

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

MARK E. SCHELL,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-19-0281-HE
)	
JANET JOHNSON, et al.,)	
)	
Defendants.)	

**RESPONSE OF DEFENDANTS, THE MEMBERS OF THE
BOARD OF GOVERNORS, THE EXECUTIVE DIRECTOR
OF THE OKLAHOMA BAR ASSOCIATION, AND THE CHIEF JUSTICE
AND JUSTICES OF THE OKLAHOMA SUPREME COURT,
NAMED IN THEIR OFFICIAL CAPACITIES, IN OPPOSITION TO
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND BRIEF**

Submitted this 20th day of May, 2025.

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Defendants, the Members of the Board of Governors (“BOG”) and the Executive Director (“ED”) of the Oklahoma Bar Association (“OBA”), and the Chief Justice and Justices of the Oklahoma Supreme Court (“OSC”), named in their official capacities (together sometimes, “Defendants”), respectfully submit this Response in Opposition to Plaintiff’s Motion for Summary Judgment and Supporting Brief [Doc. No. 178] (“Motion”), and respectfully request the Court deny Plaintiff’s request for relief as there is no substantial dispute as to any material fact that would prevent entry of judgment in favor of Defendants as a matter of law. In support, Defendants would show the Court as follows:

I. RESPONSE TO PLAINTIFF’S STATEMENT OF UNDISPUTED MATERIAL FACTS

(Statement of Undisputed Fact (“SUF”) 1. Disputed in part. There are exceptions to the dues payment requirement. *See* Rules Creating and Controlling the OBA (“RCAC”), O.S. tit. 5, Ch. 1, App. 1, Art. VIII, § 1 (2024).

SUF 2. Undisputed.

SUF 3. Undisputed as to facts, but deny the facts are material or relevant because the Tenth Circuit affirmed both the constitutionality of mandatory dues and the Court’s dismissal of Plaintiff’s challenge. *Schell v. Chief Just. & Justs. of the Okla. Sup. Ct.*, 11 F.4th 1178, 1191 (2021).

SUF 4. Undisputed as to facts, but deny the facts are material or that in application the activity is non-germane. *See Schell*, 11 F.4th at 1193 n.8 (“the ‘Legislative Program’ aspect of the OBA, as described by the Amended Complaint, is entirely in accord with those

legislative activities discussed in *Lathrop* as insufficient to support a First Amendment claim.”).

SUF 5. Undisputed.

SUF 6. Disputed in part. The OBA considers Clayton Taylor, a licensed lobbyist, as the OBA’s legislative liaison to review legislation, advise OBA leadership, and to converse with legislators as necessary. *See* Dep. Tr. J. Williams, Ex. 1, p. 32:2-24.

SUF 7. Disputed in part. Mr. Taylor testified, in 2024, he had conversations with legislators concerning the way judges are nominated and appointed, and that topic usually emerges in discussions of the Judicial Nominating Commission (“JNC”). *See* Dep. Tr. C. Taylor, Ex. 2, pp. 31:7-16, 32:5-33:17.

SUF 8. Disputed in part. Because the May 2018 Oklahoma Bar Journal (“OBJ”) article has been determined to be germane, facts concerning its publication are not material or relevant. *See Schell*, 11 F.4th at 1193.

SUF 9. Disputed in part and not relevant. Mr. Taylor’s report was prepared for the BOG. Ex. 1, p. 44:11-20. Mr. Williams understood the State Chamber 2030 Plan to propose changing the Oklahoma Constitution’s process for selecting *appellate* judges to mirror the federal plan. *Id.*, p. 47:22-48:8. Moreover, the facts are not material as Oklahoma’s JNC system for selecting appellate judges has been determined a germane topic. *See Schell*, 11 F.4th at 1193 (“responding to criticism of Oklahoma’s merit-based process for selecting judges” is germane).

SUF 10. Not material or relevant. Responding to criticism and efforts to change the JNC system for selecting appellate judges is germane. *Id.*

SUF 11. Disputed in part. The proposal would impact how *appellate* judges are selected, and it concerns a germane topic, so not material. *See id.*; App. [Doc. No. 178-4] at 2.

SUF 12. Not material or relevant. First, Mr. Schell's challenge to the dues requirement has been dismissed and the dismissal affirmed on appeal. *See Schell*, 11 F.4th at 1191. Second, the OBA has adopted a constitutionally sufficient procedure to allow objecting members to obtain a refund of their dues, and Mr. Schell is not challenging the sufficiency of that procedure. *Id.* at 1186.

SUF 13. Disputed in part. Certain listed challenged items have been determined germane and are not relevant, *see* allegations in the Second Amended Complaint ("SAC") [Doc. No. 116], ¶¶ 79-80, 82-83. *Schell*, 11 F.4th at 1193. The challenged item at SAC, ¶ 88 is a book review, and at SAC, ¶ 89 is a third-party advertisement neither of which violate Mr. Schell's constitutional rights.

SUF 14. Disputed in part. *See* Defendants' Statement of Additional Undisputed Material Facts ("SAUF") ¶ 31.

SUF 15. Disputed. There is no foundation or proof in the record the articles were linked in emails sent to, or received by, OBA members, and they are therefore not relevant and are not properly before the Court. Mr. Schell has no knowledge of receiving any Lexology emails. *See* Ex. 4, p. 76:12-77:9, SAUF ¶ 30. Since OBA members can block and customize content, and have to open an email, there is no foundation in the record that the articles were viewed by OBA members. *See also* SAUF ¶ 31, *infra*.

II. DEFENDANTS' STATEMENT OF ADDITIONAL UNDISPUTED MATERIAL FACTS

A. THE OKLAHOMA BAR ASSOCIATION

1. In exercise of its plenary powers over Oklahoma courts granted in Articles 4 and 7 of the Oklahoma Constitution, the OSC created the OBA in 1939. *See In re Integration of State Bar of Okla.*, 95 P.2d 113, 1939 OK 378.

2. The OBA is governed by the RCAC, 5 O.S. Ch. 1, App. 1, *et seq.* (2011), which the OSC adopted in 1939. *See In re Integration of State Bar of Okla.*, 95 P.2d at 116.

3. The Preamble to the RCAC states:

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 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.

(internal citations omitted). *See* RCAC, § Preamble.

4. The RCAC further provide that “[t]he [OBA] is an official arm of [the OSC], when acting for and on behalf of [the OSC] in the performance of its governmental powers and functions.” *See* RCAC, Art. I, § 1. “The [OCS] [] has exclusive jurisdiction in

all matters involving the licensing and discipline of lawyers in Oklahoma,” and retains sole control over rules governing admission to practice law in the State. *See Doyle v. Okla. Bar Ass’n*, 998 F.2d 1559, 1563 (10th Cir. 1993) (citations omitted).

5. The OBA is an arm of the OSC and an instrumentality of the State. *See Doyle v. Okla. Bar Ass’n*, 787 F. Supp. 189, 192 (W.D. Okla. 1992), *aff’d*, 998 F.2d 1559 (10th Cir. 1993).

6. The power of the OSC over attorney licensure is derived from the Oklahoma Constitution and is non-delegable. *See State ex rel. Okla. Bar Ass’n v. Mothershed*, 264 P.3d 1197, 1210, 2011 OK 84, ¶ 33 (quotation omitted).

7. The OSC has the sole power to determine requirements for, and to regulate and enforce, licensure to practice law in the State. *See id.*

8. Policy-making powers are vested in the OBA’s House of Delegates, although that power is subordinate to the RCAC and orders promulgated by the OSC. *See RCAC*, Art. III, § 1; Ex. 1, pp. 17:8-18:23, 19:25-20:25, 22:24-24:1.

9. Exercising its exclusive jurisdiction over matters of licensing, the OSC determined that a condition of obtaining a license to practice law in this State is membership in the OBA. *See In re Integration of State Bar of Okla.*, 95 P.2d at 116.

10. The RCAC state that “[s]ubject to these rules, the [OBA] may adopt such Bylaws as it may deem necessary for its government and for the implementation of these rules.” *See RCAC*, Art. XV, § Art. XV.

11. The OBA adopted Bylaws as allowed by the RCAC under the superintending authority of the OSC. OBA Bylaws, § Art. VII state that “[a] Bar Journal shall be

published as directed by the [BOG].” Bylaws, § Art. VII; *see* Ex. 1, pp.20:23-21:3, 26:23-28:2.

12. The OBA publishes the OBJ in paper and digital form. *See* Ex. 3, ¶¶ 5, 16-18.

13. The primary purpose of the OBJ is to provide a forum for information on the practice of law, to educate lawyers in their practice areas and updates in the law, and to provide practitioners OBA-related notices and information on rules, budgets, and developments. *Id.*, ¶ 6.

14. Until a point in 2022, seven practice area-themed and two general practice area-themed issues of the OBJ were published annually. *Id.*, ¶ 7.

15. At a point in 2022, the OBA began publishing ten themed OBJs annually, all of which had a practice-area theme. *Id.*

16. Every general practice and practice area-themed issue of the OBJ also contains a “President’s Message.” *Id.*, ¶ 8.

17. President’s Message OBJ columns are not official OBA statements. *Id.*, ¶ 9.

18. Rather, information contained in the President’s Message generally contain the personal leadership statements and goals of the current President. *Id.*, ¶ 10.

19. Almost every general practice and practice area-themed issue of the OBJ also contains a column authored by the ED. *Id.*, ¶ 11.

20. The statements in the ED column are not official OBA statements. *Id.*, ¶ 12.

21. Rather, information contained in the ED’s column is intended to be a personal message of the ED. *Id.*, ¶13.

22. From March 2017 through June 2022, the OBA published fifty-three editions of the OBJ, which contained approximately 643 published, authored articles, not limited to practice-themed articles. This approximate figure includes the BOG President and ED columns, Practice Tips, Back Page, Legal Practice Tips, Ethics & PR, Young Lawyers Division, and other authored items. *Id.*, ¶ 14.

23. Every issue of the OBJ published during the time-period at issue herein contains the following disclaimer on the masthead page (adjusted for copyright year) :

THE OKLAHOMA BAR JOURNAL is a publication of the [OBA]. All rights reserved. Copyright© 2025 [OBA]. Statements or opinions expressed in the [OBJ] are those of the authors and do not necessarily reflect those of the [OBA], its officers, [BOG], Board of Editors or staff. Although advertising copy is reviewed, no endorsement of any product or service offered by any advertisement is intended or implied by publication. Advertisers are solely responsible for the content of their ads, and the OBA reserves the right to edit or reject any advertising copy for any reason. Legal articles carried in the [OBJ] are selected by the Board of Editors. Information about submissions can be found at www.okbar.org.

