and the individual members thereof, may be more effectively and efficiently discharged in the public interest, and acting within the police powers vested in it by the Constitution of this State

Preamble, RCAC.

The Supreme Court has identified the Association as the Court's "official arm" when the Association acts for and on behalf of the Court "in the performance of its governmental powers and functions." RCAC, Art. I, § 1. In that regard, the Oklahoma Supreme Court retains "exclusive jurisdiction in all matters involving the licensing and discipline of lawyers in Oklahoma" and has sole control over rules governing admission to practice law in the State. *Doyle v. Okla. Bar Ass'n*, 998 F.2d 1559, 1563 (10th Cir. 1993) (citations omitted).

ARGUMENT AND AUTHORITIES

I. Standard for Motion to Dismiss Under Rules 12(b)(6) and 12(b)(1).

In order to survive a motion to dismiss, the plaintiff cannot simply provide "labels and conclusions, and a formulaic recitation of the elements of a cause of action...." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (internal citation omitted). Instead, the plaintiff must plead facts that at least make the claims plausible, and "raise a right to relief

above the speculative level.” *Id.* at 555, 570 (internal citations omitted). Moreover, “the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal citation omitted).

Where, as here, “jurisdiction is challenged, the burden is on the party claiming jurisdiction to show it by a preponderance of the evidence.” *U.S. ex rel. Hafter D.O. v. Spectrum Emergency Care, Inc.*, 190 F.3d 1156, 1160 (10th Cir. 1999) (citation omitted). Accordingly, plaintiff must allege “the facts essential to show jurisdiction and support[] those facts with competent proof. Mere conclusory allegations of jurisdiction are not enough.” *Id.* (quotation and citation omitted).

II. Because the Court lacks subject matter jurisdiction, it should dismiss the Amended Complaint as to the Members of the Board of Governors.

A. The OBA is Immune from Suit under the Eleventh Amendment, which Grants States Immunity from Actions by Individuals in Federal Court.

The Eleventh Amendment of the United States Constitution grants states immunity from suit by individuals in federal courts unless the state consents in unequivocal terms or Congress, exercising its power, unequivocally expresses its intent to abrogate immunity. U.S. CONST. amend. XI; *Hans v. Louisiana*, 134 U.S. 1, 13 (1890). Neither of those exceptions is present here.

Ex parte Young, 209 U.S. 123 (1908), provides an additional exception to immunity in certain circumstances where the plaintiff seeks only (1) declaratory or injunctive that is properly characterized (in substance) as forward looking relief rather than money damages;

(2) for an ongoing violation of federal law; (3) aimed at state officers acting in their official capacities, not the state itself. *Hill v. Kemp*, 478 F.3d 1236, 1255-56, 1259 (10th Cir. 2007) (citations omitted). “*Ex parte Young* requires a nexus between the defendant and ‘enforcement’ of the challenged statute.” *Peterson v. Martinez*, 707 F.3d 1197, 1206 (10th Cir. 2013) (citation omitted) (emphasis in original).

The OBA is an arm of the Oklahoma Supreme Court and an instrumentality of the state. *Doyle v. Okla. Bar Ass’n*, 787 F. Supp. 189, 192 (W.D. Okla. 1992) *judgment aff’d*, *Doyle, Okla. Bar Ass’n*, 998 F.2d 1559 (10th Cir. 1993); RCAC, Art. 1 (“The Oklahoma Bar Association is an official arm of [the Court], when acting for and on behalf of this Court in the performance of its governmental powers and functions.”). *See also Kerchee v. Smith*, Case No. 11-cv-00459-C, 2011 WL 5838425 (W.D. Okla. Nov. 21, 2011) (Order adopting Report and Recommendations and dismissing defendant OBA under Eleventh Amendment),⁴ *aff’d as modified*, *Kerchee v. Smith*, 527 F. App’x 817, 2013 WL 2399482 (10th Cir. 2013). As an arm of the State, the OBA is protected from suit under the Eleventh Amendment. *Id.* The Board of Governors is an arm of the State of Oklahoma. *See, e.g., Barrett v. Univ. of N.M. Bd. Of Regents*, 562 F. App’x 692 (10th Cir. 2014).

The defense of sovereign immunity is a bar to jurisdiction. *Wyoming v. United States*, 279 F.3d 1214, 1225 (10th Cir. 2002). Because plaintiff cannot name the OBA as a

⁴ *See Kerchee v. Smith*, 2011 WL 5838442, *1 (W.D. Okla. Oct. 24, 2011) (Report and Recommendation of Magistrate Judge Bacharach adopted by the Court) (“the Western District of Oklahoma has held that the Oklahoma Bar Association enjoys immunity under the Eleventh Amendment. The Court should follow that decision and again conclude that the bar association is entitled to Eleventh Amendment immunity. With this conclusion, the Court should dismiss all claims against the bar association.”)

defendant, to establish jurisdiction, he must sue a state official against whom effective relief could be obtained in his or her official capacity. However, Defendants are not proper state officials with regard to the claims and relief sought. Accordingly, this action must be dismissed as to these Defendants.

B. Because the Members of the Board of Governors Cannot Provide Effective Relief Sufficient to Create an Article III Case or Controversy, and Because the *Ex parte Young* Requirements are not Met, the Court Lacks Subject Matter Jurisdiction.

Jurisdiction of federal courts is limited to cases or controversies. U.S. CONST. art. III, § 2, cl. 1. “To establish a case or controversy, a plaintiff bears the burden of demonstrating:

(1) it has suffered an “injury in fact” that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.

Bronson v. Swensen, 500 F.3d 1099, 1106 (10th Cir. 2007) (quoting *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.*, 528 U.S. 167, 180–81 (2000)). “The redressability prong is not met when a plaintiff seeks relief against a defendant with no power to enforce a challenged statute.” *Bronson*, 500 F.3d at 1111 (citations omitted). The same nexus to enforcement power is required for a state official to be a proper defendant under *Ex parte Young*. See *Peterson*, 707 F.3d at 1206. Here, plaintiff cannot show that the injury he claims is redressable by these defendants. The Court accordingly lacks subject matter jurisdiction due to the absence of an actionable case or controversy under Article III and because the exception to state immunity provided by *Ex parte Young* does not apply.

1. There is no Article III Case or Controversy as the Members of the Board of Governors do not have the enforcement power necessary to render effective relief or meet the requirements of *Ex parte Young*.

a. First and Second Claims for Relief - compelled membership and mandatory dues

With regard to plaintiff's first and second claims, he seeks declaratory and injunctive relief concerning his claim that "Defendants violate Plaintiff's rights...by enforcing Oklahoma statutes that make membership in the OBA and mandatory dues a condition of practicing law in Oklahoma." *See* Amended Complaint [Doc. 19] at 21, ¶ A.⁵ However, the individual Members of the Board of Governors lack any authority to alter or enforce the challenged mandatory membership and dues requirements of licensure established by the Oklahoma Supreme Court.

Attorney licensure is a non-delegable power of the Supreme Court: "The regulation of licensure, ethics, and discipline of legal practitioners is a *nondelegable*, constitutional responsibility *solely vested in this Court* in the *exercise of our exclusive jurisdiction*. Our nondelegable and exclusive jurisdiction in Bar matters has been stated often by this Court...." *State ex rel. Okla. Bar Ass'n v. Mothershed*, 2011 OK 84, ¶ 33, 264 P.3d 1197, 1210 (quotation omitted) (emphasis added). Exercising this non-delegable power, the

⁵ It should be noted that plaintiff styles his first claim for relief "Compelled membership in the OBA violates *attorneys'* First and Fourteenth Amendment rights to free association and free speech." [Doc. 19] at 15 (emphasis added). However, plaintiff does not bring this or any claim in a representative capacity on behalf of Oklahoma "attorneys;" the claims are brought solely on his own behalf.

Supreme Court determined that mandatory Association membership and dues are requirements of licensure. *See* RCAC Art. II, §§ 1, 2, 7(a); Art. VIII, § 1.

- i. Members of the Board of Governors lack authority to determine or enforce licensure requirements.

The Board of Governors' existence, function and power are provided for in the RCAC, Art. IV, §§ 1-8, promulgated by the Supreme Court. *See* Ex. 1. The Board of Governors is composed of seventeen members, which do not include the Executive Director.⁶ The Board of Governors is defined as the governing body of the Association, but its authority "is subordinate to [the RCAC] and direction of the House of Delegates,"⁷ and it lacks policy making power, which is vested in the House of Delegates.⁸ The Board members are "non-voting ex officio members of the House of Delegates," who are "precluded from introducing resolutions, legislative proposals or motions or the casting of any ballot on any matter"⁹ Members of the Board of Governors are subordinate to the House of Delegates, lack policy making power, and cannot vote on matters considered by the House of Delegates. Further, the Supreme Court has **non-delegable** and **exclusive jurisdiction** and **authority** over the OBA membership and dues licensure requirements plaintiff challenges, and he has failed to allege facts to establish that these Defendants have enforcement power with regard to them. The Court lacks jurisdiction over these Defendants and they should be dismissed.

⁶ RCAC, Art. IV, § 1 (a)-(f). The Executive Director is recording secretary. *Id.* at § 1(f).

⁷ RCAC, Art. IV, § 1.

⁸ RCAC, Art. III, § 1. The policy making powers of the House of Delegates is "subordinate to the [RCAC] and any orders that may be issued by the [Supreme] Court." *Id.*

⁹ RCAC, Art. IV, § 4.

Plaintiff also fails to allege that the individual Members of the Board of Governors have a duty and a willingness to enforce the provisions of which he complains. *Barrett v. Univ. of N.M. Bd. Of Regents*, 562 F. App'x at 694 (citing *Chamber of Commerce of U.S. v. Edmondson*, 592 F.3d 742, 760 (10th Cir. 2010)). In fact, the Board of Governors can only act if it has a quorum of nine members, and a “recommendation for any amendment to [the RCAC] requires the affirmative vote of a majority of all members of the Board of Governors.” RCAC Art. IV, § 1(g). Plaintiff’s ‘general allegation’ that the Board has “the authority to withdraw and use mandatory Oklahoma Bar Association dues”¹⁰ are insufficient to show a claim of viable relief against these individual defendants, as under the RCAC it “must act as ‘a body corporate.’” *Barrett*, 562 F. App'x at 694 (citation omitted). Further, the Board of Governors can only act as a collective, so plaintiff’s quest for relief against these individual Defendants is futile. Because plaintiff has not shown that Defendants have a “particular duty” to enforce these requirements, they are protected by 11th Amendment immunity. *Id.*

ii. Defendants lack power to determine application of OBA funds.

The RCAC provide that “[t]he funds of the Association shall be used and expended for any expense of the Association provided for by [t]he annual budget as approved by the [OSCT], or as subsequently amended by order of the [OSCT].” RCAC, Art. VII, §§ 1, 2. Thus, although the Board of Governors has ministerial authority to withdraw funds, RCAC, Art. VII, § 2, they nonetheless lack the authority to use funds in any manner not

¹⁰ See [Doc. 19] at 5, ¶ 21.

approved and directed by the Supreme Court. RCAC, Art. VII, §§ 1, 2. Further, the Members of the Board of Governors are “non-voting ex-officio members of the House of Delegates,” who are “precluded from introducing resolutions, legislative proposals or motions or the casting of any ballot on any matter” RCAC Art. IV, § 4. Whatever authority they may have under the RCAC is subordinate to the House of Delegates and the Supreme Court.¹¹ Accordingly, for several reasons, the Court cannot order the relief plaintiff requests – a declaration that the “OBA collects and uses mandatory bar fees to subsidize its speech, including its political and ideological speech as described above,” [Doc. 19] at 17, ¶ 106, & 19, ¶ 118, or an order enjoining Defendants from collecting and using fees. *Id.* at 21, ¶¶ C, D.

Most important, enjoining Defendants from performing their administrative duties simply does nothing to provide effective relief to plaintiff going forward. *See* [Doc. 19] at 19, ¶ 118, & 21, ¶ C.¹²

b. Plaintiff fails to state an actionable claim based on Oklahoma Bar Journal publications

The Amended Complaint’s reference to “political and ideological speech as described above” at ¶ 106 clearly refers to the Oklahoma Bar Journal (“OBJ”) excerpts and other past alleged instances of speech. *See* [Doc. 19] at ¶¶ 58-76. While Defendants reject any argument that these past publications violated federal law or impinged on plaintiff’s First Amendment rights, plaintiff clearly seeks a remedy for statements already made and

¹¹ *See* n. 8, *supra*.