Id., ¶ 15. Advertiser the Oklahoma Bar Foundation, is a 501(c)(3) corporation. *Id.*, ¶ 4.

24. Since mid-2022, it is the OBA's policy and practice to include the following disclaimer on the footer of each page of every practice area-themed OBJ article, to appear in both the paper and pdf OBJ formats (pdfs are accessible on the OBA website):

Statements or opinions expressed in the [OBJ] are those of the authors and do not necessarily reflect those of the [OBA], its officers, [BOG], Board of Editors or staff.

The OBA website has clickable links to digital copies of each issue's individual practice-themed articles. In this format, the entire article presents as one page, such that the disclaimer appears at the end of the article. *Id.*, ¶¶ 16, 17, 19.

25. It is OBA practice that the foregoing disclaimer appears in both the paper and digital version of articles published in the OBJ. *Id.*, ¶ 18. On the pdf posted version, it appears at the end of each practice-themed article. *Id.*, ¶ 19.

26. Mr. Schell agrees that having access to information about a variety of topics and updates in the law can help a lawyer maintain the requisite competence in their area of practice that is required by rules of professional responsibility. *See* Dep. Tr. Schell, Ex. 4, pp. 58:10-13, 61:10-18, 63:5-14, 66:2-5, 95:23-98:10-15.

27. Mr. Schell agrees that having access to articles that contain information explaining the history and development of laws can help a lawyer maintain the request skill and knowledge in their area. *Id.*, p. 98:16-21.

28. Mr. Schell agrees that having access to articles that explain how existing laws may be applied to different groups of Oklahomans can help a lawyer maintain the requisite skill and knowledge in their area. *Id.*, p. 98:22-99:17.

29. Mr. Schell agrees that the legal matters of others may involve behaviors or views that he may not want to be associated with. *Id.*, p. 89:1-5, 10-20.

30. Mr. Schell has no knowledge of the Lexology news aggregation service that the SAC alleges the OBA makes available to its membership, has no knowledge of having received it via email, and does not know its contents. *Id.*, p. 76:12-77:9.

31. The OBA provides its members access to the Lexology news service as a benefit, free of charge. *See* Ex. 1, pp. 15:25-16:23. The OBA does not pay Lexology for providing access to the service and thus the OBA does not use dues to pay for the service. *Id.*, p. 126:5-9. The OBA provides member contact information to Lexology, which

directly emails OBA members. *Id.*, p. 124:14-23. Lexology emails contain links to law-related articles—primarily prepared by 900 major law firms—grouped by legal topics and/or over fifty practice areas. *See* <https://www.lexology.com/about>;¹ Ex. 3, ¶ 20, Ex. A, p.2 (explaining new benefit Lexology to OBA members). To access any particular article in the Lexology emails, a user must click the related link. *See id.* Moreover, a recipient can choose to access archived content compiled by Lexology, (which Lexology numbers at more than a million articles) that is not linked in email. *See* www.lexology.com/about. The OBA does not determine the content of the emails or linked articles Lexology publishes. *See* Ex. 1, pp. 124:2-23, 125:20-24. OBA members can choose never to open a Lexology email, or if they do, they can unsubscribe at any time. *Id.*, p. 124:4-23. Those OBA members who opt to use Lexology can customize the service to receive information related solely to their practice or interest areas. *Id.*, p. 124:4-17.

B. LEGISLATIVE ACTIVITY AND JUDICIAL INDEPENDENCE

32. Mr. Taylor monitors bills pending in the legislative session related to access to justice and importance of an independent judiciary, which typically means the JNC; he tailors his conduct at the legislature in the same manner. *See* Ex. 2, pp. 27:14-28:1, 32:18-33:17, 45:1-16.

33. Though Mr. Taylor converses with legislators, the OBA does not direct him to do so; rather, he discovers what is happening with a bill and sometimes advocates against JNC-related bills. *Id.*, p. 28:21-29:4, 48:5-12.

¹ Last viewed May 19, 2025.

34. Mr. Taylor prepares a chart of bills of interest to the OBA before the Legislature for the OBA Legislative Kick-off Day CLE; he selects bills he thinks lawyers might be interested in; his purpose is to help other lawyers be better lawyers; and the OBA does not direct him to include any specific bills. *Id.*, pp. 37:21-38:19, 71:25-73:19.

35. The OBA's Legislative Monitoring Committee monitors legislation to keep members informed of any potential changes in the law that might affect their practice. *See* Ex. 1, p. 29:2-30:9.

36. Mr. Schell disagrees with the present system for appointing judges in Oklahoma, and has lobbied for its change to one where the State Senate vets candidates and the Governor chooses a candidate. *See* Ex. 4, p. 53:12-54:6.

37. Mr. Schell believes and concedes that an independent judiciary is an important part of Oklahoma's governmental structure. *Id.*, pp. 54:7-15, 55:9-14.

38. However, Mr. Schell does not think Oklahoma's judiciary is independent. *Id.*, pp. 54:7-25, 55:4-23.

39. The OBA House of Delegates ("HOD") is its policy making authority, subject to superintending control of the OSC. Ex. 1, pp. 17:8-25, 19:25-20:22, 22:24-23:1.

40. At a special session of the HOD held June 10, 1967, the HOD voted unanimously "to favor State Question 448, which provides a reorganization of the judicial system and a nonpartisan election of judges"; and voted fifty-nine to eight "to favor State Question 446, which provides for the appointment of members of the Supreme Court and the Court of Criminal Appeals." Ex. 3, ¶ 22, and Ex. C.

41. At a HOD meeting held Nov. 4, 2016, the HOD adopted “Resolution No. 1: Reaffirming Merit Selection of Judges.” *Id.* at ¶ 23, and Ex. D. The Resolution stated this action was authorized by the OBA Legislative Program, OBA Bylaws, § Art. VIII, § 3. *Id.* at ¶ 23, and Ex. D, p. 2.

III. ARGUMENT AND AUTHORITIES

A. BECAUSE COMPELLED MEMBERSHIP IN THE OBA IS CONSTITUTIONALLY SUFFICIENT, MR. SCHELL IS NOT ENTITLED TO JUDGMENT IN HIS FAVOR.

1. The Issue Before The Court

State Bar associations may require attorneys to join and pay fees as a condition of licensure without violating First Amendment rights against compelled speech and free association. *See Lathrop v. Donohue*, 367 U.S. 820, 843 (1961) (plurality opinion); *Keller v. State Bar of Cal.*, 496 U.S. 1, 13-14 (1990). Provided, a state Bar’s *political or ideological* activity must be germane, that is, “necessarily or reasonably incurred for the purposes of regulating the legal profession or ‘improving the quality of legal service available to the people of the State’” *Keller*, 496 U.S. at 14 (quotation omitted); *Schell*, 11 F.4th at 1192. *See also Pomeroy v. Utah State Bar*, No. 2:21-CV-00219-TC-JCB, 2024 WL 1810229, at *5 (D. Utah Apr. 25, 2024) (appeal pending, No. 24-4054) (citing *Boudreaux v. La. State Bar Ass’n*, 86 F.4th 620, 628 (5th Cir. 2023)). The *Keller* germaneness standard, built on the *Lathrop* plurality opinion, is the constitutional test by which the *ideological and political* activity of a mandatory Bar is examined—germane political and ideological conduct is constitutional. *See Pomeroy*, 2024 WL 1810229 at *5. The Court accords deference to a state Bar’s assessment that a reasonable connection

exists between its activity and these constitutionally permissible purposes. *See, e.g., Kingstad v. State Bar of Wis.*, 622 F.3d 708, 718-19 (7th Cir. 2010).

The Amended Complaint (“AC”) contained three challenges—(I) the constitutionality of mandatory membership as a violation of free association rights, AC [Doc. No. 19] at 15; (II) the constitutionality of compelled dues that subsidize speech with which a member might disagree, *id.* at 17; and (III) the sufficiency of the OBA’s *Keller* Policy, the mechanism by which members can obtain a refund of dues attributable to speech with which they disagree, *id.* at 19. The Court dismissed the compelled dues/speech subsidization claim under *Lathrop* and *Keller* and the challenge to the OBA’s *Keller* Policy as moot, and the Tenth Circuit affirmed dismissal of the compelled dues challenge, also determining a number of challenged items germane. *See Schell*, 11 F.4th at 1186, 1190-91, 93.²

The Tenth Circuit remanded for a determination of whether—as the *Keller* Court framed it, 496 U.S. at 17 (emphasis added)—Oklahoma attorneys may “be compelled to associate with an organization that engages in *political or ideological activities* beyond those [germane activities] for which mandatory financial support is justified under the principles of *Lathrop* and *Abood*.”³ *Schell*, 11 F.4th at 1192, 1194 (“[n]either *Lathrop* nor

² The Motion nevertheless seeks a declaration of illegality, and a permanent injunction against enforcement of, Oklahoma statutes that make payment of mandatory dues to the OBA a condition of practicing law, Motion at 32, relief unavailable to Plaintiff.

³ Mr. Schell argues that “conduct that is both nongermane *and* political or ideological in nature [] compounds” any purported constitutional injury. *See* Motion at 21. However, *Keller* expressly directs that **only** ideological or political speech be evaluated under the germaneness standard. Absent political or ideological speech or conduct, there could be no associational injury. If ideological or political speech is germane, there is no injury.

Keller addressed a broad freedom of association challenge to mandatory Bar membership where at least some of a state Bar's actions might not be germane to regulating the legal profession and improving the quality of legal services in the state.”).

The Tenth Circuit recognized that the existence of some non-germane political and ideological Bar speech does not ipso facto support a conclusion that the Bar violated a plaintiff's associational rights. *Id.* at 1195 (remanding for examination of two OBJ articles⁴ which, if determined to be non-germane, required another level of evaluation to determine whether the degree of activity they represented was substantial enough to state a claim).⁵ The appellate court elaborated that the “potential open issue is to what degree, in quantity, substance, or prominence, a Bar association must engage in non-germane activities in order to support a freedom-of-association claim based on compelled membership.” *Id.* at 1195 n. 11.

2. The Framework For Evaluating The Constitutionality Of Alleged Bar Conduct Is The Germaneness Test.

a. Exacting scrutiny does not apply.

If a Bar engages in some political or ideological speech that is non-germane, the relevant inquiry is whether the conduct is of such a degree that a freedom of association violation exists.

⁴ On remand, the SAC expanded Mr. Schell's challenges beyond these two articles but reasserted the same three causes of action, two of which the Court dismissed per the prior rulings. *See* SAC [Doc. No. 116]; Order [Doc. No. 132].

⁵ Justice Brennan's opinion in *Lathrop* determined there was no violation of associational rights on the record because “*the bulk of State Bar activities serve the function, or at least so Wisconsin might reasonably believe, 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....*” *Lathrop*, 367 U.S. at 843 (emphasis added). Justice Brennan implicitly recognized that Bar activity could be constitutional even if some smaller part of the activity were not so aimed and as a result, was non-germane.

Mr. Schell urges the Court to utilize the “exacting scrutiny” analysis the Supreme Court applied in *Janus v. AFSCME*, 585 U.S. 878 (2018) (involving public sector unions) to his claim. *See, e.g.*, Motion at 18. However, the Tenth Circuit has already rebuffed⁶ Mr. Schell’s attempt to “recast the holding of *Keller*”:

Keller established a germaneness test for the constitutionality of mandatory bar dues. *Janus* did not replace that longstanding test with exacting scrutiny, and the Supreme Court has yet to announce the impact of that decision on its holdings in *Keller* and *Lathrop*.

11 F.4th at 1190-91. As for Plaintiff’s compelled membership claim, the appellate court also applied *Keller*:

Mr. Schell, primarily citing [*Janus*], disputes whether Supreme Court precedents upholding bar memberships and mandatory dues remain good law. His view is that *Janus* transformed prior Supreme Court decisions upholding mandatory dues and bar membership such that what was once permitted by [*Lathrop* and *Donohue*] is now prohibited....Throughout this portion of our analysis, we apply an overarching principle: ‘If a precedent of [the Supreme] Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to [the Supreme] Court the prerogative of overturning its own decisions.’

Id. at 1182 (quoting *Rodriguez de Quijas v. Shearson/Am. Exp., Inc.*, 490 U.S. 477, 484 (1989)).⁷ Other courts likewise apply the germaneness standard to evaluate the broader associational claim at issue here. *Boudreaux*, 86 F.4th at 631-32; *Crowe v. Or. State Bar*,

⁶ The law of the case dictates that the *Keller* germaneness standard is the appropriate framework to apply. *Fish v. Schwab*, 957 F.3d 1105, 1139 (10th Cir. 2020) (“when a court rules on an issue of law, the ruling should continue to govern the same issues in subsequent stages in the same case.”) (quotation marks and citation omitted). The limited exceptions do not apply here. *Id.* at 1139-1140 (collecting cases).

⁷ Regardless, the Supreme Court has stated that *Keller*’s germaneness standard “fits comfortably” within the exacting scrutiny analytical framework in this context. *Harris v. Quinn*, 573 U.S. 616, 655-56 (2014).

112 F.4th 1218, 1239 (9th Cir. 2024) (petition for cert. pending, No. 24-1025) (filed Mar. 21, 2025).⁸

b. Applying the germaneness test: assaying OBA speech or expressive activity

The first inquiry is to determine whether a challenged communication is OBA speech or expressive activity. *Keller*, 496 U.S. at 9 (plaintiffs argued that “the use of their compulsory dues to finance” the Bar’s political and ideological activities violated their constitutional rights), at 14 (the Bar may not fund non-germane “ideological activities”). *Boudreaux*, 86 F.4th at 624 (“compulsory bar membership is unconstitutional if a Bar’s speech is not germane....”).

“Speech” has a specific meaning in First Amendment jurisprudence. In addition to verbal and written statements, speech is “conduct that is inherently expressive.” *Rumsfeld v. Forum for Acad. & Institutional Rights, Inc.*, 547 U.S. 47, 66 (2006). “[N]ot all conduct may be viewed as speech simply because by [its] conduct the actor intends to express an idea.” *Zalewska v. Cnty of Sullivan, NY*, 316 F.3d 314, 319-20 (2nd Cir. 2003). Instead, conduct that conveys “a particularized message” with “a great likelihood that the message would be understood by those who viewed it” is considered speech for First Amendment purposes. *Texas v. Johnson*, 491 U.S. 397, 405 (1989).

c. Applying the germaneness test: whether any non-germane conduct is of “degree, in quantity, substance, or prominence” to constitute a constitutional violation

⁸ The Ninth Circuit applied exacting scrutiny to evaluate mandatory Bar activity in *Crowe*, but used germaneness as its measurement tool. 112 F.4th at 1239 (“when a state Bar requires attorneys to associate with germane activities, that requirement survives exacting scrutiny.”).

Contrary to Mr. Schell’s argument, when the OBA engages in speech, the determination of associational rights cannot be “severed from identity of the speaker or the context of the speech[]” or the “amount or extent of the speech”. *See* Motion at 29.⁹ In *Crowe*, the court observed that to be successful a plaintiff must show “a reasonable observer would impute some meaning to membership in the organization and the plaintiff objects to that meaning.” 112 F.4th at 1234. This showing requires consideration of “the context.” *Id.* at 1236. “[T]he bare fact that an attorney is a member of the state bar” sends no “expressive message” and, correspondingly, even when a Bar engages in speech, a reasonable observer would not necessarily believe the Bar’s speech “reflect[s] the attorney’s personal views.” *Id.* In other words, the public does not associate even occasional non-germane bar speech to an attorney simply because they are Bar members. Even if the Court determines some OBA speech is non-germane, the Court must consider whether that speech is of a “degree, in quantity, substance, or prominence” to support a First Amendment claim—that is, whether the non-germane conduct is *de minimis*.¹⁰ *Schell*, 11 F.4th at 1195 & n. 11.

⁹ Mr. Schell misstates that in *Keller*, the Supreme Court “‘declined’ to address the question of whether a person can be forced to join a Bar association in the first place.” Motion at 15. The *Lathrop* plurality decided compelled membership did not violate freedom of association—“seven Justices agreed the First Amendment right to freedom of association did not proscribe mandatory Bar dues or membership.” *Schell*, 11 F.4th at 1187. *Keller* declined to decide whether compelled membership was constitutional if the Bar “engages in political or ideological activities beyond those for which mandatory financial support is justified under the principle of *Lathrop* and *Abood*.” *Keller*, 496 U.S. at 17. That is, how does the existence of some non-germane expressive conduct impact compelled membership?

¹⁰ This quantum, substance and quality issue is *the* essential legal question the Tenth Circuit directed the Court to determine on remand. However, citing *McDonald v.*

3. All Challenged Conduct Meets the Germaneness Standard or is Otherwise Constitutional.

a. Mr. Schell challenges four OBJ items that have already been determined to be germane

The appellate court determined that the May 2017, May 2018, February 2019, and March 2019 OBJ columns (Motion at 22-23), [Doc. Nos. 178-4, 178-15, 178-17, and 178-18] are germane. *See Schell*, 11 F.4th at 1193 (“May 2017 article encouraging members of the OBA to warn the public about the harms of politics in the judicial system....is germane....”) (“May 2018 article responding to criticism of Oklahoma’s merit-based process for selecting judges....involves the structure of the court system and falls with those activities accepted in *Lathrop* and *Keller*.”) (“February and March 2019 articles ...are germane to the OBA’s core function....”).¹¹ The Court must apply the law of the case and reject Mr. Schell’s challenge to them.

b. Activity concerning the importance of an independent judiciary and/or the JNC is germane or otherwise constitutional.

Longley, 4 F.4th 229 (5th Cir. 2021), Mr. Schell would have the Court conclude that even *de minimis* non-germane activity automatically violates association rights. *See* Motion at 17. The Tenth Circuit does not hold this view since it noted *if* the Court identified non-germane activity on remand, the Court must determine whether the activity was of a nature, quantity and quality to be a constitutional violation. *Schell*, 11 F.4th at 1195 n. 11. *See also Pomeroy*, 2024 WL 1810229, at *5 (“the Tenth Circuit suggested a multifactor approach to the analysis of a freedom of association claim involving non-germane speech and left open the possibility that a *de minimis* amount of non-germane speech would not run afoul of an objecting member’s associational rights”).

¹¹ Though Mr. Schell acknowledges that the Tenth Circuit found the 2019 articles germane, *see* Motion at 23 (stating he includes them in his motion to “preserve” his claims), he fails to mention the May 2017 or 2018 columns. Defendants object to raking over past determinations and to the introduction of new evidence. *See* Motion at. 8, n. 2.

The April 2017 ED column is germane. It discusses how Art. 7B § (a)(2) of the Oklahoma Constitution was being implemented with regard to the functioning of the JNC. Noting “[t]he work of the JNC is critical to maintaining a fair and impartial judicial system that is free from partisan politics in the selection of judges and justices of our highest courts,” the author encouraged any lawyer interested in seeking a position on the JNC to view the notice detailing the process. *See id.* The ED identified pending JNC related bills, reminded readers that the JNC had been adopted in response to the harms of politics in the judicial system, exemplified by the mid-20th Century bribery and corruption scandal involving part of the State’s highest civil court. *Id.*

This column plainly contains the author’s opinion, and he encourages readers to express their opinions (not his) to their legislators. *See id.* (“If you have not contacted your legislators and given them your opinion...I encourage you to do so.”). But even if viewed as the OBA’s expressive content, an “article encouraging members of the OBA to warn the public about the harms of politics in the judicial system is germane because the judicial system is designed to be an apolitical branch of government, and promotion of the public’s view of the judicial system as independent enhances public trust in the judicial system and associated attorney services.” *See Schell*, 11 F.4th at 1193. Likewise, articles “responding to criticism of Oklahoma’s merit-based process for selecting judges....involve[] the structure of the court system and fall[] within those activities accepted in *Lathrop* and *Keller*.” *See id.*; *see also* Order [Doc. No. 132] at 4 (“articles or statements made by the OBA or its leadership about judicial selection procedures....no doubt involve contentious political issues but, as the Court of Appeals noted, they involve

the structure of the court system and are” germane). Further, the policy-making HOD has twice resolved formally to endorse the JNC as an appellate judicial selection process given its utility in preserving a qualified, independent judiciary. (SAUF ¶¶ 40, 41).

c. The remaining challenged OBJ articles are germane or otherwise constitutional.

McDonald and other courts have recognized that disclaimers notifying readers that Bar journal content is solely the speech of the authors eliminates it as challengeable conduct. 4 F.4th at 251-52; *Crowe*, 112 F.4th at 1240 (citations omitted). Since the OBJ content Mr. Schell challenged was published, the OBA has increased the visibility of its disclaimers. A disclaimer appears at the beginning of every issue, the footer of every page of a themed article in the paper and digital publication, and at the end of every themed article in the pdf versions. (SAUF ¶¶ 23-25). Given these robust disclaimers, no reasonable reader would consider OBJ content to be the OBA’s expressive conduct. *Pomeroy*, 2024 WL 1810229, * 12.