¹² And if injunctive relief were effectively granted, all lawyer discipline and ethics enforcement would immediately end.

articles previously published in the OBJ. The Court lacks jurisdiction to award declaratory¹³ and/or injunctive relief as to past practices. *Johns v. Stewart*, 57 F.3d 1544, 1554-55 (10th Cir. 1995) (“The Eleventh Amendment ‘does not permit judgments against state officers declaring that they violated federal law in the past.’”) (quoting *Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 146 (1993));¹⁴ *Walling v. Shenandoah-Dives Min. Co.*, 134 F.2d 395, 397 (10th Cir. 1943) (observing that injunctive relief likewise cannot constrain past violations).

Additionally, plaintiff’s allegations do not implicate forum analysis since he is not claiming the OBA denied him access to the forum – the OBJ – in violation of his First Amendment rights. Notwithstanding, even if the OBA refused to permit plaintiff to air his opinions via the OBJ, the OBJ is a nonpublic forum. *See Barnard v. Chamberlain*, 897 F.2d 1059, 1065 (10th Cir. 1990) (noting that because the nature and purpose of a forum such as the Utah bar journal is not compatible with unrestricted public access by members of the public or the bar, the bar journal is a nonpublic forum); *Estiverne v. La. State Bar Ass’n*, 863 F.2d 371, 381 (5th Cir. 1989) (concluding that the Louisiana bar journal is a nonpublic forum because “it was not established as an open forum for the expressive activities of the public, or of the members of the Bar.”). The state may restrict access to a nonpublic forum based on the subject matter of the speech and identify of the speaker so

¹³ The Declaratory Judgment Act, 28 U.S.C. § 2201(a), does not provide jurisdiction, but simply offers a remedy where jurisdiction otherwise exists due to existence of an actionable case or controversy. *Columbian Fin. Corp. v. BancInsure, Inc.*, 650 F.3d 1372, 1376 (10th Cir. 2011).

¹⁴ Further, as established *infra*, it is well settled that a mandatory bar association may constitutionally use dues to support speech that is germane to the purposes of the bar.

long as the decision is reasonable and viewpoint neutral. *Summum v. Callaghan*, 130 F.3d 906, 916 (10th Cir. 1997).

Even if the past articles could conceivably be construed to relate to any allowable equitable relief (which is disputed), all but six concern occurrences beyond the two year statute of limitation, and would be time barred. *See* Amended Complaint [Doc 19] at ¶¶ 58-70; *Garcia v. Wilson*, 731 F.2d 640, 651 (10th Cir. 1984) (Section 1983 actions are characterized as personal injury claims); *Baker v. Bd. Of Regents of the State of Kan.*, 991 F.2d 628, 630 (10th Cir. 1993) (state law to determines applicable limitations period); OKLA. STAT. tit. 12, § 95(2) (two year limitation period for actions for injury to rights not arising from contract).

The Court must disregard allegations regarding past acts as they cannot form the basis of any allowable relief.

Each of plaintiff's claims fail for lack of jurisdiction under Article III and the Eleventh Amendment, and must be dismissed.

III. Compulsory Membership in, and Payment of Dues to, an Integrated Bar Association are Constitutional Under Controlling Precedent.

It is well settled that a state may constitutionally require lawyers seeking licensure to be a member of an integrated bar association and pay a compulsory membership fee. *Lathrop v. Donohue*, 367 U.S. 820, 833 (1961). In *Lathrop*, the Court held that statutes requiring compulsory membership in a centralized bar association, together with a compulsory duty to pay dues, are constitutional under the First Amendment. The Court expressly rejected appellant's argument that (1) the integrated Wisconsin Bar

unconstitutionally infringed upon his constitutionally protected freedom of association, and (2) that his rights of free speech were violated by the use of his money for causes appellant opposed. *Id.* at 843.

The Court determined that appellant's claims that the State Bar "partakes of the character of a political party" and is "deliberately designed to further a program of political action" were unfounded. *Id.* at 833-34. Instead, the Court explained the State Bar "promotes the public interest to have public expression of the views of a majority of the lawyers of the state, with respect to legislation affecting the administration of justice and the practice of law, the same to be voiced through their own democratically chosen representatives comprising the board of governors of the State Bar." *Id.* at 844-45. Further, the public interest promoted via the Bar far outweighed any small inconvenience to the plaintiff resulting from his required payment of annual dues. *Id.* at 845. In sum, the Court held that "[b]oth in purport and in practice the bulk of State Bar activities serve the function . . . of elevating the educational and ethical standards of the Bar to the end of improving the quality of the legal service available to the people of the State, without any reference to the political process." *Id.* at 843. As such, the Court upheld the constitutionality of the compulsory bar membership and compulsory bar fees. *Id.*

Reaffirming *Lathrop*, the Court in *Keller v. State Bar of California*, 496 U.S. 1, 4, 14 (1990), determined California's integrated bar was constitutional, stating "[w]e agree that lawyers admitted to practice in the State may be required to join and pay dues to the State Bar," This conclusion rested on the "State's interest in regulating the legal profession and improving the quality of legal services." *Id.* at 13.

Together, *Lathrop* and *Keller* hold that a state may require membership in an integrated bar as a condition of practicing law and may require payment of bar dues for expenditures germane to the State's interests in regulating the legal profession and improving the quality of legal services in the state. As United States Supreme Court decisions, *Lathrop* and *Keller* "remain binding precedent until [the Court] see[s] fit to reconsider them, regardless of whether subsequent cases have raised doubts about their continuing vitality." *Hohn v. U.S.*, 524 U.S. 236, 252-53 (1998) (citation omitted); *Tootle v. USDB Commandant*, 390 F.3d 1280, 1283 (10th Cir. 2004).

Plaintiff's contention that "by its very nature, a mandatory bar association such as the OBA violates" rights of association and freedom of speech, *see* [Doc. 19] at 12, ¶¶ 95-97, plainly fails in the face of *Lathrop* and *Keller*. The OBA is "an association of attorneys in which membership and dues are required as a condition of practicing law in [the] State," created under state law to regulate the state's legal profession, *Keller*, 496 U.S. at 4, and is therefore constitutional under the First Amendment.

While conceding the state's legitimate goals in regulating, encouraging, and policing the state's lawyers, and in promoting the legal profession and the administration of justice, plaintiff asks this Court to recognize an additional requirement that the state must use *the least restrictive means to achieve its goals*, positing that a mandatory bar association is not the least restrictive means, and therefore unconstitutional. *See* [Doc. 19] at 16, ¶ 102. This extra gloss on the requirements of lawyer and legal system governance is simply not required under *Lathrop* or *Keller*. Neither case conditioned constitutionality of mandatory state bar membership on a further examination of whether the state bar's

goals could be achieved by less restrictive means. To the contrary, *Lathrop* and *Keller* outright authorize compulsory bar membership and dues.

This Court is bound to follow *Lathrop* and *Keller*, which require dismissal of plaintiff's first claim for relief challenging the constitutionality of mandatory membership in Oklahoma's integrated bar as a violation of plaintiff's free speech and association rights. *Hohn*, 524 U.S. at 252-53; *Tootle*, 390 F.3d at 1283.

IV. The Imposition of Mandatory Dues, and their Use to Fund Speech Related to the Legal Profession and Its Improvement, are Constitutional.

A. The Imposition of Mandatory Bar Dues is Constitutional, as is the Application of Dues to Fund Germane Speech.

Lathrop and *Keller* hold that the compulsory payment of dues is constitutional under the First Amendment's associational guarantees, even if used to subsidize speech. *Lathrop*, 367 U.S. at 843 (The state supreme court "may constitutionally require that the costs of improving the profession in this fashion should be shared by the subjects and beneficiaries of the regulatory program, the lawyers, even though the organization created to attain the objective also engages in some legislative activity"); *Keller*, 496 U.S. at 12 ("It is entirely appropriate that all of the lawyers who derive benefit from the unique status of being among those admitted to practice before the courts should be called upon to pay a fair share of the cost of the professional involvement in this effort."). So long as speech so funded is germane to the organization's purpose, it is constitutional. *Keller*, 496 U.S. at 13-14. Defendants will establish below that the speech complained of is germane, however,

plaintiff's argument that compulsory dues are facially unconstitutional is contrary to controlling authorities and must be rejected outright.

Also, plaintiff's argument that the mandatory bar fees are unconstitutional because he posits the OBA could achieve its goals without requiring fees lacks any legal support and does not state an actionable claim. *See* [Doc. 19] at 17, ¶¶ 109-111. The constitutionality of compulsory dues is not limited by a "least restrictive means" test. *See, id.*

B. There is No Requirement That a State Bar Provide an Affirmative *Opt-In* Procedure Regarding Allocation of a Portion of Bar Dues to Speech.

Keller does not require the OBA to adopt an *opt-in* feature for its dues regime to be constitutional. In fact, *Keller* did not impose a mandatory litmus test procedure of any nature; rather, it requires a bar association to adopt procedures "of the sort" generally described in *Chicago Teachers Union, Loc. No. 1 v. Hudson*, 475 U.S. 292 (1986), to allow a bar member to elect that a portion of his or her dues not be paid toward non-germane speech to which a member objected. *Keller*, 496 U.S. at 17. Noting the lack of a developed record, the Court did not mandate a particular procedure, but pointed to the *Hudson* procedures as a general guide. *Id.* In turn, *Hudson* itself adopted an *opt-out* structure, but also declined to mandate specific requirements. *Hudson*, 475 U.S. at 310. *See also, Morrow v. State Bar of Calif.*, 188 F.3d 1174, 1175 (9th Cir. 1999) (cert. denied, 528 U.S. 1156 (2000)) ("In compliance with the Supreme Court's decision in *Keller*, the State Bar allows

members to seek a refund of the proportion of their dues that the State Bar has spent on political activities unrelated to its regulatory function.”).¹⁵

Plaintiff’s insistence that bar associations must structure their *Keller* procedure as an *opt-in* one is seemingly based on *Janus v. AFSCME*, 138 S.Ct. 2448, 2486 (2018). *See* [Doc. 19] at 18, ¶ 114. But *Janus*, which concerned a *union shop*’s obligations to *non-member* dues payers, does not apply to bar associations and their members, whose relationship with regard to compulsory dues and non-germane speech is controlled by *Lathrop* and *Keller*.¹⁶ The Supreme Court in *Harris v. Quinn*, 573 U.S. 616, 655-56 (2014), distinguished integrated bars from other associations, such as unions, based on the unique nature of attorneys’ relationship to their state bars. The Court opined that states have a particular “interest in regulating the legal profession and improving the quality of legal services,” and “a strong interest in allocating to the members of the bar, rather than the general public, the expense of ensuring that attorneys adhere to ethical practices.” *Harris*, 573 U.S. at 655 (quotations omitted). The Court further determined that the bar dues requirement was a proper part of the licensure of “attorneys [who] are subject to detailed ethics rules, and the bar rule requiring payment of dues was part of this regulatory scheme.” *Id.* Given that *Harris* sets bar members apart from other associations, it could not be more clear that *Lathrop* and *Keller* - two opinions that specifically address the First Amendment

¹⁵ The OBA’s procedures exceed *Hudson*’s because they allow participation, inquiry and protest before the budget is finalized. *See, e.g.*, RCAC Art VII, § 1.

¹⁶ *Janus* is further distinguishable as plaintiff here does not claim that the OBA restricts member speech. *See* Amended Complaint [Doc. 19]. *Janus*, in contrast, concerned requirements that significantly restricted the speech of all impacted employees. *See Janus*, 138 S.Ct. at 2460-61, 2469.

obligations of integrated bars to their members - control, not *Janus*, which discussed *unions* and their obligations to *non*-members. Neither *Lathrop* nor *Keller* mandate (or even discuss) the opt-in procedure plaintiff attempts to impose upon the OBA.

Further, contrary to plaintiff's claim, the OBA provides both an opportunity to participate in the budgeting process and a means to opt-out if a member contends an expenditure is objectionable. The applicable RCAC budget provision states:

There shall be a Budget Committee....[which] shall prepare a proposed annual budget of the financial needs of the Association for the following year. On or before October 20th the proposed budget shall be **published** in one issue of the Bar Journal, together with a notice that a public hearing thereon will be held by the Budget Committee at the Oklahoma Bar Center on a date and at a time fixed in the noticeThe budget shall be approved by the Board of Governors prior to being submitted to the Supreme Court. **Members of the Association may appear to protest any items included or excluded from the proposed budget.** On or before December 10, the finalized budget shall be submitted by the Budget Committee, with its recommendation, to the Supreme Court....[which] shall review said proposed budget to determine if the proposed items of expenditure are within the Court's police powers and necessary in the administration of justice, and will act on said budget prior to December 25 of each year. No funds of the Association shall be used or expended for any items not included in the annual budget as approved by the Supreme Court, or as subsequently amended by order of the Supreme Court.