Even if the challenged items are considered OBA speech, in addressing a challenge to the Texas Bar Journal, the Fifth Circuit concluded that similar information published there was “related to regulating the profession and improving legal services” and thus germane. *See McDonald*, 4 F.4th at 252. The remaining challenged OBJ articles contain material that allow lawyers to retain professional competence required by the Oklahoma Rules of Professional Conduct. (SAUF ¶ 26). As such they are “necessarily or reasonably incurred for the purposes of regulating the legal profession or ‘improving the quality of legal service available to the people of the State.’” *See Keller*, 496 U.S. at 14.

First, the OBJ article “Tort Litigation for the Rising Prison Population,” which appeared in a November 2018 tort practice area-themed OBJ, *see* Motion at 22 and [Doc. No. 178-16], is germane even if it could be considered the OBA’s own expression—its author described the tort remedies available to inmates under state law, the restrictions on those remedies, and how they have evolved (legislatively and judicially) over time. *See id.* at 34-35. This article guides lawyers who may represent inmates to the applicable law and its history and is accordingly reasonably related to “improving the quality of legal service available to the people of the State.” *See Keller*, 496 U.S. at 14.

Mr. Schell concedes that every citizen of the state deserves competent representation, even those citizens with whom he might not wish to associate. (SAUF ¶¶ 26, 29). He agrees that pertinent legal history is appropriate. (SAUF ¶ 27). The OSC requires lawyers to maintain competency in their area of practice areas as a matter of professional responsibility, to maintain their licensure. (SAUF ¶¶ 7, 29). This article identifies citizens with unique legal issues and helps their lawyers gain the required regulatory competence, and therefore is reasonably related to the germane goals identified in *Lathrop* and *Keller*.

Second, the article “*Guinn v. U.S.*: States Rights and the 15th Amendment” was contained in the May 2021 OBJ issue themed “Black Legal History in Oklahoma.” *See* App. [Doc. No. 178-20]. The author sets out the history of Oklahoma voting laws culminating in the opinion *Guinn v. U.S.*, 238 U.S. 347 (1915). The author identified recent legislation impacting voter registration, thereby educating lawyers who might represent clients with legal needs related to voting laws. [Doc. No. 178-20] at 4. Even if

this article could be considered OBA speech, it would be germane as it is reasonably related to “improving the quality of the legal service available to the people of the State.” *See Keller*, 496 U.S. at 14. While views may differ as to voter registration legislation, the Supreme Court held that ideological speech is not a constitutional violation if the speech meets the test for germaneness. *See id.* at 13-14.

Third, the OBJ article titled “A Resilient Mindset,” published in December 2020 during the height of the pandemic, was penned by an attorney apparently not licensed in Oklahoma, who trains lawyers and law firms nationwide. App. [Doc. No. 178-19] at 6. She describes personal discussions with her client, also a lawyer, about a technique to help deal with the uncertainties brought on by the pandemic. *Id.* at 2. As the article explicitly offers the author’s personal experience as a guide to those readers who have interest, no reasonable person would consider this article the speech of anyone other than the author. Even if it were OBA speech and of a type protected under the First Amendment (which it is not as it does not bear a political or ideological message), it is germane as it is reasonably related to “improving the quality of legal service available to the people of the State.” *See Keller*, 496 U.S. at 14. For example, the author discusses ways of managing pandemic related law practice losses such as the sudden inability to meet in person with clients. App. [Doc. No. 178-19] at 6.

While the Fifth Circuit determined certain wellness advice too remote to be germane, *Boudreaux*, 86 F.4th at 632-33, the activity there was direct Bar speech in the form of “Wellness Wednesday’ tweets” suggesting the health benefits of walnuts, regular workouts, and getting sunlight. *Id.* at 632. The court found such general wellness

advice non-germane because while overall health improvement was a personal matter that might impact one's practice of law, the benefit would be indirect. *Id.* at 633. Here, in contrast, the article does not give generalized diet or exercise advice, but tools for people "in our profession" directed to dealing with pandemic related setbacks in practicing law. App. [Doc. No. 178-19] at 2.

Fourth, the May 2021 article titled "Oklahoma's Embrace of the White Racial Identity," App. [Doc. No. 178-21], provides a history of Caucasian westward expansion into what later became Oklahoma and identifies percentages of racial composition of the State. The authors then tie those facts directly to racial diversity in the OBA and Oklahoma law firms. Bar efforts directed to "promoting diversity efforts at law firms is germane...." *See Boudreaux*, 86 F.4th at 633. Initiatives to diversify the legal practice are germane "despite [their] controversial and ideological nature." *See id.* If the action is "tied to the diversity of *lawyers*," it is likewise "tied to the quality of legal services." *See id.* (emphasis in the original). This Court agreed. *See* Order [Doc. No. 132] at 4 (article addressing racial factors believed to contribute to lack of diversity in law firms was germane). The authors further question whether the lack of minority representation is beneficial to the "administration of the laws." [Doc. No. 178-21] at 5. While some readers might feel that the authors' views are controversial and ideological, *Keller* allows such conduct if the content is germane. The racial identity article promotes increasing racial diversity in the OBA, an unquestionably germane goal.

Fifth, the February 2022 article "Vaccine Mandates and Their Role in the Workplace" clearly educates human resources practitioners of developments in

vaccination mandates (and mandate exemptions) that emerged during the Covid pandemic through executive orders and Food and Drug Administration Guidance. *See* App. [Doc. No. 178-22]. The author prepares attorneys who advise employers and employees as to the changing law which, at the time, was a rapidly developing new frontier of labor and employment law. Even if this article could be considered OBA speech, it would be germane as it is reasonably related to “improving the quality of legal service available to the people of the State.” *See Keller*, 496 U.S. at 14. And even if the article contains a “contentious political assertion” as Mr. Schell claims, Motion at 24, political or ideological content that is otherwise germane is precisely what *Keller* determined appropriate. *Id.*

Finally, Mr. Schell’s challenge to a book review setting out the theme and publication history of Oklahoma historian Angie Debo’s 1940 book, *And Still the Waters Run*, App. [Doc. No. 178-23], plainly expresses the viewpoint of the reviewer and no reasonable observer would construe it as the OBA’s expressive content and attribute it to Mr. Schell. *See Pomeroy*, 2024 WL 1810229, *2.

d. The challenged advertisement does not violate Mr. Schell’s constitutional rights.

The OBA is entitled to summary judgment on Mr. Schell’s reliance on an Oklahoma Bar Foundation (“OBF”) advertisement in the May 2022 OBJ. Motion at 25, App. [Doc. No. 178-24]. The OBF is not “the bar’s foundation” but an independent 501(c)(3) charitable corporation. (SAUF ¶ 23). The content of the advertisement—an OBF fundraiser—does not convey the type of message the First Amendment protects. *See*

Prop. III, (A)(2)(b), *supra.* at 15. Finally, the OBA’s disclaimer also plainly advises readers that items such as the OBF advertisement are not OBA speech. (SAUF ¶ 23).

e. Defendants are entitled to summary judgment on the Lexology-based challenges for several independent reasons.

Mr. Schell argues that once he has identified “activities” that “implicate the First Amendment,” the burden shifts to the OBA to show that the activities are germane. Motion at 13. Because Mr. Schell has not established that access to Lexology is such an activity, the OBA need not establish the articles’ germaneness.

Initially, Mr. Schell has not established that “all bar members” received the six challenged Lexology articles. *See* (SUF ¶¶ 14, 15); (SAUF ¶ 30, 31). It is pure speculation to suggest that **any** Bar member received the articles. For one thing, it is far from certain that every OBA member has an email address. Even if they do, Mr. Schell testified he could not recall having received a Lexology email. (SAUF ¶ 30). Since Mr. Schell had never received a Lexology email, he necessarily did not receive links from Lexology to access the articles. Mr. Schell has not revealed how the articles were discovered. (SAUF ¶ 30). The articles could have been linked to an email that some Bar members saw or chose to receive. It is equally plausible that the articles were not linked to an email sent to OBA members. Mr. Schell’s team could have obtained them by searching Lexology’s archives that contain over one million articles. (SUF ¶¶ 14, 15); (SAUF ¶ 31). The Lexology articles are not properly before the Court and should not be considered for this reason.

Next, facilitating a relationship between Lexology and OBA members is not speech in the First Amendment context. As noted, the First Amendment protects written and verbal statements and certain conduct. *See* Prop. III, (A)(2)(b), *supra*. at 15. Unlike the OBJ, which the OBA publishes, Lexology is wholly responsible for its news aggregator. The Lexology emails, the links to articles contained in the emails and the archived articles are, perhaps, Lexology’s speech directed at OBA members through targeted communications. Lexology hosts the speech of others (the articles’ authors) and allows access to that speech by OBA members and others but, as a private company, is not itself “subject to First Amendment constraints.” *See, e.g., Prager Univ. v. Google*, 951 F.3d 991, 997 (9th Cir. 2020) (YouTube is not a state actor simply by hosting the speech of others).

In contrast to the OBJ where the OBA publishes the speech of others (although it expressly disclaims the speech) utilizing member dues,¹² the OBA merely provided OBA members contact information to Lexology. Neither the OBA nor Bar members pay for the service. (SAUF ¶ 31). The OBA facilitates access to the service that Lexology provides as a member benefit, much as if the OBA had arranged for members to receive, if they chose, a free subscription to The Wall Steet Journal.

Additionally, the user experience is wholly customizable—the recipient may

¹² In *Boudreaux*, the Fifth Circuit considered several Bar association tweets linking to informative (but, according to the court, nongermane articles) as Bar speech. 86 F. 4th at 636. Those tweets originated with the bar association and resulted from a verifiable action on the part of the Bar association. Arranging for OBA members to receive a benefit from a third-party provider is missing the same affirmative action on the part of the OBA.

ignore the email, read all of the articles linked in the daily email, read only those articles that relate to their practice area or may unsubscribe at any time. *Id.* To access the linked articles, a recipient must actively click a link. Similarly, a recipient must actively search Lexology's archives to obtain articles not linked to daily emails. *Id.* The OBA is not conveying a message, requiring Mr. Schell to display any message on his property in a way that is visible to the public, or preventing him from taking any action that would allow him to eliminate the information from his surroundings. *See PruneYard Shopping Center v. Robins*, 447 U.S. 74, 86 (1980) (distinguishing *Wooley v. Maynard*, 430 U.S. 705 (1977)). *See also Crowe*, 112 F.4th at 1234 (no reasonable observer would attribute the articles to Mr. Schell in this context).