RCAC, Art VII, § 1 (emphasis added). *See, e.g., Ex. 2, In re 2019 Budget of the Okla. Bar Ass'n*, Oklahoma Supreme Court Case SCBD No. 6721 (Order Approving 2019 OBA Budget, filed Nov. 19, 2018) (noting the 2019 proposed budget was *published* in the Oklahoma Bar Journal on September 22, 2018, together with a *notice of the public hearing* on the budget set for October 11, 2018 in the Oklahoma Bar Center, which was followed by a Board meeting which reviewed and approved the proposed budget, which was then submitted to the Supreme Court for review and approval under the Court's police power);

Ex. 3 (Application for budget approval) filed Nov. 6, 2018 (noting no members appeared to protest the budget).

In addition to being provided the opportunity to participate in the annual budget process, *see* n. 13, *supra*, a member can submit an opt-out form to the OBA seeking a refund of any fees he or she believes will be spent on non-germane matters. *See* [Doc. 19] at 13-14, ¶¶ 82-89. *See also* RCAC, Art. VII, and Ex. 4 (excerpt from OBA webpage, containing the Notice and Objection Procedure and providing a link to “OBA Dues Claim Form”); & Ex. 5 (“OBA Dues Claim Form”).

In light of the foregoing, plaintiff’s conclusory claim that the “[t]he OBA **provides no way** for attorneys to avoid having their dues used to subsidize its speech,” [Doc. 19] at 17, ¶ 107 (emphasis added), is simply false.

Plaintiff, apparently an avid Oklahoma Bar Journal reader, fails to mention the RCAC’s provision for multiple notices of hearings and opportunities for public participation in development of the OBA’s annual budget. He does not allege that he availed himself of the available procedures by attending OBA budget meetings or hearings, or that he submitted a dues refund form and was denied. He does not claim the OBA failed to follow the procedures mandated by the Supreme Court in the RCAC. The OBA is constitutionally allowed to assess mandatory dues and apply them to fund germane activities under *Keller*, and it provides a noticed process for bar members to participate in the budget process and seek a refund of any fees to which the member objects. Plaintiff has not tested the OBA’s policies or objected to its expenditures although opportunities to do so are noticed in the OBJ, and the procedures for doing so are spelled out in the RCAC and

Bylaws. The Second Claim for Relief must be dismissed as it does not state an actionable claim.

V. Plaintiff's Third Claim must be Dismissed, Because the OBA has adopted *Keller* Procedures.

This claim fails for the same reasons. Plaintiff asserts that the OBA has violated an alleged requirement imposed by *Keller* that the OBA “institute safeguards” to “ensure mandatory member fees are used only for chargeable expenditures.” Amended Complaint [Doc. 19] at 19, ¶ 121. Plaintiff maintains that *Keller* mandates adoption of specific procedures and that any other procedure is *ipso facto* constitutionally infirm. However, *Keller* says no such thing.

Rather, after holding that a state may constitutionally use member dues to fund germane speech, *Keller*, 496 U.S. at 13-14, the Court went on to hold that a state bar may not compel a member to fund “activities of an ideological nature which fall outside of those areas of [germane] activity” – but recognized that “[t]he difficult question, of course, is to define the latter class of activities.” *Id.* Acknowledging the difficulty of determining the boundaries of germane speech, the Court did not adopt a rule that state bars must *guarantee* or *ensure* that no non-germane speech occurs, as plaintiff posits. Instead, the Court held that bar associations must put in place procedures whereby members can 1) be informed what its dues are being used for, and 2) seek to remove a portion of their dues from the support of expenditures they may believe are “not necessarily or reasonably incurred for the purpose of regulating the legal profession or ‘improving the quality of the legal service available to the people of the State.’” *Keller*, 496 U.S. at 14 (quoting *Lathrop*, 367 U.S. at

843). Far from mandating specific procedures to accomplish this goal, as plaintiff claims, the Court stated that “adopting the sort of procedures described in *Hudson* [475 U.S. 292 (1986)]” would meet the obligations of an integrated bar, as might adopting “one or more” unspecified other procedures not before the Court, giving state bars flexibility. *Keller*, 496 U.S. at 17.

The OBA has adopted procedures, as the RCAC requires, to give its members notice of and the opportunity to participate in the budgeting process which determines how funds are spent, and under which a bar member can seek to opt-out of any speech or expenditures he or she believes are non-germane. *See also* Exs. 4-5 (OBA webpage and OBA Dues Claim Form). This is all *Keller* requires. *See Keller*, 496 U.S. at 14, 17; *see also Morrow*, 188 F.3d at 1175 (“In compliance with the Supreme Court's decision in *Keller*, the State Bar allows members to seek a refund of the proportion of their dues that the State Bar has spent on political activities unrelated to its regulatory function,” dismissing First Amendment association claim); *Gibson v. The Fla. Bar*, 906 F.2d 624, 632 (11th Cir. 1990) (the state bar complied with *Hudson* where objecting bar members were given the opportunity to raise an objection; that the review committee was partially composed of bar members did not unconstitutionally taint the process).

Tellingly, plaintiff does not claim he participated in the OBA’s offered procedures. He does not claim he was unable to determine what his dues were used for after attending a noticed budget hearing, or that he sought, and was unable to obtain, a refund. *See* Amended Complaint [Doc. 19]. Plaintiff’s resulting facial challenge is “‘disfavored for several reasons,’ including the risk ‘of premature interpretation’ because such challenges

‘often rest on speculation.’” *Taylor v. Roswell I.S.D.*, 713 F.3d 25, 40 (10th Cir. 2013) (quoting *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 450 (2008)).

“‘Facial challenges are strong medicine, and thus [courts] must be vigilant in applying a most exacting analysis to such claims.’” *Taylor*, 713 F.3d at 40 (quoting *Doctor John’s, Inc. v. City of Roy*, 465 F.3d 1150, 1157 (10th Cir. 2006)). Plaintiff’s failure to take advantage of any number of the opportunities the Association offers - to challenge or opt-out of dues application, participate in budgetary process procedures, participate in legislative debates at annual meetings, or one of many others – means he cannot show that the “process is improperly restrictive, burdensome, unresponsive or slow” – and the Court should refuse to consider this challenge. *U.S. v. Friday*, 525 F.3d 938, 960 (10th Cir. 2008).

Plaintiff’s Third Claim for Relief must be dismissed.

VI. The Amended Complaint Must Be Dismissed in Its Entirety Because It Concerns Protected, Government Speech That is Germane under *Keller*.

“The Free Speech Clause restricts government regulation of private speech; it does not regulate government speech.” *Pleasant Grove City v. Summum*, 555 U.S. 460, 467 (2009) (citing *Johanns v. Livestock Mktg. Ass’n*, 544 U.S. 550, 553 (2005)). “Citizens may challenge compelled support of private speech, but have no First Amendment right not to fund government speech.” *Johanns*, 544 U.S. at 562.

In *Johanns*, the Court applied a control test – the degree of control the federal government had over the committee publishing the complained of speech was pivotal to finding that its speech was government speech. Distinguishing *Keller* (in which the Court had determined that the California Bar’s speech was not government speech under the facts

presented), the *Johanns* Court determined the amount of control exercised by the government over the beef marketing speech rendered it government speech. As such, it did not raise First Amendment concerns, even if it was funded by compelled contributions. *See Johanns*, 544 U.S. at 562 (in contrast to the challenged beef speech, the “communicative activities to which the plaintiffs objected [in *Keller*] were not prescribed by law in their general outline and not developed under official government supervision”).

The control exercised by the Oklahoma Supreme Court over the OBA is significantly greater than that present in *Keller*, and leads to the conclusion that the speech complained of here, like that scrutinized in *Johanns*, is protected, government speech. As established above, the Supreme Court created the OBA, adopted the RCAC, and retains complete control over licensing and regulation of attorneys and the manner in which the OBA spends money. *See In re Integration of State Bar of Oklahoma*, 1939 OK 378, 95 P.2d 113. The Court requires the OBA to submit monthly financial reports to it and Board of Governors. RCAC, Art. VI, § 5. The OBA is subject to an annual outside audit to be provided the Court. *Id.* This level of control is comparable to that exercised in *Johanns*, and compels the conclusion that like that in *Johanns*, the speech complained of here is protected, government speech. *In re Integration of State Bar of Oklahoma*, 95 P.2d 113. (Syllabus by the Court, at 2.) (“The practice of law and the determination of when the right to practice has ceased are so intimately connected and bound up with the exercise of judicial power in the administration of justice that the right to define and regulate is inherent to the judicial department and belongs to the Supreme Court.”)

Further, in deciding whether to approve an OBA budget proposal, the Oklahoma Supreme Court reviews it “to determine if the proposed items of expenditure are within the Court’s police powers *and necessary in the administration of justice*,” which findings are a condition of approval. RCAC, Art. VII, § 1 (emphasis added). If an annual OBA budget is so approved, then its expenditures – having been determined by the Supreme Court to be *necessary in the administration of justice* - are also necessarily germane, and therefore constitutional. *See Keller*, 496 U.S. at 3 (“guiding standard for determining permissible Bar expenditures ... is whether the challenged expenditures are necessarily or reasonably incurred for the purpose of regulating the legal profession or improving the quality of legal services.”). If the Oklahoma Bar Journal publishes an article that is germane to the OBA’s function then it too is protected government speech.¹⁷ *See Ellis v. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express and Station Employees*, 466 U.S. 435, 451 (1984) (union “surely [is allowed] to charge objecting employees for reporting to them about those activities it can charge them for doing.”). Here, the six Journal publications within the two year limitation period involve protected, germane speech under *Keller*, squarely within the expansive set of duties and objectives of the OBA set out in the RCAC Preamble. *See* Amended Complaint [Doc. 19] at 11-12, ¶¶ 71-76 (respectively, the articles discuss protecting the fair and impartial administration of justice, ¶ 71; relate concerns over attacks on an impartial judiciary, ¶¶ 72-73; discuss Oklahoma’s high

¹⁷ And if speech is germane then bar dues are properly expended for it, in any event. *Keller*, 496 U.S. at 14 (“State Bar may [] constitutionally fund activities germane to those goals out of the mandatory dues of all members”).

incarceration rate, ¶ 74; note that the Oklahoma legislature is well-served by elected lawyer-legislators, and encourage lawyer participation in the legislative process, ¶ 75; and announce the legislature's Reading Day, and describe new bills introduced, ¶ 76). Each of these topics fall squarely within the scope of the RCAC Preamble, and are therefore germane, and not actionable, or outside of *Keller's* scope.

VII. The Court Should Abstain From Intervening in this State Court Matter.

The Members of the Board of Governors serve pursuant to the RCAC under the superintending authority of the Supreme Court, and the Board is an arm of the Court. *Doyle v. Okla. Bar Ass'n*, 787 F.Supp. 189, 192 (W.D. Okla. 1992) (judgment aff'd, *Doyle v. Okla. Bar Ass'n*, 998 F.2d 1559 (10th Cir. 1993)); RCAC, Art. 1. For the same reasons stated in the Motion to Dismiss filed by the Chief Justice and Justices of the Oklahoma Supreme Court, [Doc. 43] at 12, this Court should exercise its discretion and decline to intervene in the affairs of the Oklahoma Supreme Court with regard to plaintiff's third claim (concerning its expenditures and *Keller* procedures), which, among other things, implicates the Association's budgeting and expenditures, which are reviewed and approved by, and remain in the complete control of, the Supreme Court, as established above.

WHEREFORE, these Defendants respectfully request the Court dismiss plaintiff's Amended Complaint in its entirety, with prejudice, and for such further relief, whether legal or equitable, as may be just, including an award of their reasonable attorney's fees and costs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day off June, 2019, I filed the attached document with the Clerk of Court. Based on the records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to the following:

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**Rules Creating and Controlling the Oklahoma Bar Association
(Okla. Statutes Title 5, Chapter 1, Appendix 1.)**

PREAMBLE

In the public interest, for the advancement of the administration of justice according to law, and to aid the courts in carrying on the administration of justice; to foster and maintain on the part of those engaged in the practice of law high ideals of integrity, learning, competence and public service, and high standards of conduct; to provide a forum for the discussion of subjects pertaining to the practice of law, the science of jurisprudence, and law reform; to carry on a continuing program of legal research in technical fields of substantive law, practice and procedure, and to make reports and recommendations thereto; to prevent the unauthorized practice of law; to encourage the formation and activities of local bar associations; to encourage practices that will advance and improve the honor and dignity of the legal profession; and to the end that the responsibility of the legal profession and the individual members thereof, may be more effectively and efficiently discharged in the public interest, and acting within the police powers vested in it by the Constitution of this State (Okla. Const. (1907), Art. IV, Section 1, Art. VII (1967) Sections 1, 4; In re Integration of State Bar of Oklahoma, 185 Okla. 505, 95 P.2d 113 (1939); In re Bledsoe, 186 Okla. 264, 97 P.2d 556 (1939); Ford v. Board of Tax Roll Corrections of Oklahoma County, 431 P.2d 423 (Okla. 1967)). The Supreme Court of Oklahoma does hereby create and continue an association of the members of the Bar of the State of Oklahoma to be known as the Oklahoma Bar Association, and promulgates the following rules for the government of the Association and the individual members thereof.