That Lexology brands its emails with the OBA logo does not alter this fact. As noted, not all conduct can be viewed as speech. The OBA does not convey a particularized message to a reasonable observer simply by allowing Lexology to use the OBA logo.¹³ In *Zalewska*, for instance, the court concluded that a regulation prohibiting county van drivers from wearing skirts was not unconstitutional because “no particularized communication can be divined simply from a woman wearing a skirt.” 316 F.3d at 319-20. *See also Free the Nipple v. City of Ft. Collins*, 216 F. Supp. 3d 1258, 1262-63 (D. Colo. 2016) (appearing topless in public is not protected speech because there is no great likelihood that others understood the message plaintiffs were attempting to convey); *Cheadle v. No. Platte R-1 School District*, 555 F. Supp. 3d 726, 734 (W.D.

¹³ Before presenting OBA members the opportunity to access Lexology, the OBA explained the relationship via informational posts on the OBA website. *See* (SAUF ¶ 31) (citing Ex. 3, ¶¶ 19-20, and Exs. A & B).

No. 2021) (a minor drinking alcohol and smoking are not expressive conduct).

Even if the six Lexology emails could be considered the OBA's speech and the Court could properly consider them, their content is germane. *See McDonald*, 4 F.4th at 251 (Texas Bar's hosting a directory of *pro bono* opportunities germane activity).

First, the March 21, 2024 article discusses the consequences of the non-use of gender-neutral language from a business and legal perspective in the European Union and relates the history of such language employed in United States law as early as the Patent Act of 1790. [Doc. No. 178-25]. Mr. Schell agreed that the historical development of legal norms is useful to practitioners like himself. (SAUF ¶ 27).

Second, the November 27, 2023 article discussing ESG engagement and litigation in England and Wales instructs the reader as to its "fragmented" legal landscape. [Doc No. 178-26], p. 2. The text advises an interested reader which regulatory authorities require or are taking an increased interest in ESG standards. *Id.* at p. 3. It sets out legal mechanisms by which public company shareholders can enforce compliance with ESG obligations and how the issue impacts market participants who have signed the UN Principles for Responsible Investment. *Id.* at pp. 4-5. By providing practice related information for those who work in this area, the article is germane.

Third, the March 29, 2024 item is a brief note discussing a family law issue in the United Kingdom centered on UK's 2004 adoption of the Gender Recognition Act 2004, which amended Scotting divorce legislation, creating some confusion as to applications for certificates of divorce in Scotland. App. [Doc. No. 178-27], p.1. The article plainly provides practice related guidance to UK family law practitioners and is germane.

Fourth, the article dated June 22, 2023, is a discussion of the percentage of LGBTQIA+ lawyers out of the estimated 1.3 million United States lawyers in 2022. [Doc. No. 178-28], p. 1. The author cites statistics suggesting that a larger percentage of law students and summer associates so self-identify. *Id.* Bar efforts directed to “promoting diversity efforts at law firms [are] germane....” See *Boudreaux*, 86 F.4th at 633. Initiatives to diversify the legal practice are germane “despite [their] controversial and ideological nature.” See *id.*

Fifth, the November 20, 2023 article discusses how UK law firms can retain clients by improving firm diversity. [Doc. No. 178-29]. Such efforts are germane, *Id.*, and Order [Doc. No. 132], p. 4 (article addressing racial factors believed to contribute to lack of diversity in law firms was germane).

Sixth, the November 2, 2023 article counsels how to improve one’s law practice by increasing diversity. [Doc. No. 178-28]. It addresses the same germane goal. *Id.*

f. Mr. Schell has not identified any non-germane legislative activity

Mr. Schell argues that the OBA’s support of independent judiciary and the judicial selection processes, and its legislative liaison’s efforts to persuade legislators to preserve the JNC as a method of selecting judges, violate his associational rights. See Motion at 29-30. See also (SAUF ¶ 36). Both this Court and the Tenth Circuit have made crystal clear that “judicial selection procedures...are germane to the OBA’s function within the meaning of *Keller*.” See [Doc. No. 132] at 4; *Schell*, 11 F.4th at 1193 n.8. While acknowledging the law of the case characterizes the conduct as germane, Mr. Schell attempts to escape that finding by noting Mr. Taylor created materials supporting an

independent judiciary and the JNC and may have used those materials to urge legislature to retain the JNC. Motion at 29. But Mr. Taylor testified that he always strives to stay close to the issue of the judicial selection process. (SAUF ¶ 32). The OBA HOD in November 2016 reaffirmed by Resolution, pursuant to the Legislative Program authorized in the Bylaws, its unanimous 1967 endorsement in principle of the constitutional amendments creating the JNC—which was created in response to prior judicial corruption. *See* (SAUF ¶¶ 40, 41); *Schell*, 11 F.4th at 1193 n. 8 (rejecting Mr. Schell’s challenge to the Legislative Program). Finally, Mr. Schell speculates that having determined OBA support of the JNC is germane, the courts could open the door to a host of other legislative activity. *Id.* at 30. Speculation is not a basis for granting summary judgment. The legislative activity challenged in the Motion is germane.

g. The OBA’S conduct complies with the First Amendment because any incidental non-germane activity is *de minimis*.

Even if within the limitation period there was an instance of non-germane conduct (and setting aside the arguments the conduct is not Bar speech or reasonably attributable to any member), there is no associational violation because the quantum of conduct is *de minimis* as to its “degree, [in] quantity, substance, or prominence.” *See Schell*, 11 F.4th at 1195 n.11.¹⁴

Mr. Schell identifies six OBJ articles, one book review, and one third-party

¹⁴ *See* argument at Prop. III, (A)(2)(c), *supra*. Unlike the Tenth Circuit in *Schell*, the Ninth Circuit in *Crowe*, and Justice Brennan’s opinion in the *Lathrop* plurality, the Fifth Circuit has declined to recognize that a *de minimis* amount of non-germane activity would avoid a constitutional violation. *See Boudreaux*, 86 F.4th at 637-38 (“we decline to recognize a *de minimis* exception to the rule from *Keller* and *McDonald*”).

advertisement, vaguely references six Lexology articles—which he has no knowledge of receiving or viewing—and unsuccessfully attempts to revitalize his challenge to the OBA’s support for the JNC. To put these claims in perspective, during the period from March 26, 2017 (the limitation date) to June 10, 2022 (SAC filing date), the OBA published fifty-three issues of the OBJ, containing approximately 643 published, authored items. *See* (SAUF ¶¶ 14, 15, 22). Even if all six challenged OBJ items were non-germane, which is clearly not the case, they represent an estimated 1.24% of the approximate total authored OBJ articles published during the relevant time frame. The six Lexology articles comprise an infinitesimally small amount of the more than one million articles members can access on that site, and have no prominence as members must click on a link in an email or search the site for content. (SAUF ¶¶ 30, 31). The degree and quantity of the challenged conduct is vanishingly small. In both prominence and substance, the challenged activity differs dramatically from the statement strongly critical of the United States President found to violate the first amendment in *Crowe*, which was boxed and bolded, and surrounded by language the court took to impute the statement to all OSB members. *See Crowe*, 112 F.4th at 1236-37, 1239-40. Here, Defendants have shown that the challenged conduct is not reasonably imputed to Mr. Schell, while it is reasonably related to *Keller*-approved constitutional goals even if it could be considered political or ideological. Measuring the challenges against the array of OBJ articles during the pertinent period, the universe of Lexology content, or all OBA activity, it is plainly *de minimis*, and there is no constitutional violation. *See Schell*, 11 F.4th at 1195 n.11.

WHEREFORE, Defendants respectfully request entry of judgment in their favor on all of Plaintiff's claims, and for all other and further relief, be it legal or equitable , as would be just and proper.

Respectfully submitted,

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EXHIBIT 1

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20 Kieran D. Maye, Jr.	20
21 MAYE LAW FIRM	21
22 3501 French Park Drive	22
23 Suite A	23
24 Edmond, Oklahoma 73034	24
25 (405) 990-2415	
kdmaye@mayelawfirm.com	
	25 (Exhibits continued on next page.)

<p style="text-align: right;">Page 13</p> <p>1 A No.</p> <p>2 Q The complaint does reference some Bar</p> <p>3 Journal articles. Are those the articles you looked</p> <p>4 at?</p> <p>5 A Some of them.</p> <p>6 Q Okay. There might have been others?</p> <p>7 A Probably just out of curiosity and going</p> <p>8 through old Bar Journals of maybe seeing an article</p> <p>9 that I had forgotten about that was interesting to</p> <p>10 me that would have nothing to do with any of this.</p> <p>11 Q Sure.</p> <p>12 A Things like that.</p> <p>13 Q Don't always read a lot into my questions.</p> <p>14 If you don't recall and that's the answer, then</p> <p>15 that's the answer.</p> <p>16 Are you aware that the Bar produced -- had</p> <p>17 a supplemental production go out last week in this</p> <p>18 matter?</p> <p>19 A I'm not sure I understand your question.</p> <p>20 Q I'll just tell you, I think it was Friday</p> <p>21 we received a supplement, "we" meaning the plaintiff</p> <p>22 received a supplemental production. It was about</p> <p>23 1,000 pages of documents.</p> <p>24 My question is were you involved in</p> <p>25 gathering those documents for production?</p>	<p style="text-align: right;">Page 15</p> <p>1 A Okay.</p> <p>2 Q The first topic you're going to testify</p> <p>3 about is: "The structure, governance, bylaws,</p> <p>4 duties, and responsibilities of the OBA, including</p> <p>5 the types of services and benefits the OBA affords</p> <p>6 its members from 2017 to date."</p> <p>7 Does that sound correct?</p> <p>8 A That's what it states.</p> <p>9 Q And did you do anything, conduct any sort</p> <p>10 of investigation or fact gathering in order to be a</p> <p>11 knowledgeable witness to testify on this subject or</p> <p>12 your great experience is sufficient?</p> <p>13 A Okay. I'm sorry. I don't understand your</p> <p>14 question.</p> <p>15 Q Did you do anything in particular to help</p> <p>16 prepare yourself to be able to testify today about</p> <p>17 this topic?</p> <p>18 A Yes.</p> <p>19 Q What did you do?</p> <p>20 A I looked on the website to look at what</p> <p>21 the current benefits are.</p> <p>22 Q What are the current benefits to members?</p> <p>23 A Yes.</p> <p>24 Q And what are the current benefits to</p> <p>25 members?</p>
<p style="text-align: right;">Page 14</p> <p>1 A I'd have to see them. I understand that</p> <p>2 there were some documents that were produced. I</p> <p>3 didn't see what was produced. I'd have to go</p> <p>4 through the documents and see if I was involved in</p> <p>5 their production at any point in time.</p> <p>6 Q Do you have any sort of specific</p> <p>7 recollection of being on a specific task to gather</p> <p>8 documents for production in this case?</p> <p>9 A Yes.</p> <p>10 Q When is the last time you remember doing</p> <p>11 that?</p> <p>12 A Friday when I gave -- or whatever day</p> <p>13 last week that I retrieved that copy of that policy.</p> <p>14 Q Okay. You're referring to the social</p> <p>15 media policy?</p> <p>16 A Yes. That was the last one.</p> <p>17 Q And policies and procedures from the</p> <p>18 website?</p> <p>19 A Right. That may have previously been</p> <p>20 when I asked for the policy, I got both of those.</p> <p>21 So that may have been previously produced. I don't</p> <p>22 know.</p> <p>23 Q It could have. All right. So turning</p> <p>24 back to Exhibit 1, I'm just going to march through</p> <p>25 the topics here as best I can.</p>	<p style="text-align: right;">Page 16</p> <p>1 A I can only testify to what I can recall</p> <p>2 because there are many, and these are public</p> <p>3 information. They're listed on the website. So if</p> <p>4 I don't recall them all, they're readily available.</p> <p>5 There's a number of what appear to be</p> <p>6 discounts for law office management software. There</p> <p>7 is a relationship with Fastcase that members are all</p> <p>8 provided with that as a membership benefit, and then</p> <p>9 there's an advance part of Fastcase that's also</p> <p>10 available.</p> <p>11 There's a relationship with an insurance</p> <p>12 broker for members to get health and other</p> <p>13 insurance. There's a relationship with a</p> <p>14 malpractice carrier. It's owned by the members.</p> <p>15 It's a member-owned mutual company that's listed</p> <p>16 as a benefit.</p> <p>17 There's Lawyers Helping Lawyers.</p> <p>18 Obviously the Bar Journal, online services to pay</p> <p>19 dues, get mandatory legal education, continuing</p> <p>20 legal education information.</p> <p>21 There are more. A lot of them even I was</p> <p>22 involved in working with them.</p> <p>23 There was the free Lexology subscription.</p> <p>24 There are more and some of them I even helped</p> <p>25 negotiate that I probably am not remembering and</p>

<p>Page 17</p> <p>1 will kick myself later because it would be so 2 obvious. 3 Q Yes. It's not a test. Thank you for 4 that. 5 Are there member benefits that are not 6 found somewhere on the website? 7 A Not that I'm aware of. 8 Q What kind of legal entity is the Oklahoma 9 Bar Association? 10 A The Oklahoma Bar Association is an agency 11 of the Oklahoma Supreme Court. 12 Q And has it always been an agency of the 13 Oklahoma Supreme Court? 14 A Beginning in -- in re integration of 15 Oklahoma Bar Association in 1939, the Supreme Court 16 created the Bar Association that has been. So not 17 always, only since 1939. 18 Q Would you say the Oklahoma Bar Association 19 is a self-governing agency? 20 A No. 21 Q Why is that? 22 A Pursuant to the rules creating and 23 controlling the Oklahoma Bar Association, the 24 Oklahoma Supreme Court has superintending control 25 over the Bar Association.</p>	<p>Page 19</p> <p>1 classifications of membership in the Bar? 2 A Yes. 3 Q What are the classifications of 4 membership? 5 A There is a young lawyer, member and 6 retired. 7 Q Just the three? 8 A Yes. Well, also there's a category. 9 I apologize. There is another category called 10 associate. 11 Q You mentioned that the Court has 12 superintending control over the amount of dues 13 that are required of members? 14 A Yes. 15 Q What are the dues currently? 16 A For next year -- currently they're 275. 17 For next year, they'll be 350. Sorry. 18 Q And is that, the increase in dues, is that 19 something the Bar Association recommended to the 20 Court or did that come down from the Court to the 21 Bar Association? 22 A The House of Delegates passed a 23 resolution, and that was presented as an application 24 to the Supreme Court. 25 Q So if you could help me, walk me through</p>
<p>Page 18</p> <p>1 Q And how do they exercise that 2 superintending control? 3 A They control the budget. They, by virtue 4 of the rules, creating and controlling, control 5 membership classifications, dues, mandatory 6 continuing legal education, legal intern. 7 Q I'm sorry. What was that? 8 A Legal intern licensing. The Bar 9 Association is on -- no issue is the final 10 authority. 11 Q So you mentioned the Supreme Court has 12 control over the Bar's budget; correct? 13 A Yes. 14 Q Does the Court approve the budget in 15 advance? 16 A Or disapprove. 17 Q Does the budget come to the Court as a 18 recommendation of the Bar Association which then it 19 approves or disapproves? 20 A Yes. 21 Q Does the Court get involved in 22 prioritizing line items in the budget? 23 A If they wish to. 24 Q I think you mentioned the Court, the 25 Supreme Court has superintending control over the</p>	<p>Page 20</p> <p>1 how that organizational chart works. There's a 2 House of Delegates for the Bar Association, and 3 there's a Board of Governors above the House of 4 Delegates. Is that how it works? 5 A No. The House of Delegates is the 6 governing body of the Bar Association. 7 Q And what's the responsibility of the 8 House of Delegates? 9 A To conduct any business that's brought 10 before it. 11 Q Who comprises the House of Delegates? 12 A There are delegates from throughout the 13 state. There's about 190. There's past presidents, 14 there's two members of the judiciary, and then the 15 rest are based upon county populations. 16 Q And are they -- the ones that are based 17 on county populations, are they appointed members or 18 are they elected in some way? 19 A The County Bar elects them. 20 Q However they do it, they send a certain 21 number of people? 22 A Right. Pursuant to the bylaws. 23 Q Are the current bylaws of the Oklahoma Bar 24 Association available on the website? 25 A They are available on the website.</p>

<p style="text-align: right;">Page 21</p> <p>1 They're also available on OSCN, and they are</p> <p>2 available in the statutes of the State of Oklahoma</p> <p>3 in Title 5.</p> <p>4 Q Is the House of Delegates primarily</p> <p>5 responsible to manage the day-to-day operations of</p> <p>6 the Bar?</p> <p>7 A No.</p> <p>8 Q Who is?</p> <p>9 A The executive director.</p> <p>10 Q Who does the executive director report to?</p> <p>11 A The Board of Governors and the Supreme</p> <p>12 Court.</p> <p>13 Q And who comprises the Board of Governors?</p> <p>14 A The Board of Governors is made up of 17</p> <p>15 members. There are four officers and the chair of</p> <p>16 the young lawyers division, seven or nine members</p> <p>17 are from the nine Supreme Court districts that</p> <p>18 existed prior to the latest statutory changes on</p> <p>19 Supreme Court districts, and then the remainder are</p> <p>20 at large.</p> <p>21 Q How does one get on to the Board of</p> <p>22 Governors?</p> <p>23 A By filing a nominating petition, and if</p> <p>24 unopposed, you are deemed elected, and otherwise</p> <p>25 you will be elected by the House of Delegates.</p>	<p style="text-align: right;">Page 23</p> <p>1 A Yes.</p> <p>2 Q I think you mentioned earlier that they</p> <p>3 had issued a resolution. I've already forgotten</p> <p>4 what it was about. Maybe it was about dues,</p> <p>5 increasing dues.</p> <p>6 Is that the kind of -- is that a matter in</p> <p>7 which the House of Delegates makes policy decisions</p> <p>8 or pronouncements?</p> <p>9 A Yes.</p> <p>10 Q Is the House of Delegates, can it make</p> <p>11 policy pronouncements about anything it wants or is</p> <p>12 it constrained in some way?</p> <p>13 A Well, it's constrained, yes.</p> <p>14 Q In what sense?</p> <p>15 A Well, for example, there is a, within the</p> <p>16 bylaws, something known as the legislative agenda</p> <p>17 that sets forth what those constraints are.</p> <p>18 There's a resolutions committee that meets</p> <p>19 and determines whether something would be proper for</p> <p>20 the presentment to the House of Delegates and, of</p> <p>21 course, everything that's done there is subject to</p> <p>22 control of the Supreme Court.</p> <p>23 Q So if the House of Delegates were to issue</p> <p>24 a resolution on some policy issue, the Supreme Court</p> <p>25 could effectively nullify that resolution?</p>
<p style="text-align: right;">Page 22</p> <p>1 Q You mentioned that the Supreme Court has</p> <p>2 superintending control of the CLE requirements;</p> <p>3 is that correct?</p> <p>4 A The Oklahoma Supreme Court rules of</p> <p>5 mandatory continuing legal education.</p> <p>6 Q Those are promulgated by the Supreme</p> <p>7 Court?</p> <p>8 A Yes.</p> <p>9 Q Who or what is responsible for policing</p> <p>10 members meeting the CLE requirements?</p> <p>11 A The Oklahoma Supreme Court.</p> <p>12 Q So do lawyers in this state yearly have to</p> <p>13 report the amount of CLE or affirm or attest that</p> <p>14 they've satisfied the requirements?</p> <p>15 A Not all of them.</p> <p>16 Q Who does and who doesn't?</p> <p>17 A The Bar Association tracks most of the</p> <p>18 members and sends out an email at the end of the</p> <p>19 year telling them that they successfully completed</p> <p>20 it, and the folks who haven't completed it at that</p> <p>21 point and haven't gotten their information in after</p> <p>22 the first of the year would have to file a report</p> <p>23 showing compliance.</p> <p>24 Q Is the House of Delegates the</p> <p>25 policy-making arm of the Bar Association?</p>	<p style="text-align: right;">Page 24</p> <p>1 A Yes.</p> <p>2 Q I think you mentioned a -- you</p> <p>3 mentioned -- forgive me if I'm not reciting it back</p> <p>4 to you exactly, but they issue policy positions on</p> <p>5 legislation; is that right?</p> <p>6 A They have.</p> <p>7 Q Okay. Can you recall the last time</p> <p>8 they've issued a policy position on legislation?</p> <p>9 A 2017.</p> <p>10 Q Okay. What did that concern?</p> <p>11 A Three measures relating to trust.</p> <p>12 Q What kind of trusts?</p> <p>13 A It would be personal, testamentary. I</p> <p>14 don't practice in that area, so I don't know the</p> <p>15 exact terms.</p> <p>16 Q Sure. So like in the area of trusts and</p> <p>17 estates? That's a class I think I took in law</p> <p>18 school.</p> <p>19 A Yes. Yes.</p> <p>20 Q Do you recall what the policy position the</p> <p>21 House of Delegates issued on that subject matter?</p> <p>22 A Yes.</p> <p>23 Q What was it?</p> <p>24 A It was to recommend that it be placed on</p> <p>25 the legislative agenda.</p>