ARTICLE I

Section 1. OFFICIAL ARM OF SUPREME COURT. The Oklahoma Bar Association is an official arm of this Court, when acting for and on behalf of this Court in the performance of its governmental powers and functions.

Section 2. ATTORNEYS AS OFFICERS OF COURTS. Attorneys admitted to practice law in Oklahoma are a part of the judicial system of Oklahoma and officers of its courts.

ARTICLE II

Section 1. MEMBERSHIP. The membership of the Association shall consist of those persons who are, and remain, licensed to practice law in this State. All members of the Association shall provide the Association with a current address and shall promptly inform the Association of any changes in address.

Section 1A. LAW STUDENT DIVISION. Law Students who are currently enrolled in a law school accredited by the American Bar Association may affiliate and participate in the Oklahoma Bar Association with limited rights and privileges as provided in the Bylaws of the Association.

Section 2. MEMBERS CLASSIFIED. Members of the Association shall be divided into four classes, namely, (a) Active Member, (b) Senior Member, (c) Associate Member and (d) Retired Member. No other categories of membership may be allowed. The annual dues

shall be paid according to Art. VIII, § 1. *Tweedy v. Oklahoma Bar Assoc.*, 624 P.2d 1049, 1052 (Okla. 1981); *R.J. Edwards, Inc. v. Hert*, 504 P.2d 407, 415 (Okla. 1972); *In re Integration of State Bar*, 185 Okla. 505, 95 P.2d 113 (1939).

(a) **ACTIVE MEMBERS.** Active Members shall be all members not enrolled as Senior Members, Retired, or Associate Members.

(b) **SENIOR MEMBER.** An Active Member in good standing who was seventy (70) years of age as of the first day of January 2018, and previously became a Senior Member by filing with the Executive Director his or her statement, setting forth the month, day and year of birth and requesting Senior Member classification. Thereafter, he or she shall be entitled to all the privileges and advantages of an Active Member in the Association without payment of further dues, with the exception that he or she shall not receive the Bar Journal free of charge. If a Senior Member desires to receive the Bar Journal, he or she shall pay for an annual subscription, the cost of which shall be based upon production and mailing costs. No additional members shall be added to this classification after January 1, 2018. After January 1, 2018, all members who are seventy (70) years of age or older, who are actively engaged in the practice of law, and who are not Senior Members, Associate Members or Retired Members shall pay dues in the amount specified for those in practice for more than three (3) years.

(c) **ASSOCIATE MEMBER.** A member in good standing who files, or on whose behalf there is filed, with the Executive Director, a statement that, by reason of illness, infirmity, or other disability, he or she is unable to engage in the practice of law shall become an Associate Member of the Association for the duration of such illness, infirmity or other disability until restored to the former classification. An Associate Member shall not engage in the practice of law or be required to pay dues during such period. He or she may, on annual request, receive the Bar Journal during his or her disability. The member, on causing an appropriate showing thereof to be made to the Executive Director, shall be reclassified to an Active Member and shall be required to pay the dues applicable thereto beginning January 2 next following such reclassification and to pay the cost of the Bar Journal during such disability if he or she has elected to receive it.

(d) **RETIRED MEMBER.** An Active Member in good standing who reaches age seventy (70) on, or after January 2nd, 2018 and is no longer engaged in the practice of law may notify the Executive Director, in writing, that he or she wishes to be designated as a "Retired Member." Such request shall include a statement that the member is not engaged in the practice of law in any jurisdiction. Members who request Retired Member classification shall be relieved from paying dues and may purchase the Bar Journal and other member benefits that might be made available at a price equal to the cost to the Oklahoma Bar Association in providing the member benefit. An Active Member requesting Retired Member classification must have reached age seventy (70) prior to January 2nd of the year he or she is requesting to be reclassified to Retired Status and relieved from paying dues. Those members who were previously classified as Senior Members prior to the adoption of this subsection may change their classification to Retired Member if a request in writing is submitted to the Executive Director with a request for the reclassification and a statement that the requesting member is no longer engaged in the practice of law.

(e) **RECLASSIFICATION TO ACTIVE MEMBERSHIP – SHOWING COMPETENCE.** Whenever a member seeks restoration to Active Member classification after the lapse of

two (2) years or less, he or she may be reinstated as provided in Rule 11.8 of the Rules Governing Disciplinary Proceedings. After the lapse of more than two (2) years, Associate Member may be restored to Active Member classification upon compliance with Rule 11.1 through Rule 11.7 of the Rules Governing Disciplinary Proceedings.

(f) VOTING MEMBERS DEFINED. Active and Senior Members shall constitute the voting members of the Association. Associate and Retired Members shall not be Voting Members.

Section 3. RESIGNATION OF MEMBER.

(a) Any member may resign his membership in the Association by filing with the Executive Director a written resignation, whereupon he shall automatically cease to be a member and shall not thereafter be entitled to the privileges and advantages of membership in the Association. The Executive Director shall publicize the fact of resignation and shall cause a record thereof to be made in the records of the Association and of the Clerk of the Supreme Court.

(b)1 Any member who resigns shall remain subject to the Supreme Court's disciplinary jurisdiction and procedures for any misconduct committed while a member of the Oklahoma Bar Association. If, at the time of resignation, disciplinary proceedings or investigations which result in disciplinary proceedings are pending against the resigning member, the files and records thereof together with evidence later obtained, shall be impounded by the Board of Governors and shall be considered in connection with any subsequent application for reinstatement or with subsequent disciplinary action against him.

A member who resigns pending disciplinary proceedings or pending investigation which might result in disciplinary proceedings must do so upon a form prescribed by the General Counsel, approved by the Chief Justice, so drawn as to elicit acknowledgment that the resignation is submitted pending disciplinary proceedings or investigation of charges, specifying particularly the misconduct alleged; that the resignation is voluntary and with knowledge of its consequences; that the member agrees that he may be reinstated only upon full compliance with the condition and procedure prescribed by these rules; and that no application for reinstatement may be filed prior to the lapse of five (5) years from the date of resignation.

1. Subsection (b) of this section is revoked by Rule 15.1 of the Rules Governing Professional Discipline (Appendix 1-A of this title) to the extent it is inconsistent with the provisions of said rules.

Section 4. MOVING TO ANOTHER STATE. A member of the Association who becomes a nonresident of the state may maintain his status as a member, by the payment of the annual dues herein provided.

Section 5. OUT-OF-STATE ATTORNEYS AND ATTORNEYS GRANTED A SPECIAL TEMPORARY PERMIT TO PRACTICE.

A. Definitions - The following definitions govern this Article:

1. Out-of-State Attorney: A person who is not admitted to practice law in the State of Oklahoma, but who is admitted in another state or territory of the United States, the District of Columbia, or a foreign country.

2. **Oklahoma Attorney:** A person who is (a) licensed to practice law in Oklahoma, as an active or senior member as those categories are defined in Section 2 of this Article; and (b) a member in good standing of the Oklahoma Bar Association.

3. **Oklahoma Courts or Tribunals:** All trial and appellate courts of the State of Oklahoma, as well as any boards, departments, commissions, administrative tribunals, or other decision-making or recommending bodies created by the State of Oklahoma and functioning under its authority. This term shall include court-annexed mediations and arbitrations. It shall not, however, include federal courts or other federal decision-making or recommending bodies which conduct proceedings in Oklahoma.

4. **Proceeding:** Any action, case, hearing, or other matter pending before an Oklahoma court or tribunal, including an "individual proceeding" within the meaning of Oklahoma's Administrative Procedures Act (75 O.S. § 250.3).

5. **Attorney Granted Special Temporary Permit to Practice:** An attorney who is granted a special temporary permit pursuant to Rule Two Sections 5 and 6 of the Rules Governing Admission to the Practice of Law in the State of Oklahoma.

B. An out-of-state attorney may be permitted to practice before Oklahoma courts or tribunals solely for the purpose of participating in a proceeding in which he or she has been employed upon the following express conditions:

1. The out-of-state attorney shall make application with the Oklahoma Bar Association, in such form and according to the procedure approved by the Board of Governors of the Oklahoma Bar Association. Said application shall include an affidavit (or unsworn statement under penalty of perjury pursuant to 12 O.S. § 426) which: (a) lists each state or territory of the United States, the District of Columbia, or foreign country in which the out-of-state attorney is admitted; and (b) states that the out-of-state attorney is currently in good standing in such jurisdictions. If an out-of-state attorney commits actual fraud in representing any material fact in the affidavit or unsworn statement under penalty of perjury provided herein, that attorney shall be permanently ineligible for admission to an Oklahoma court or tribunal pursuant to this Rule, or for admission to the Oklahoma Bar Association. The out-of-state attorney shall file a separate application with respect to each proceeding in which he or she seeks to practice.

2. An Oklahoma court or tribunal may temporarily admit an out-of-state attorney on a showing of good cause for noncompliance with the other provisions of this Rule. Temporary admission under this Rule may be granted for a period not exceeding 10 days; however, such period may be extended as necessary on clear and convincing proof that the circumstances warranting the extension are beyond the control of the out-of-state attorney.

3. Unless a waiver is granted pursuant to Subsection 4, the out-of-state attorney shall pay the sum of Three Hundred Fifty Dollars (\$350.00) as a non-refundable application fee to the Oklahoma Bar Association. If the proceeding is pending on the anniversary of the application, an annual renewal fee of Three Hundred Fifty Dollars (\$350.00) shall be paid to the Oklahoma Bar Association and such fee shall continue to be paid on each anniversary date until the proceeding is concluded or the out-of-state attorney is permitted to withdraw from the proceeding by the applicable Oklahoma court or tribunal. In the event the annual renewal fee is not timely paid, the Oklahoma Bar Association shall mail a renewal notice to the out-of-state attorney at the address set forth in the attorney's application filed with the

Oklahoma Bar Association under this Rule (or at an updated address subsequently furnished by the out-of-state attorney to the Oklahoma Bar Association), apprising the attorney of the failure to timely pay the annual renewal fee of Three Hundred Fifty Dollars (\$350) with an additional late fee of one hundred dollars (\$100). If the out-of-state attorney fails to timely comply with this renewal notice, the Oklahoma Bar Association shall mail notice of default to the out-of-state attorney, the Oklahoma associated attorney (if applicable), and the Oklahoma court or tribunal conducting the proceeding. The Oklahoma court or tribunal shall file the notice of default in the proceeding, and shall remove the out-of-state attorney as counsel of record unless such attorney shows that the Oklahoma Bar Association's renewal notice was not received or shows excusable neglect for failure to timely pay the annual renewal fee and late fee. In the event of such a showing, the tribunal shall memorialize its findings in an order, and the out-of-state attorney shall within 10 calendar days submit the order to the Oklahoma Bar Association, promptly pay the annual renewal fee and late fee, and file a receipt from the Oklahoma Bar Association showing such payments with the Oklahoma court or tribunal.

4. Out-of-state attorneys appearing pro bono to represent indigent criminal defendants, or on behalf of persons who otherwise would qualify for representation under the guidelines of the Legal Services Corporation due to their incomes and the kinds of legal matters that would be covered by the representation, may request a waiver of the application fee from the Oklahoma Bar Association. Waiver of the application fee shall be within the sole discretion of the Oklahoma Bar Association and its decision shall be nonappealable.

5. The out-of-state attorney shall associate with an Oklahoma attorney. The associated Oklahoma attorney shall enter an appearance in the proceeding and service may be had upon the associated Oklahoma attorney in all matters connected with said proceeding with the same effect as if personally made on the out-of-state attorney. The associated Oklahoma attorney shall sign all pleadings, briefs, and other documents, and be present at all hearings or other events in which personal presence of counsel is required, unless the Oklahoma court or tribunal waives these requirements.

6. An out-of-state attorney shall by written motion request permission to enter an appearance in any proceeding he or she wishes to participate in as legal counsel and shall present to the applicable Oklahoma court or tribunal a copy of the application submitted to the Oklahoma Bar Association pursuant to Subsection B(1) of this Rule and a Certificate of Compliance issued by the Oklahoma Bar Association.