<p style="text-align: right;">Page 25</p> <p>1 Q When something like that is placed on a</p> <p>2 legislative agenda, what does that entail?</p> <p>3 A It entails somebody bringing the</p> <p>4 information to the executive director and then</p> <p>5 having it placed upon the agenda of the House of</p> <p>6 Delegates.</p> <p>7 Q Okay. Once that -- do you remember what</p> <p>8 the policy position was?</p> <p>9 A The resolutions passed.</p> <p>10 Q Was it taking a position on proposed</p> <p>11 litigation or pending litigation -- or not</p> <p>12 litigation, legislation?</p> <p>13 A It was proposed.</p> <p>14 Q Was it supporting proposed legislations or</p> <p>15 opposing proposed legislation?</p> <p>16 A It was introduced.</p> <p>17 Q Do you recall what happened with the --</p> <p>18 was the legislation, in fact, introduced?</p> <p>19 A Yes.</p> <p>20 Q Do you recall whether or not it passed?</p> <p>21 A I do on two of the three.</p> <p>22 Q Did two of the three pass without further</p> <p>23 modification or were they amended?</p> <p>24 A I don't recall.</p> <p>25 Q Two of the three bills were -- ultimately</p>	<p style="text-align: right;">Page 27</p> <p>1 A They have been amended from time to time.</p> <p>2 So I don't recall the last time they were amended.</p> <p>3 I believe -- well, it would be a guess. It's all</p> <p>4 written out there, and I was involved the last time</p> <p>5 I knew they were amended.</p> <p>6 Q Do you remember when that was?</p> <p>7 A I would have to go look up the year.</p> <p>8 Q Before or after 2017?</p> <p>9 A It was before.</p> <p>10 Q Before. Okay. Who is -- who creates the</p> <p>11 bylaws? Is that the board of House of Delegates?</p> <p>12 A Yes.</p> <p>13 Q And the House of Delegates is also</p> <p>14 involved in approving amendments to the bylaws?</p> <p>15 A Oh, yes.</p> <p>16 Q And the Supreme Court has superintending</p> <p>17 authority over the bylaws?</p> <p>18 A The rules creating and controlling state</p> <p>19 that the Oklahoma Bar Association may have bylaws</p> <p>20 that are not in contradiction with the rules</p> <p>21 creating and controlling.</p> <p>22 Q Can the bylaws be amended at any time?</p> <p>23 A No.</p> <p>24 Q Does it require a majority vote of the</p> <p>25 House of Delegates to amend the bylaws?</p>
<p style="text-align: right;">Page 26</p> <p>1 were passed; correct?</p> <p>2 A I don't know about the third one. It may</p> <p>3 or may not have. So to say two did is correct. To</p> <p>4 say that three did might be correct.</p> <p>5 Q Fair. Fair. Do you know whether two of</p> <p>6 them or all three of them were ultimately signed,</p> <p>7 enacted in some way or other?</p> <p>8 A Two of them, I believe, were. I don't</p> <p>9 recall on the third.</p> <p>10 Q And so placing that trust issue sort of</p> <p>11 on the policy agenda for legislation, was that</p> <p>12 something that the Supreme Court would have</p> <p>13 authority to say, no, you can't, you should not be</p> <p>14 issuing that or could the Court have done that?</p> <p>15 A If they wished.</p> <p>16 Q So you recalled a policy pronouncement</p> <p>17 made in 2017 related to something in the area of</p> <p>18 trusts and estates?</p> <p>19 A Right.</p> <p>20 Q Do you recall any others that dealt with</p> <p>21 proposed or pending legislation?</p> <p>22 A There weren't any.</p> <p>23 Q You mentioned earlier the bylaws that can</p> <p>24 be found on the website. How long -- do you know</p> <p>25 how long the current bylaws have been in effect?</p>	<p style="text-align: right;">Page 28</p> <p>1 A It either requires a 60 percent vote and</p> <p>2 the House of Delegates would need to be in session.</p> <p>3 Q Does the Oklahoma Bar Association have</p> <p>4 any sort of association with the American Bar</p> <p>5 Association?</p> <p>6 A No.</p> <p>7 Q Does the Oklahoma Bar Association appoint</p> <p>8 representatives to the American Bar Association?</p> <p>9 A No.</p> <p>10 Q Does -- to your knowledge, does the</p> <p>11 Oklahoma Bar Association reimburse members of the</p> <p>12 Board of Governors or the House of Delegates who</p> <p>13 attend American Bar Association events?</p> <p>14 MS. HINTZ: Object to form.</p> <p>15 A Can you repeat that again.</p> <p>16 Q (BY MR. FREEMAN) Sure. I'll try.</p> <p>17 Does the Bar Association reimburse Board</p> <p>18 of Governor members or House of Delegate members who</p> <p>19 attend ABA events on behalf of the Oklahoma Bar</p> <p>20 Association?</p> <p>21 A The Board of Governors members.</p> <p>22 Q I'm sorry?</p> <p>23 A Board of Governors members.</p> <p>24 Q They would be reimbursed for expenses?</p> <p>25 A Yes.</p>

<p style="text-align: right;">Page 29</p> <p>1 MS. HINTZ: Same objection.</p> <p>2 Q (BY MR. FREEMAN) Does the Oklahoma Bar</p> <p>3 Association have subgroups or committees?</p> <p>4 A Yes.</p> <p>5 Q And one of them is a legislative</p> <p>6 committee; is that correct?</p> <p>7 A No.</p> <p>8 Q Any subgroups or committees that concern</p> <p>9 legislation?</p> <p>10 A The legislative monitoring committee.</p> <p>11 Q Do you know what the legislative</p> <p>12 monitoring committee does?</p> <p>13 A Yes.</p> <p>14 Q What does it do?</p> <p>15 A It monitors legislation.</p> <p>16 Q For what purpose?</p> <p>17 A To keep the members apprised of any</p> <p>18 potential changes in the law that might affect</p> <p>19 their practice.</p> <p>20 Q So it could be -- it's not any</p> <p>21 particularized area of the law. It's any change of</p> <p>22 the law that could affect the practice of members?</p> <p>23 A Yes.</p> <p>24 Q How does it convey that information to</p> <p>25 members?</p>	<p style="text-align: right;">Page 31</p> <p>1 of litigation or legislation? I'm sorry.</p> <p>2 A Well, since I don't believe anybody has</p> <p>3 ever taken advantage of it, I can't answer that</p> <p>4 question.</p> <p>5 Q Okay. But I think you did mention that</p> <p>6 was something, other than monitoring, that a</p> <p>7 legislative monitoring committee has done.</p> <p>8 A Yes. I'm sorry. It's the offer. I don't</p> <p>9 know that they -- I don't believe they've ever done</p> <p>10 that.</p> <p>11 Q That's what I understood you to say.</p> <p>12 Right.</p> <p>13 Has the legislative monitoring committee</p> <p>14 done anything else aside from the two subjects we</p> <p>15 just talked about?</p> <p>16 A They have some -- they have two life</p> <p>17 programs.</p> <p>18 Q Has it proposed amendments to bills</p> <p>19 pending in the legislature?</p> <p>20 A No.</p> <p>21 Q Has it signaled the Bar's support or</p> <p>22 opposition to a bill pending in the legislature?</p> <p>23 A No.</p> <p>24 Q Does the Oklahoma Bar Association have a</p> <p>25 retained lobbyist?</p>
<p style="text-align: right;">Page 30</p> <p>1 A There are two programs that are put on,</p> <p>2 and during the course of the session there are</p> <p>3 particular bills or resolutions that may be</p> <p>4 publicized either through the website or one of the</p> <p>5 publications.</p> <p>6 Q And the legislative monitoring committee's</p> <p>7 role is simply to monitor; is that correct?</p> <p>8 A Yes. At times they have done other</p> <p>9 things, but it's to just -- it's mainly to monitor.</p> <p>10 Q Okay. And those times when it's done</p> <p>11 something other than monitor, what did it do?</p> <p>12 A There were times that it offered to</p> <p>13 provide lawyers with expertise in subject matter</p> <p>14 areas to answer questions or concerns that members</p> <p>15 of the legislature may have.</p> <p>16 Q Okay. So it would facilitate maybe</p> <p>17 hooking up a legislator with some lawyer whose</p> <p>18 practice area relates, perhaps, to a piece of</p> <p>19 legislation that member might be working on?</p> <p>20 A I think that was the intent.</p> <p>21 Q Is there -- does the legislature -- in</p> <p>22 doing that, in facilitating subject matter</p> <p>23 expertise, making that available to a member of</p> <p>24 the legislature, does the legislative monitoring</p> <p>25 committee consider the subject matter of the piece</p>	<p style="text-align: right;">Page 32</p> <p>1 A No.</p> <p>2 Q Who is Clayton Taylor, Jr.?</p> <p>3 A He's a legislative liaison. I know he is</p> <p>4 a registered lobbyist, but he was hired as, to my</p> <p>5 understanding, as a legislative liaison.</p> <p>6 Q Okay. And we'll probably come back to</p> <p>7 this later, but who retained him? The Bar</p> <p>8 Association?</p> <p>9 A Yes.</p> <p>10 Q And how long has he been a legislative</p> <p>11 liaison retained by the Bar?</p> <p>12 A I don't recall the exact year. Everything</p> <p>13 in my head runs by who is president at a time. I</p> <p>14 worked off of that mindset of who as opposed to the</p> <p>15 exact date of something.</p> <p>16 Q The Bar president, not President Obama or</p> <p>17 something?</p> <p>18 A Well, yeah.</p> <p>19 Q Okay. What's your understanding of</p> <p>20 Mr. Taylor's duties and responsibilities?</p> <p>21 A To review legislation, advise the</p> <p>22 leadership of the Bar Association and to have</p> <p>23 whatever discussions that he may need to have with</p> <p>24 members of the legislature.</p> <p>25 Q So he is authorized to have discussions</p>