C. Admission of an out-of-state attorney to appear in any proceeding is discretionary for the judge, hearing officer or other decision-making or recommending official presiding over the proceeding.

D. Upon being admitted to practice before an Oklahoma court or tribunal, an out-of-state attorney is subject to the authority of that court or tribunal, and the Oklahoma Supreme Court, with respect to his or her conduct in connection with the proceeding in which the out-of-state attorney has been admitted to practice law. More specifically, the out-of-state attorney is bound by any rules of the Oklahoma court or tribunal granting him or her admission to practice and also rules of more general application, including the Oklahoma Rules of Professional Conduct and the Rules Governing Disciplinary Proceedings. Out-of-state attorneys are subject to discipline under the same conditions and terms as control the discipline of Oklahoma attorneys. Notwithstanding any other provisions of this Article or

Subsection, however, out-of-state attorneys shall not be subject to the rules of this Court relating to mandatory continuing legal education.

E. The requirements set forth below shall apply to all attorneys granted a special temporary permit to practice:

1. An attorney granted a special temporary permit to practice shall pay an administrative fee to the Oklahoma Bar Association of \$350.00 regardless of the duration of the permit. An annual fee in the amount of \$350.00 shall be collected on or before the anniversary of the permit. A late fee of \$100.00 shall be collected in the event the fee is paid within 30 days of the due date. In the event that the fee is not paid within 30 days of the due date, the special temporary permit shall be deemed cancelled and can only be renewed upon making application to the Board of Bar Examiners and the payment of a new application fee. The annual permit shall only be renewed upon affirmation that the conditions for which the special temporary permit was issued still exist. An attorney granted a special temporary permit to practice shall not appear on the roll of attorneys and shall not be considered a member of the Oklahoma Bar Association. However, an attorney granted a special temporary permit shall be subject to the jurisdiction of the Oklahoma Supreme Court for purposes of attorney discipline and other orders revoking, suspending or modifying the special permit to practice law.

2. Attorneys granted a special temporary permit to practice prior to the promulgation of this rule shall be deemed to have a renewal date of January 2, 2010.

3. All attorneys granted a special temporary permit to practice shall comply with the requirements of the Rules for Mandatory Continuing Legal Education with the exception that the annual reporting period shall be the anniversary date of the issuance of the special temporary permit to practice.

Section 6. SMALL CLAIMS PROCEDURE. In action filed and tried under the Small Claims Procedure Act (12 O.S.Supp. 1969, Section 1751 et seq.) the word “person” and “claimant” as therein used shall include corporations, partnerships, trusts and other legal entities, so that corporations, partnerships, trusts and other legal entities may, by and through a corporate officer or regular full-time employee, execute the statutory affidavits and proceed as any other person or claimant is authorized to proceed under the act.

Section 7. WHO MAY PRACTICE LAW.

(a) No person, corporation, partnership, or any other entity (hereinafter collectively referred to as “person”), shall practice law in the State of Oklahoma who is not an active member of the Association, except as herein provided.

(b) Any member of the Association who shall have been adjudged to be insane, mentally incompetent, or mentally ill shall not practice law, and shall not be required to pay dues during the continuation of such adjudication.

(c) It shall be the duty and responsibility of this Association, acting through the Professional Responsibility Commission, to investigate and to seek judicial action to prevent the unauthorized practice of law by any person, and to take appropriate action to enforce any lawful orders issued in such proceedings.

ARTICLE III

Section 1. HOUSE OF DELEGATES. The policy-making powers of the Association are vested in a House of Delegates, subject to its authority to delegate, during its adjournment, specific powers to the Board of Governors. Such policy-making power, shall, however, be subordinate to these rules and any orders that may be issued by this Court.

Section 2. BYLAWS TO GOVERN. Until the Association, through its Bylaws, otherwise provides, the composition, selection, powers and duties of the House of Delegates shall be as now provided in the Association's Bylaws, and as amended by these Rules.

ARTICLE IV

Section 1. BOARD OF GOVERNORS. The governing body of this Association shall consist of seventeen (17) active members of this Association, designated as the Board of Governors. The authority of the Board of Governors shall be subordinate to these Rules and direction of the House of Delegates. Said Board shall be selected as follows:

(a) Three (3) members elected At Large, by a majority vote of the House of Delegates or by a plurality of the voting members of the Association, in such manner as may be prescribed by the Bylaws, for a term of three (3) years, one of whom shall be elected annually.

(b) Nine (9) members, one from each Supreme Court Judicial District, elected by a majority vote of the House of Delegates or by a plurality of the voting members of the Association in such manner as may be prescribed by the Bylaws, for a term of three (3) years; three (3) of such members shall be elected at the annual election next prior to the expiration of the term of office of the respective predecessor members.

(c) The President and Vice-President of the Association during their terms of office.

(d) The President-Elect of the Association.

(e) The Immediate Past-President of the Association during the year immediately following his term as President.

(f) The Chairman of the Young Lawyers Division of the Association duly elected in accordance with the provisions of that organization's Bylaws. The Chairman of the YLD shall serve on the Board of Governors during his term of office as Chairman of the YLD.

(g) A quorum of the Board of Governors shall consist of nine (9) members. A majority of a quorum shall suffice to carry any action of the Board of Governors, unless otherwise provided by the Bylaws of the Association and except that recommendations for any amendment to these rules must receive the affirmative vote of a majority of all members of the Board of Governors.

(h) The President of the Association and the Executive Director of the Association shall act, respectively, as Chairman and Recording Secretary of the Board of Governors.

Section 2. MEETINGS OF BOARD OF GOVERNORS. The Board of Governors shall meet at the Oklahoma Bar Center, or in such other place as it may elect, once each month at a time fixed by it and at such other times as it shall determine. Special meetings of the Board of Governors shall be held at other times, either upon the call of the Chairman or upon the call of three (3) members. Notices of special meetings shall be mailed by the Executive

Director to each member, at least five days in advance of the day of meeting, unless waived in writing by a majority of the Board.

Section 3. FILLING VACANCIES. In case of a vacancy on the Board of Governors, the Board, by a majority vote, may appoint a successor who shall serve the remainder of the term, but the Association, in its Bylaws, may provide another method of filling vacancies.

Section 4. VOTING STATUS OF THE MEMBERS OF THE BOARD OF GOVERNORS AND OFFICERS OF THE ASSOCIATION. Members of the Board of Governors and the officers of the Association shall be non-voting ex officio members of the House of Delegates. Ex officio members shall have the right to speak on the floor of the House of Delegates, but shall be precluded from introducing resolutions, legislative proposals or motions or the casting of any ballot on any matter unless they are also certified as duly chosen members of the House of Delegates by their respective County Bar Associations.

Section 5. DUTIES OF BOARD OF GOVERNORS. The Board of Governors may perform duties not specifically enumerated herein and shall make or cause to be made, such investigations, not inconsistent with these rules, as reasonably should be made or as are directed by the Supreme Court.

Section 6. LENGTH OF SERVICE. No member of the Board of Governors, having served three (3) consecutive years as a member of the governing body (exclusive of service on the Board of Governors by reason of having received appointment to a vacancy as hereinbefore provided in these rules), shall be eligible to succeed himself on the Board of Governors, except as provided in the Bylaws of the Association.

Section 7. ATTENDANCE. A member of the Board of Governors who misses three (3) consecutive regular meetings of such Board, for whatever reason, shall automatically vacate his office and the vacancy shall be filled as provided in Section 3 above.

Section 8. CONFLICT OF INTEREST. No current member of the Board of Governors, partner, or associate of the Governor shall personally represent a lawyer in any proceeding as provided for in the Rules Governing Disciplinary Proceedings during the term of service of the member on the Board of Governors.

ARTICLE IV-A

(Revoked effective July 1, 1981. See, now, Rules Governing Professional Discipline, Appendix 1-A of this title.)

ARTICLE V

Section 1. OFFICERS OF THE ASSOCIATION. The officers of this Association shall be a President, a Vice-President and a President-Elect, elected each year in the manner prescribed by its Bylaws, and an Executive Director, selected as provided in Article VI of these Rules.

ARTICLE VI

Section 1. EXECUTIVE DIRECTOR, TREASURER, AND GENERAL COUNSEL. The Board of Governors shall select some suitable person, who need not be an attorney, as Executive Director of the Association and as its Treasurer. The Board of Governors shall also select some suitable and qualified person as General Counsel of the Association. This

section is revoked by Rule 15.1 of the Rules Governing Professional Discipline (Appendix 1-A of this title) to the extent it is inconsistent with the provisions of said rules.

Section 2. OTHER EMPLOYEES. The Board of Governors may employ such other persons as it deems advisable.

Section 3. EMPLOYEE BONDS. The Executive Director and his assistants and other employees shall execute surety bonds to the Association, in such sums as the Board of Governors shall fix, for their faithful performance of their duties and for the safekeeping of the funds coming into their hands. The premiums on said bonds shall be paid by the Association.

Section 4. EXECUTIVE DIRECTOR, DUTIES. The Executive Director shall perform such duties and services as may be required by these Rules or the Bylaws and as may be directed by the Board of Governors or the President of the Association. He shall also keep a complete and accurate list of the members of the Association; notify delinquent members and certify the names of delinquent members to the Supreme Court as required by these Rules; certify to the Supreme Court records and other matters as provided by these rules.

Section 5. REPORT OF EXECUTIVE DIRECTOR. The Executive Director shall cause to be prepared for each month a statement showing the financial condition of the Association and such other financial reports requested by the Board of Governors. Such monthly financial statement shall be provided to the Oklahoma Supreme Court liaison and the Board of Governors within sixty (60) days from the end of each calendar month. Additionally, the Executive Director shall cause a copy of the Financial Audit of the Association to be provided to the Oklahoma Supreme Court liaison and the Board of Governors for review prior to being placed upon the agenda for approval by the Board of Governors.

ARTICLE VII

Section 1. BUDGET COMMITTEE. There shall be a Budget Committee, composed of the President-Elect, who shall be Chairman, the Executive Director of the Association, as a member ex officio, at least five (5) members, chosen from the House of Delegates and at least three (3) members chosen from the Board of Governors. The President-Elect, subject to the approval of the Board of Governors, shall select the appointive members for the Committee not later than August 1 in each year. The Budget Committee shall prepare a proposed annual budget of the financial needs of the Association for the following year. On or before October 20th the proposed budget shall be published in one issue of the Bar Journal, together with a notice that a public hearing thereon will be held by the Budget Committee at the Oklahoma Bar Center on a date and at a time fixed in the notice, but not later than November 15. The budget shall be approved by the Board of Governors prior to being submitted to the Supreme Court.

Members of the Association may appear to protest any items included or excluded from the proposed budget. On or before December 10, the finalized budget shall be submitted by the Budget Committee, with its recommendation, to the Supreme Court. The Committee in making its report shall take into consideration any action taken by the House of Delegates which affects the Association's financial requirements. The Supreme Court shall review said proposed budget to determine if the proposed items of expenditure are within the Court's police powers and necessary in the administration of justice, and will act on said budget prior to December 25 of each year.

No funds of the Association shall be used or expended for any items not included in the annual budget as approved by the Supreme Court, or as subsequently amended by order of the Supreme Court.

Section 2. USE AND DISBURSEMENTS OF FUNDS. No funds shall be withdrawn except in the manner approved by the Board of Governors. The funds of the Association shall be used and expended for any expense of the Association provided for by the budget.

(a) With the exception of the Clients' Security Fund on expenditures of the Association, checks for taxes, health insurance and checks not exceeding \$5,000, checks shall be signed by any two of the following staff members of the Association:

Executive Director
General Counsel
Director of Continuing Legal Education
Director of Public Information

On expenditures exceeding \$5,000, except for taxes, health insurance and utilities, checks shall be signed by the Executive Director, or a member of his staff designated by him, and countersigned by the President or Vice-President of the Association or by a member of the Board of Governors designated by the Board.

(b) On expenditures of the Client Security Fund, checks shall be signed by the Chairman of the Client Security Fund Committee and countersigned by the President of the Association.

ARTICLE VIII

Section 1. ANNUAL DUES. The annual dues for each member of the Association shall be based upon the financial requirements of the Association including maintenance of an adequate reserve fund for contingencies and emergencies.

Until otherwise provided the annual dues for each active member shall be \$275.00 per year; except that dues for active members who have been admitted to practice in any State less than three (3) years, as of the first day of January of the dues paying year, shall be \$137.50 for each year. All dues shall be due and payable, on or before January 2 of each year, to the Executive Director of the Association. Persons admitted to the Bar of this State after January 2 of any year shall not be liable for dues until January 2 of the following year. Nothing in these rules shall prevent the establishment of Sections with the approval of the Board of Governors, nor the charging of voluntary dues to members of any such Section.

Active OBA Members who are in an active duty and deployed status serving outside of the United States or one of its territories with the Armed Forces of the United States in a combat zone or receiving "Imminent Danger Pay" (Combat Pay) or "hardship duty pay" in any given year may request that dues be waived for that year. A request for a waiver of dues, along with sufficient supporting documentation of service, shall be submitted to the Executive Director of the Oklahoma Bar Association as soon as reasonably practical. Members requesting such dues waiver shall have the right to appeal any administrative decisions made by the Executive Director to the Board of Governors of the Oklahoma Bar Association and ultimately to the Oklahoma Supreme Court. In the event the member is not able to submit the request personally, such request can be made by a family member, law partner or other such person having authority to act on behalf of the member.

Section 2. SUSPENSION FOR NONPAYMENT. If a member's dues to the Association remain unpaid after February 15 in any calendar year, there shall be added thereto an expense charge of \$100. As soon as possible after February 15 in any calendar year, the Executive Director shall send by registered or certified mail, with return receipt requested, written notice to each member of the Association whose dues remain unpaid for that year, stating the amount due, with the expense charge, and demanding payment by a date specified therein, which shall be not less than thirty (30) days after mailing of the notice. The notice shall be addressed to the member at his last address shown on the records of the Association. If payment of dues and expense charge is not received from a member within the time specified in the notice sent him, the Board of Governors shall file application with the Supreme Court recommending suspension of the delinquent's membership and, upon order of the Court, he shall be so suspended, and shall not thereafter practice law in this state until reinstated as provided herein.

Section 3. PENALTY. If a member's dues to the Association remain unpaid after July 1 in any calendar year, there shall be added thereto an amount equal to the annual dues.

Section 4. REINSTATEMENT OF ATTORNEYS. A member suspended for nonpayment of dues may, at any time before his name is stricken from the rolls, file with the Executive Director a written application for reinstatement. He shall be required to pay with the application all delinquent dues, penalties, and expense charges, including dues for the current year and a reinstatement fee of \$250. When his dues, penalties, expense charges and reinstatement fee have been paid in full, the member will be restored to membership and the Executive Director will notify the Clerk and the Chief Justice of the Supreme Court and cause notice of reinstatement to be published in the Oklahoma Bar Journal.

Section 5. NAME STRICKEN FROM ROLLS. A suspended member who does not file an application for reinstatement within one year from the date he is suspended by the Supreme Court for nonpayment of dues shall cease automatically to be a member of the Association and the Board of Governors shall cause his name to be stricken from the membership rolls. Thereafter, if he desires to become a member of the Association, he will be required to make application for reinstatement, as provided in Rule 11 of the Rules Governing Disciplinary Proceedings.

ARTICLE IX

(Revoked effective July 1, 1981. See, now, Rules Governing Professional Discipline, Appendix 1-A of this title.)

ARTICLE X

(Revoked effective July 1, 1981. See, now, Rules Governing Professional Discipline, Appendix 1-A of this title.)

ARTICLE XI

(Revoked effective July 1, 1981. See, now, Rules Governing Professional Discipline, Appendix 1-A of this title.)

ARTICLE XII

Section 1. GENERAL DUTIES OF ATTORNEYS. It shall be the duty of all attorneys to perform any services required of them under these Rules without compensation, provided, upon approval of the Board of Governors, the Association may pay their reasonable

expenses incurred in the performance of any such duties. Nothing herein shall prevent the Supreme Court from ordering the payment of a per diem for extraordinary services.

Section 2. NONLIABILITY OF THE ASSOCIATION AND ITS MEMBERS. Neither the Oklahoma Bar Association, the Board of Governors, nor any member thereof, nor any Trial Authority, nor investigator, or informant, or any of them, shall be liable to any member of the Association, or to any other person charged or investigated by the Association, or by its Board of Governors, or any of its committees or such agents, employees and investigators, for any damages incident to such investigation, or any complaint, charge, prosecution, proceeding or trial.

ARTICLE XIII

Section 1. BOARD OF BAR EXAMINERS. There shall be appointed by the Supreme Court a Board of Bar Examiners to consist of nine (9) members, one each from each Supreme Court Judicial District in the state, and such assistants as the Court may deem appropriate. The present members shall serve until their term shall expire and their successors are selected. The Supreme Court shall appoint three (3) members each year for a term of three (3) calendar years beginning the first Monday in January. The Court will, upon request of a member of the Board, appoint four (4) members of the Association to assist the Board member in the performance of his duties.

Section 2. COMPENSATION OF MEMBERS. The Bar Examiners shall receive their reasonable traveling and other expenses, and such compensation for their time and services as shall be fixed by the Supreme Court.

Section 3. RULES OF THE BOARD. The Bar Examiners shall make and provide rules respecting their procedure and respecting all matters pertaining to the examination and admission of applicants for the practice of law, which rules shall be subject to approval of the Supreme Court, and when so approved shall have full force and effect as rules of the Supreme Court.

Section 4. MEMBERS NOT TO HOLD CERTAIN POSITIONS. The election or appointment of any member of the Board of Bar Examiners to a judicial position or to an office in the Oklahoma Bar Association, other than committee membership or as a delegate or alternate to the House of Delegates, shall vacate his membership on said Board. When any vacancy thereby occurs, or for other causes, the Supreme Court shall appoint a member to the vacancy, who shall serve the remainder of the term so vacated.

Section 5. ATTENDANCE. A member of the Board of Bar Examiners who misses three (3) consecutive meetings of such Board, for whatever reason, shall automatically vacate his office and the vacancy shall be filled by the Supreme Court of the State of Oklahoma.

ARTICLE XIV

MEETINGS. There shall be at least one meeting of the membership of the Association each year at which time the House of Delegates shall be convened. The Assembly of the annual meeting shall consist of the members of the Association who have registered at the annual meeting. The time and place shall be designated by the Board of Governors. There shall be such other meetings of the Association or the House of Delegates as the Board of Governors may designate or as may be called in accordance with the provisions of these Rules or Bylaws.

ARTICLE XV

BYLAWS ADOPTED BY ASSOCIATION.

Subject to these rules, the Association may adopt such Bylaws as it may deem necessary for its government and for the implementation of these rules.

ARTICLE XVI

AMENDMENT OF RULES. These rules may be modified or changed by the Supreme Court on its own motion, or upon the recommendation of a majority of the Board of Governors or a majority of the House of Delegates at regular meetings upon certification to and approval by the Supreme Court.

ARTICLE XVII

PRIOR RULES REVOKED. The Revised Rules Creating, Controlling and Regulating the Oklahoma Bar Association (5 O.S.1961, Chapter 1, Appendix 1) and amendments thereto (5 O.S. Chapter 1, Appendix 1) are hereby revoked; provided, however, that this revocation shall not revoke the Code of Professional Responsibility and the Canons of Judicial Ethics (5 O.S.1961, Chapter 1, Appendixes 3 and 4) in effect in this state on the date these Rules are promulgated and subsequent revisions thereof and shall not affect any pending disciplinary matters, the terms of existing officers of the Association, programmed activities of the Association during the calendar year 1971 or prior thereto. Cases pending before the Grievance Committees may be completed by such committees or assigned to the Board of Governors for appropriate action.

ARTICLE XVIII

Section 1. ACCESS TO JUSTICE ADVISORY COMMITTEE OF THE OKLAHOMA BAR ASSOCIATION. There shall be created an Access to Justice Advisory Committee of the Oklahoma Bar Association as set forth in Section 2.

The Access to Justice Advisory Committee of the Oklahoma Bar Association shall evaluate, study, and make recommendations to the Oklahoma Bar Association related to the providing of legal services to the citizens of Oklahoma and their access to the Oklahoma justice system, both civil and criminal. The Committee shall also identify potential sources of funding to accomplish the delivery of legal services and access to the Oklahoma justice system.

The Oklahoma Bar Association is charged with the duty of accepting or denying the Access to Justice Advisory Committee's recommendations and the Access to Justice Advisory Committee may implement those programs or recommendations approved by the Oklahoma Bar Association.

Section 2. SELECTION OF COMMITTEE MEMBERS; TERM. The Access to Justice Advisory Committee of the Oklahoma Bar Association shall be comprised of nine (9) duly appointed committee members with voting privileges. Each committee member shall serve until his or her successor is appointed. The term of each committee member shall be for a period of three (3) years, commencing on July 1 of each year, except the initial term set forth below which shall commence on July 1, 2005. The period between the effective date of the order of this Court through July 1, 2005 shall be added to the initial term of each appointed commissioner. The initial term for positions one (1) through three (3) shall be for a period of three (3) years; the initial term for positions four (4) through six (6) shall be for two (2) years; and the initial term for positions seven (7) through nine (9) shall be for a period of

one (1) year. The following committee members are authorized to be appointed and shall have voting privileges.

Position 1. Justice of the Oklahoma Supreme Court appointed by the Chief Justice.

Position 2. Judge of the Oklahoma Court of Criminal Appeals appointed by the Presiding Judge.

Position 3. Member of the Oklahoma Bar Association appointed by the President of the Oklahoma Bar Association.

Position 4. Judge of the District Court appointed by the President of the Oklahoma Judicial Conference.

Position 5. Member of the Oklahoma Bar Foundation appointed by the President of the Oklahoma Bar Foundation.

Position 6. Faculty member of an American Bar Association Accredited Law School located in the state of Oklahoma appointed by President of the Oklahoma Bar Association.

Position 7. Member of the Oklahoma House of Representatives appointed by the Speaker of the Oklahoma House of Representatives.

Position 8. Member of the Oklahoma State Senate appointed by the President Pro Tempore of the Oklahoma State Senate.

Position 9. Member of the public that is not licensed to practice law in the state of Oklahoma to be appointed by the Governor of the State of Oklahoma.

Section 3. VACANCY OF POSITION. All vacancies shall be filled by the appointing official or entity within sixty (60) days of notification of a vacant committee member's position. If for any reason a committee member's position shall remain vacant after sixty (60) days, the Chief Justice of the Oklahoma Supreme Court shall select a qualified person to serve until a successor is duly appointed by the appointing official or entity or for the remainder of the term.

Section 4. EX-OFFICIO MEMBERS. The Access to Justice Advisory Committee of the Oklahoma Bar Association shall have such non-voting ex-officio or advisory members as the committee members may designate, from time to time, including the following: (a) President-Elect of the Oklahoma Bar Association; (b) President-Elect of the Oklahoma Bar Foundation; (c) Representative of Legal Aid Services of Oklahoma, Inc. selected by the Board of Directors; (d) Representative of Oklahoma Indigent Defense System selected by the Board of Directors; (e) Representative of Oklahoma Indian Legal Services selected by the Board of Directors; (f) Chair of OBA Access to Justice Committee; (g) Public Defender of Tulsa County; (h) Public Defender of Oklahoma County.

Section 5. OFFICERS OF THE COMMITTEE. The Chair and Vice-Chair of the Access to Justice Advisory Committee of the Oklahoma Bar Association shall be selected by the committee members. The committee members may select such other officers as they deem appropriate.

Section 6. COMPENSATION OF COMMITTEE AND EX-OFFICIO MEMBERS. Committee and Ex-Officio members, who do not otherwise qualify for reimbursement of travel and other reasonable expenses from their appointing authority, may be reimbursed for reasonable travel and other expenses by the Access to Justice Advisory Committee of the Oklahoma Bar Association at the rate as fixed by the Oklahoma Bar Association.

Section 7. STAFF. The Access to Justice Advisory Committee of the Oklahoma Bar Association may be aided by the staff of the Oklahoma Bar Association. Such staff as

assigned by the Oklahoma Bar Association shall be employees of the Oklahoma Bar Association and may assist the Access to Justice Advisory Committee of the Oklahoma Bar Association when requested. The number of staff and the rate of compensation and benefits for such staff shall be determined by the Board of Governors of the Oklahoma Bar Association and be included in the annual budget approved by the Oklahoma Supreme Court. The Access to Justice Advisory Committee of the Oklahoma Bar Association, may reimburse the Oklahoma Bar Association for staff compensation and benefits and other administrative expenses from the funds it has available.

Section 8. ANNUAL BUDGET. The annual budget of the Access to Justice Advisory Committee of the Oklahoma Bar Association shall be submitted to the Oklahoma Bar Association for incorporation and approval in the annual budget of the Oklahoma Bar Association.

Section 9. RULES OF THE COMMITTEE. The Access to Justice Advisory Committee of the Oklahoma Bar Association shall make and approve rules respecting its procedure and respecting all matters pertaining to its duties as set forth in Section 1.

Section 10. ANNUAL REPORT. The Access to Justice Advisory Committee to the Oklahoma Bar Association shall submit an annual report to the Oklahoma Bar Association.

FILED
SUPREME COURT BAR DOCKET
STATE OF OKLAHOMA

JOHN D. HADDEN
CLERK

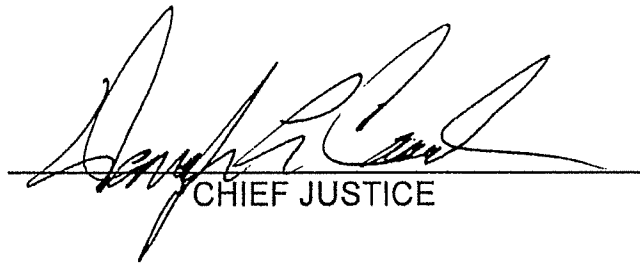
ORDER

The Court finds as follows. Pursuant to the Oklahoma Constitution, article IV, section 1 and article VII, sections 1 and 4, this matter is within the inherent powers of this Court, and the proposed expenditures set out in the proposed budget filed with the application are within this Court's authority to approve and are necessary in the administration of justice. The Committee has adhered to requirements set out in the Rules Creating and Controlling the Oklahoma Bar

Association for preparing the proposed budget and presenting it to this Court for approval.

It is therefore ordered that the proposed 2019 budget of the Oklahoma Bar Association, including capital expenditures, which is attached to its Application for Approval of the 2019 Budget is approved.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE this
19th day of November, 2018.



CHIEF JUSTICE

COMBS, C.J., GURICH, V.C.J., KAUGER, WINCHESTER, EDMONDSON, REIF,
WYRICK and DARBY, JJ., CONCUR;
COLBERT, J., NOT VOTING.

NOV - 6 2018

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

JOHN D. HADDEN

IN RE: 2019 Budget of The)
Oklahoma Bar Association)

SCBD No.

6721

CLERK

APPLICATION FOR APPROVAL OF THE 2019 BUDGET

COMES NOW the Budget Committee and the Board of Governors of the Oklahoma Bar Association and state to the Court:

1. Pursuant to Article VII of the Rules Creating and Controlling the Oklahoma Bar Association, 5 O.S. 2011 ch. 1, app. 1 art. VII §§1-2, a Budget Committee of the Association was approved by the Board of Governors with the following members:

President-Elect, Chairperson, Charles W. Chesnut

Executive Director, John Morris Williams, (ex-officio)

Board of Governors Members:

Nathan Richter, Mustang
Alissa Hutter, Norman; and
Matthew C. Beese, Muskogee

House of Delegates Members:

Brandi Nowakowski, Shawnee;
Dietmar Caudle, Lawton;
Brian T. Hermanson, Newkirk;
James R. Hicks, Tulsa; and
Angela Ailles Bahm, Oklahoma City

Attorney Members:

Sonja Porter, Oklahoma City;
Jeremy Beaver, McAlester;
Cody Hodgden, Woodward; and
Susan Shields, Oklahoma City;

2. That the Budget Committee met on September 14, 2018 and approved a proposed Budget of the financial needs of the Association for the year 2019 including capital expenditures.

3. That the proposed Budget was published in the *Oklahoma Bar Journal* on September 22, 2018, together with a notice of the public hearing on the Budget fixed at 10:00 a.m. on October 11, 2018, at the Oklahoma Bar Center.

4. That on October 11, 2018, a public hearing was held on the proposed Budget and that no association members appeared to protest any item included or excluded from the proposed Budget.

5. That on October 12, 2018, the Board of Governors in regular session reviewed and approved the 2019 proposed Budget and capital expenditure items.

6. That the items of expenditure in the proposed Budget and the capital expenditure items are necessary in the administration of justice.

WHEREFORE, the Budget Committee and the Board of Governors of the Oklahoma Bar Association respectfully request the Supreme Court to review the attached proposed 2019 Budget of the Oklahoma Bar Association including the proposed capital expenditures and determine that the proposed items of expenditure are within the Court=s police power and necessary for the administration of justice and approve the same.

Submitted this 6th day of November 2018.

Oklahoma Bar Association Budget Committee

And

Oklahoma Bar Association
Board of Governors

A handwritten signature in black ink, appearing to read "John Morris Williams", is written over a horizontal line.

JOHN MORRIS WILLIAMS, OBA No. 10524

Executive Director

1901 N. Lincoln Blvd.

P. O. Box 53036

Oklahoma City, OK 73152-3036

(405)416-7000

Oklahoma Bar Association 2019 Budget

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2019 Oklahoma Bar Association Budget									
Summary - 2019 and 2018									
Supreme Court									
10/12/2018									
Page 1									
DEPARTMENT	2018 Budget	2019 Budget	Increase (Decrease) from 2018	Percentage Increase (Decrease) from 2018					
Operating Revenues									
Administration (Page 2)	\$ 4,298,616	\$ 4,382,500	83,884	1.95%					
Communications (Page 5)	195,000	198,000	3,000	1.54%					
CLE (Page 6)	1,023,000	996,500	(26,500)	-2.59%					
General Counsel (Page 8)	375,500	385,200	9,700	2.58%					
MCLE (Page 10)	183,500	201,600	18,100	9.86%					
LRE (Page 11)	-	-	-	0.00%					
Practice Assistance (Page 13)	14,000	15,000	1,000	7.14%					
Committees/Special Projects (Page 15)	205,720	230,964	25,244	12.27%					
Total from Departmental Operations	\$ 6,295,336	\$ 6,409,764	114,428	1.82%					
Operating Expenses									
Administration (Pages 3 - 4)	\$ 2,007,486	\$ 2,044,503	37,017	1.84%					
Communications (Page 5)	592,094	553,291	(38,803)	-6.55%					
CLE (Page 6 - 7)	828,446	793,516	(34,930)	-4.22%					
General Counsel (Page 8 - 9)	1,379,240	1,431,238	51,999	3.77%					
MCLE (Page 10)	247,413	255,800	8,386	3.39%					
LRE (Page 11 - 12)	10,950	8,000	(2,950)	-26.94%					
Practice Assistance (Page 13 - 14)	416,797	433,997	17,200	4.13%					
Committees/Special Projects (Page 16)	509,538	543,558	34,020	6.68%					
Total from Departmental Operations	\$ 5,991,965	\$ 6,063,903	71,938	1.20%					
Net Surplus (Deficit) From Operations	\$ 303,371	\$ 345,861	42,490	14.01%					
Other Special Expenses/Capital Improvements									
Client Security Fund Contribution	(175,000)	(175,000)							
Furniture and Equipment (Exh. C)	(45,955)	(32,000)							
Bar Center Improvements (Exh. C)	(10,000)	(50,000)							
Computer Technology (Exh. C)	(58,800)	(99,585)							
Total Other Special Expenses/Investments	(289,755)	(356,585)							
Surplus (Deficit) Before Transfer from Reserve Funds	13,616	(10,724)							
Transfers from Reserve Funds									
Technology Fund	-	84,985							
AG Grant Fund	8,000	3,000							
Bar Center Improvements Fund	-	50,000							
	8,000	137,985							
Net Surplus (Deficit)	\$ 21,616	\$ 127,261							
Estimated Beginning Cash Reserves -1/1/2019		\$ 5,689,000							
Estimated Surplus (Deficit)		(10,724)							
Estimated Ending Cash Reserves -12/31/2019		5,678,276							

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Oklahoma Bar Association												Supreme Court					
Budget Preparation Worksheet												10/12/2018			Page 5		
Revenues and Expenditures																	
Department: Communications																	
Calendar Year: 2019																	
REVENUE																	
ACCOUNT NUMBER	ACCOUNT TITLE	2015 ACTUAL	2016 ACTUAL	2017 ACTUAL	PROPOSED 2018 BUDGET	TOTAL 2018 PROJECTION	18 BUDGET/ PROJECTION VARIANCE	PROPOSED 2019 BUDGET	2019 BUDGET VARIANCE								
02-420000	OBJ Ad Sales	167,745	170,250	193,042	170,000	180,274	10,274	175,000	5,000								
02-420010	OBJ Subscriptions	24,097	24,522	27,885	25,000	24,430	(570)	23,000	(2,000)								
02-420030	Other Comm and Info Rev	438	310	194	-	142	142	-	-								
	TOTAL REVENUE	191,842	195,082	221,121	195,000	204,704	9,704	198,000	3,000								
EXPENDITURES																	
02-520000	Gross Salaries	178,939	213,033	214,345	219,628	219,628	-	226,334	6,706 A								
02-520005	FICA Matching	12,181	15,223	15,962	16,802	16,802	-	17,315	513 A								
02-520010	Retirement	20,155	18,673	26,201	30,433	30,433	-	31,221	788 A								
02-520015	Unemployment Taxes	493	880	708	720	720	-	720	-								
02-520020	Health Insurance	30,681	31,279	31,790	39,774	37,268	(2,506)	37,620	(2,154)								
02-520023	Disability Insurance	678	766	885	837	918	81	981	144								
02-520025	Temporary Assistance	26,998	400	-	-	-	-	-	-								
02-520060	In-State Conferences	-	-	-	200	-	(200)	200	-								
02-520070	Out-of-State Conferences	4,802	4,211	4,000	5,500	5,000	(500)	5,500	-								
02-520080	Department Travel	619	313	669	500	488	(12)	500	-								
02-520100	Court Issue Printing	198,452	202,990	193,079	75,000	44,904	(30,096)	45,000	(30,000) B								
02-520110	Theme Issue Printing	171,426	164,217	164,735	180,000	144,409	(35,591)	165,000	(15,000) C								
02-520130	Editor's Expense	-	132	-	-	-	-	-	-								
02-520140	Board of Editors	4,029	4,208	3,956	4,000	4,094	94	4,000	-								
02-520145	Newsclip Service	3,113	1,997	3,417	3,500	3,594	94	3,700	200								
02-520160	Pamphlets	6,007	4,869	7,049	5,000	4,948	(52)	5,000	-								
02-520165	Photography	101	80	7	200	100	(100)	200	-								
02-520175	Public Info Projects	25	-	139	5,000	9	(4,991)	5,000	-								
02-520180	Office Supplies	313	73	259	500	215	(285)	500	-								
02-520185	Staff Training	309	68	30	1,000	522	(478)	1,000	-								
02-520199	Miscellaneous	4,037	2,769	3,420	3,500	2,980	(520)	3,500	-								
	TOTAL EXPENSES	663,359	666,179	670,650	592,094	517,033	(75,061)	553,291	(38,803)								
A - Staff raises average 2.59%																	
B - New, lower contract amount with design artist																	
C - Theme issue cost expected to increase over 2018 actual because of increases in paper cost and design fees.																	

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Oklahoma Bar Association										Supreme Court			
Budget Preparation Worksheet										10/12/2018			
Revenues and Expenditures										Page 9			
Department: General Counsel (Continued from page 8)													
Calendar Year: 2019													
REVENUE													
ACCOUNT NUMBER	ACCOUNT TITLE	2015 ACTUAL	2016 ACTUAL	2017 ACTUAL	PROPOSED 2018 BUDGET	TOTAL 2018 PROJECTION	18 BUDGET/ PROJECTION VARIANCE	PROPOSED 2019 BUDGET	2019 BUDGET VARIANCE				
04-540080	Department Travel	136	124	546	1,000	1,000	-	1,000	-				
04-540100	Invest. and Prosecution	49,629	83,296	34,086	61,000	63,000	2,000	62,000	1,000				
04-540110	PRC Travel and Meeting	4,206	2,037	1,707	4,500	1,500	(3,000)	3,500	(1,000)				
04-540120	PRT Travel and Meeting	16,530	10,189	4,278	9,000	10,000	1,000	10,000	1,000				
04-540140	Misc. Investigative	641	435	276	1,000	1,000	-	1,000	-				
04-540145	AG Grant Expense	-	1,875	-	3,000	3,000	-	3,000	-				
04-540150	Library	11,823	15,606	12,856	6,000	5,500	(500)	6,000	-				
04-540155	Diversion Grant Expense	-	-	-	-	-	-	-	-				
04-540160	Office Supplies	3,679	7,947	9,336	9,000	10,000	1,000	10,000	1,000				
04-540165	ROOSA Expenses	-	320	415	300	300	-	300	-				
04-540170	Staff Training	1,760	1,908	1,471	1,000	1,000	-	1,000	-				
04-540199	Miscellaneous	7,253	6,584	6,742	4,000	5,000	1,000	4,000	-				
TOTAL EXPENDITURES		1,289,093	1,344,119	1,260,287	1,379,240	1,379,401	161	1,431,238	51,999				

Oklahoma Bar Association				Supreme Court			
Budget Preparation Worksheet				10/12/2018			
Revenues and Expenditures				Page 11			
Department: Law Related Education (continued on page 12)							
Calendar Year: 2019							
REVENUE							
ACCOUNT NUMBER	ACCOUNT TITLE	2015 ACTUAL	2016 ACTUAL	2017 ACTUAL	PROPOSED 2018 BUDGET	18 BUDGET/ PROJECTION VARIANCE	PROPOSED 2019 BUDGET VARIANCE
06-460041	iCivics			-	-	-	-
06-460042	Hatton Sumners	45,000	-	-	-	-	-
06-460043	National Close Up		-	-	-	-	-
06-460044	James Madison Grant		43,501	-	-	-	-
06-460045	Miscellaneous Grant Revenue	2,248	-	-	-	-	-
		47,248	43,501	-	-	-	-
EXPENDITURES							
06-560000	LRE Gross Salaries	96,511	67,386	-	-	-	-
06-560005	LRE FICA Matching	7,264	5,302		-	-	-
06-560010	LRE Retirement	13,164	9,394		-	-	-
06-560015	LRE Unemployment Taxes	340	350		-	-	-
06-560020	LRE Health Insurance	13,261	10,530		-	-	-
06-560023	Disability Insurance	371	300		-	-	-
06-560025	LRE Temporary Assist.	-			-	-	-
06-560060	LRE In-State Conferences	3,106	5,010	1,944	3,000		3,000
06-560070	LRE Out-of-State Conf	1,726	-	-	-		

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2019 IT Dept Annual Budget - Draft						
Total IT Budget		393,596.69				
Category	Item	Description	Qty	Unit	Budget	Account Code
Capital Expenditures						
Hardware	Desktop systems					
		Optiplex - non power users	4	970.00	3,880.00	c
		Ipac and accessories- Communications	1	767.00	767.00	c
		Monitors	3	134.99	404.97	c
		Canon XA20 Professional Camcorder	1	1,800.00	1,800.00	c
		Portable Wireless Lav Mic System	1	800.00	800.00	c
		Laptop for GC	3	800.00	2,400.00	c
Total Hardware					10,051.97	
IT and Web Projects						
Net Forum	Net Forum module enhancement	In support of Net Forum software	1		4,500.00	e
Server Migration to Hosted Solution	Servers	Move all VM servers to ISG hosted environment	1		15,000.00	e
Hearing Room		Replace AV	1		12,000.00	c
Switch and Firewall upgrade	Switches and Firewall	standards	1		29,065.00	c
Eweb	Member website	Upgrade Eweb (member website)	1		44,640.00	c
Total Quantum Leap					105,205.00	
Desktop Software						
	Creative Suite (Adobe Creative Cloud)	5 users; 12 months subscriptions (Comm, Brandon, CLE)	12	349.00	4,188.00	e
	Adobe DC Pro	15 users; 12 months subscriptions	15	14.99	224.85	e
	Misc software		1	500.00	500.00	e
	Wirecast Virtual Set Pack	6 virtual studios for current green screen	1	330.00	330.00	e
	Update to Wirecast Pro (CLE)	Software update	1	995.00	995.00	c
	Fotolia Subscription	Monthly subscription to online images for Web and Publications	12	75.00	900.00	e
Total Desktop Software					7,137.85	
Supplies						
	Cables, keyboards, mice, batteries, etc.				500.00	e
Total Supplies					500.00	
Expenses						
Services & annual maintenance	Onenet ISP & Video Conf	Internet and video conferencing connection	12	1,028.00	(Budgeted elsewhere)	
	Cox ISP & phone	Internet and phone lines			(Budgeted elsewhere)	
	ASA5515	Firewall	1	2,105.00	2,105.00	e
	Cisco warranty for switches	Switches	1	1,394.00	1,394.00	e
	Syn-Apps maintenance	SA-Announce for 100 users - phone system paging	1	200.00	200.00	e
	Printer maintenance	Printer maintenance contract	1	2,500.00	2,500.00	e
	Traverse	Annual maintenance for accounting software	12	106.00	1,272.00	e
	Vipre	Annual virus scanner maintenance	100	11.25	1,125.00	e
	Email Security Service	Mxlogic email proxy service - spam and virus filtering	12	110.00	1,320.00	e

2019 IT Dept Annual Budget - Draft						
Total IT Budget		393,596.69				
Category	Item	Description	Qty	Unit	Budget	Account Code
	ISG backup services	Off-site backup for disaster recovery	12	1,800.00	21,600.00	e
	ISG network maintenance	Service tech monthly visit for updates/patches	12	510.00	6,120.00	e
	VMware support	VMware support	1	2,144.00	2,144.00	e
	Consulting Fees		12	400.00	4,800.00	e
	Go Daddy	Domain registrar	24	8.99	215.76	e
	Server Hosting with ISG	Most of our servers will be hosted with ISG	12	5,256.00	63,072.00	e
	Website Annual Plugin Fees (WordPress Plugins)					
	Blue Jeans Video Conferencing	All plugin renewals for Wordpress site	1	2,200.00	2,200.00	e
SAAS (software as a service)	MS Office 365	Video conferencing for meetings (5 licenses for 12 months)	60	79.00 (Budgeted elsewhere)		
SAAS (software as a service)	Informz	Email and software	60	235.00	14,100.00	e
SAAS (software as a service)	PACLE (CLECTS)	E-marketing software	1	17,500.00	17,500.00	e
SAAS (software as a service)	Higher Logic	MCLE software	1	25,000.00	25,000.00	e
SAAS (software as a service)	Website Hosting Fees	Member community website license	1	10,800.00	10,800.00	e
SAAS (software as a service)	Case Management System	Web Server Hosting for www.okbar.org	12	128.00	1,536.00	e
SAAS (software as a service)	Case Management System	Support & Subscription Fees (Annual)	1	11,190.00	11,190.00	e
SAAS (software as a service)	Case Management System (hosting)	Hosting (Annual)	1	8,500.00	8,500.00	e
SAAS (software as a service)	NetForum Software License	Association Management System (Annual)	1	60,715.11	60,715.11	e
SAAS (software as a service)	NetForum Hosting	Annual Fee	12	129.42	1,553.00	e
SAAS (software as a service)	Survey Monkey		12	20.00	240.00	e
SAAS (software as a service)					281,201.87	
Total expenses (computer maintenance account)						
	Net Forum Xweb Training	Remote training via web conferencing. (30 hours of training)	1		5,000.00	e
Training					5,000.00	
Total IT Budget		389,096.69			389,096.69	
Account Code:						
c - Items to be capitalized and depreciated over estimated useful life.						
e - Items having a estimated useful life of less than one year and are expensed.						
t - Training						
					96,751.97	
					287,344.72	
					5,000.00	
					389,096.69	

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[Military Dues Waiver Procedures](#)

- [District 3 Petition](#)
- [District 3 Resolution](#)
- [District 4 Petition](#)
- [District 4 Resolution](#)
- [Procedures Governing Election](#)

Notice and Objection Procedure to OBA Budgetary Expenditures

Adopted by OBA Board of Governors July 14, 2005

Amended by OBA Board of Governors March 20, 2009

1. Statement of Policy. The purpose of the Oklahoma Bar Association ("OBA") is to engage in those activities enumerated in the Rules Creating and Controlling the Oklahoma Bar Association (the "Rules") and the OBA Bylaws ("the Bylaws"). The expenditure of funds by the OBA is limited both as set forth in the Rules, Bylaws and in *Keller v. State Bar of California*, 496 U.S. 1 (1990). If any member has a reasonable belief that any actual or proposed expenditure is not within such purposes of, or limitations on the OBA, it is the policy of the OBA to provide a means by which the member may register his or her objection thereto with the Executive Director of the OBA for resolution as described below. *No member exercising rights under this policy shall suffer any discrimination or retaliatory treatment as a result of exercising such rights.*

2. Members May Object. A member may object to a proposed or actual expenditure of monies by the OBA as not within the purposes or limitations set out in the Rules or Bylaws, and seek refund of a pro rata portion of his or her dues expended, plus interest, by filing a written objection with the Executive Director. The objection must be made in writing, on a separate official OBA Dues Claim Form for each objectionable budgetary expenditure, addressed to the Executive Director of the OBA, P. O. Box 53036, Oklahoma City, OK 73152, and postmarked not later than Sixty (60) days after the approval of the annual budget by the Oklahoma Supreme Court or January 31st of each year, whichever shall first occur. The OBA Dues Claim Form may be obtained by written or in person request to the Executive Director or from the OBA Web site [here](#).

3. Executive Director's Duty Upon Receipt of Objection. Upon receipt of a member's written objection on an official OBA Dues Claim Form, the Executive Director shall within Twenty one (21) days review such written objection together with the allocation of dues monies to be spent on the activity or action and, in consultation with the OBA President, shall have the discretion to resolve the objection, including refunding a pro rata portion of the member's dues, plus interest, or notify the member of hearing before the OBA Budget Review Panel no sooner than thirty (30) days, nor more than sixty (60) days thereafter.

4. Budget Review Panel. The Budget Review Panel ("Panel") shall consist of three (3) OBA members in good standing, selected from the Budget Committee by the OBA President-Elect to conduct a hearing on the member's objection.

5. Panel Hearing Procedure; Appeal. The Executive Director shall provide written notice of the date, time and place of hearing of the member's objection. Failure to appear at the designated hearing shall result in an immediate dismissal of the objection. The Panel shall conduct a hearing of the member's objection and provide a written decision within thirty (30) days thereof. The written decision shall be final within twenty (20) days after mailing the same to member's last known address as set forth in the records of the OBA unless a written appeal is presented to the Executive Director for consideration by the Board of Governors specifying the exact factual and/or legal basis therefore. The appeal shall be considered by the Board of Governors based solely upon the written record of the Panel. The Board of Governors' decision shall be final. The Executive Director shall notify the member of the decision.

6. Payment to Objecting Member. Any refund of a pro rata share of the member's dues shall be for the convenience of the OBA, and shall not be construed as an admission that the activity or action to which the member objected was or would not have been within the purposes or limitations of the Rules or By Laws.

7. Notice of Policy and Protest Procedure. The following notice shall be published in conjunction with any publication or description of the OBA's budget, legislative program, performance measures, amicus briefs, and any other similar policy positions adopted by the OBA.

The purpose of the OBA is to engage in those activities enumerated in the Rules Creating and Controlling the Oklahoma Bar Association ("the Rules") and the OBA Bylaws ("the Bylaws"). The expenditure of funds by the OBA is limited both as set forth at the Rules and Bylaws and in *Keller v. State Bar of California*, 496 U.S. 1 (1990). If any member feels that any actual or proposed expenditure is not within such purposes of, or limitations on the OBA, then such member may object thereto and seek a refund of a pro rata portion of his or her dues expended, plus interest, by filing a written objection with the Executive Director. Each objection must be made in writing on an [OBA Dues Claim Form](#), addressed to the Executive Director of the OBA, P. O. Box 53036, Oklahoma City, OK 73152, and postmarked not later than Sixty (60) days after the approval of the Annual Budget by the Oklahoma Supreme Court or January 31st of each year, whichever shall first occur.

Upon receipt of a member's written objection, the Executive Director shall promptly review such objection together with the allocation of dues monies spent on the challenged activity and, in consultation with the President, shall have the discretion to resolve the objection, including refunding a pro rata portion of the member's dues, plus interest or schedule a hearing before the Budget Review Panel. Refund of a pro rata share of the member's dues shall be for the convenience of the OBA, and shall not be construed as an admission that the challenged activity was or would not have been within the purposes of or limitations on the OBA.

OBA Dues Claim Form

This form is to be used by members to object to proposed or actual expenditures of monies by the OBA that are not within the purposes or limitations set out in the Rules Creating the Oklahoma Bar Association or its Bylaws. A separate claim form must be used for each objectionable budgetary expenditure. Objections must be in writing postmarked not later than 60 days of approval of the annual budget by the Oklahoma Supreme Court or January 31 of each year, which ever shall occur first.

Mail objections to:

**Executive Director
Oklahoma Bar Association
PO Box 53036
Oklahoma City, OK 73152-3036**

Name of Claimant:

OBA Number of Claimant:

Date of Objection:

Proposed or actual expenditure of monies by OBA for which Claimant objects:

Signature of Claimant