<p style="text-align: right;">Page 41</p> <p>1 A No.</p> <p>2 Q Is that just within the prerogative of the</p> <p>3 Bar president?</p> <p>4 A Yes.</p> <p>5 Q So other than the trust bills back in 2017</p> <p>6 and bills related to -- currently, a bill related to</p> <p>7 or a proposed bill related to the composition of the</p> <p>8 Judicial Nominating Commission, are you aware of any</p> <p>9 other legislation on which the Bar has taken a</p> <p>10 position since 2017?</p> <p>11 MS. HINTZ: Object to form.</p> <p>12 A No. No.</p> <p>13 Q (BY MR. FREEMAN) Since 2017, has the Bar</p> <p>14 proposed legislation other than the trust bills we</p> <p>15 talked about earlier?</p> <p>16 A No.</p> <p>17 Q Since 2017, has the Bar proposed</p> <p>18 amendments to legislation?</p> <p>19 A No.</p> <p>20 Q With respect to legislation concerning the</p> <p>21 composition of the Judicial Nominating Commission,</p> <p>22 was Mr. Taylor involved as the liaison with the</p> <p>23 legislature on behalf of the Bar with respect to</p> <p>24 that litigation or, sorry, legislation?</p> <p>25 MS. HINTZ: Object to form.</p>	<p style="text-align: right;">Page 43</p> <p>1 and very little on others. Bear with me as we go</p> <p>2 through them.</p> <p>3 (Exhibit 2 marked for identification.)</p> <p>4 Q (BY MR. FREEMAN) Let me show you what</p> <p>5 we'll have marked as Exhibit 2. Exhibit 2 appears</p> <p>6 to be a letter dated March 22, 2022 directed to</p> <p>7 Senate Roger Thompson. It is Bates labeled OBA</p> <p>8 000896.</p> <p>9 Do you recognize this document?</p> <p>10 A Yes.</p> <p>11 Q And I'll tell you it was part of a</p> <p>12 collection of documents of identical letters to</p> <p>13 various members of the Oklahoma Legislature.</p> <p>14 A Yes.</p> <p>15 Q What is this letter about?</p> <p>16 A It is about making an offer to assist</p> <p>17 members of the legislature if they have any</p> <p>18 questions.</p> <p>19 Q And this is what you talked about a little</p> <p>20 bit earlier today?</p> <p>21 A Right.</p> <p>22 Q Is this something that the Bar -- is this</p> <p>23 a regular practice of the Bar that it sends to the</p> <p>24 members of the legislature each year?</p> <p>25 A No.</p>
<p style="text-align: right;">Page 42</p> <p>1 A Yes.</p> <p>2 Q (BY MR. FREEMAN) What did he do that you</p> <p>3 recall?</p> <p>4 A I wasn't there with him. So I couldn't</p> <p>5 answer that directly or as to content. I know he</p> <p>6 talked to people.</p> <p>7 Q With respect to the legislation related to</p> <p>8 trusts and the legislation related to the Judicial</p> <p>9 Nominating Commission, are those subject matters</p> <p>10 related to the regulation of lawyers?</p> <p>11 MS. HINTZ: Object to form; compound.</p> <p>12 A I would think that they would be more to</p> <p>13 the quality of legal services, but in a sense it</p> <p>14 would have to do with the regulation.</p> <p>15 Q (BY MR. FREEMAN) So perhaps both</p> <p>16 relate -- those subject matters relate to the</p> <p>17 regulation of lawyers and improving the quality of</p> <p>18 legal services?</p> <p>19 A Well, I think it's -- be more to the</p> <p>20 quality of legal services, but to make sure that</p> <p>21 everybody understands what the law is and to be</p> <p>22 confident would go to the regulatory side.</p> <p>23 Q So I've got a few documents, I wouldn't</p> <p>24 mind having you look at a few of them and tell me, I</p> <p>25 might ask questions on some, a few questions on some</p>	<p style="text-align: right;">Page 44</p> <p>1 Q Any particular reason why it was sent out</p> <p>2 in March of 2022?</p> <p>3 A There was a time when the legislative</p> <p>4 monitoring committee was doing this. They did it</p> <p>5 for two or three years, to the best of my</p> <p>6 recollection, and it was just an idea somebody had</p> <p>7 to try to be of some service.</p> <p>8 Q Do you know if it was sent to all members</p> <p>9 of the legislature or just new incoming members?</p> <p>10 A It was sent to all legislators.</p> <p>11 Q For some reason, I only have one extra</p> <p>12 copy of this.</p> <p>13 (Exhibit 3 marked for identification.)</p> <p>14 Q (BY MR. FREEMAN) I'm going to hand you</p> <p>15 what we'll mark as Exhibit 3 to your deposition.</p> <p>16 Have you had a chance to look at it?</p> <p>17 A Yes.</p> <p>18 Q What is this document?</p> <p>19 A It is a report that Clay Taylor gave to</p> <p>20 the Board of Governors.</p> <p>21 Q It looks like February 5, 2018; is that</p> <p>22 correct?</p> <p>23 A That's the date at the top.</p> <p>24 Q Is this something Mr. Taylor does yearly</p> <p>25 at about this time?</p>

<p style="text-align: right;">Page 45</p> <p>1 A He does so during the session, not</p> <p>2 necessarily on February 5.</p> <p>3 Q I just asked because it looks like this</p> <p>4 might be about when the session starts, certainly</p> <p>5 the kick-off.</p> <p>6 A That would be close at that point, yes.</p> <p>7 Q Roughly speaking?</p> <p>8 A Uh-huh. But that's the date of it, but</p> <p>9 the content appears to be contrary to that.</p> <p>10 Q Okay. And so this would be a report by</p> <p>11 Mr. Taylor, the legislative liaison of the Bar to</p> <p>12 the Board of Governors, and is this sort of</p> <p>13 outlining his activities or what is it he's</p> <p>14 reporting on to the Bar?</p> <p>15 MS. HINTZ: Object to form.</p> <p>16 A It's what it says on the face of it.</p> <p>17 Q (BY MR. FREEMAN) I see about halfway</p> <p>18 down there's the heading "OBA trust request bills."</p> <p>19 Do you see that?</p> <p>20 A Yes.</p> <p>21 Q Are those the three bills you were</p> <p>22 thinking about earlier that we talked about?</p> <p>23 A Yes.</p> <p>24 Q So that would have been something that</p> <p>25 occurred in the prior session, 2017?</p>	<p style="text-align: right;">Page 47</p> <p>1 committee of the Bar Association would have seen</p> <p>2 it.</p> <p>3 Q Okay. Was Mr. Taylor given any</p> <p>4 instructions as to how to interact with legislators</p> <p>5 regarding those agency audit bills?</p> <p>6 A I had communications with him. I don't</p> <p>7 know if that would be considered an instruction or</p> <p>8 not. We had conversations about looking at it.</p> <p>9 Q Was it like along the lines of we've got</p> <p>10 to make sure these bills don't apply to the Bar?</p> <p>11 MS. HINTZ: Object to form.</p> <p>12 A It was along the lines of do we -- would</p> <p>13 they?</p> <p>14 Q (BY MR. FREEMAN) Then the next is "State</p> <p>15 Chamber 2030 Plan." Do you know what that pertains</p> <p>16 to?</p> <p>17 A Yes.</p> <p>18 Q What is the State Chamber 2030 Plan?</p> <p>19 A I can only testify as to what I know about</p> <p>20 it, and it would not be complete of everything in</p> <p>21 their plan.</p> <p>22 Q What do you know about it?</p> <p>23 A It's my understanding that the Oklahoma</p> <p>24 State Chamber of Commerce have a document called</p> <p>25 2030 Plan, and that that plan called for amending</p>
<p style="text-align: right;">Page 46</p> <p>1 A No.</p> <p>2 Q Okay. I thought the trust bills were</p> <p>3 something that happened in 2017. That's why --</p> <p>4 A The trust bills were passed by the House</p> <p>5 of Delegates in 2017.</p> <p>6 Q So they're being then introduced there in</p> <p>7 2018?</p> <p>8 A Yes.</p> <p>9 Q Thank you. The next sentence concerns</p> <p>10 agency audit bills. Do you know what that's about?</p> <p>11 A Yes.</p> <p>12 Q What are the state -- excuse me.</p> <p>13 What are the agency audit bills?</p> <p>14 A They were bills regarding audits of state</p> <p>15 agencies.</p> <p>16 Q And would that include the Oklahoma Bar</p> <p>17 Association?</p> <p>18 A It's uncertain.</p> <p>19 Q Was the Bar Association concerned about</p> <p>20 any of those bills?</p> <p>21 A I was.</p> <p>22 Q And why?</p> <p>23 A Because the language appeared to require</p> <p>24 that the copy of the audit be given to the State</p> <p>25 Auditor before the Board of Governors or the audit</p>	<p style="text-align: right;">Page 48</p> <p>1 the state Constitution to change the way that</p> <p>2 appellate judges are selected.</p> <p>3 Q And was it -- I'm just reading off the</p> <p>4 document here, but did their plan entail changing</p> <p>5 to a system that sort of mirrors the federal system?</p> <p>6 MS. HINTZ: Object to form.</p> <p>7 A I don't think it was sort of. I think it</p> <p>8 was actually to.</p> <p>9 Q (BY MR. FREEMAN) I'm going to flip back.</p> <p>10 Going back up on the document a little bit under</p> <p>11 heading "Why We Have Been Successful Defending the</p> <p>12 Court." Do you see the bullet point where it says,</p> <p>13 "Making Sure Attorneys Are Willing To Run"?</p> <p>14 A Where are you at?</p> <p>15 Q Right there. Do you see that?</p> <p>16 A Yes.</p> <p>17 Q That's what I wanted to direct you to.</p> <p>18 Does the Bar seek to recruit lawyers to</p> <p>19 run for public office?</p> <p>20 A No.</p> <p>21 Q Do you know why Mr. Taylor put that line</p> <p>22 in his report to the Board of Governors?</p> <p>23 MS. HINTZ: Object to form.</p> <p>24 A I think you would have to ask him his</p> <p>25 intent.</p>

<p style="text-align: right;">Page 121</p> <p>1 A You know, I guess anything is possible.</p> <p>2 It didn't happen.</p> <p>3 Q (BY MR. FREEMAN) Yeah. Do you remember</p> <p>4 what the personal attack was about?</p> <p>5 A Yes.</p> <p>6 Q What was it about?</p> <p>7 A It was naming a public official, and while</p> <p>8 it wasn't profanity, it was just a personal attack</p> <p>9 on a public official that violated our policy on</p> <p>10 making personal attacks on people.</p> <p>11 (Exhibit 28 marked for identification.)</p> <p>12 Q (BY MR. FREEMAN) Let's go ahead and mark</p> <p>13 this as our next exhibit. It's my only copy because</p> <p>14 it's so huge. Don't worry.</p> <p>15 It's Exhibit 28. It's a collection of</p> <p>16 documents that I cannot say exclusively are all on</p> <p>17 the same subject, but you'll see on the example on</p> <p>18 the first page, can you tell me what that first page</p> <p>19 depicts?</p> <p>20 MS. HINTZ: Can I interrupt and just take</p> <p>21 this copy down to show it to co-counsel since</p> <p>22 there's not a copy so he'll see what it looks like.</p> <p>23 A Your question again?</p> <p>24 Q (BY MR. FREEMAN) The first page. It's a</p> <p>25 collection of documents. There are different</p>	<p style="text-align: right;">Page 123</p> <p>1 A You what?</p> <p>2 Q That's all I wanted to confirm on that.</p> <p>3 A Yeah. This is their process.</p> <p>4 Q Right. Do you recall in 2021 an article</p> <p>5 being published in the Bar Journal about the Tulsa</p> <p>6 race massacre?</p> <p>7 A Yes.</p> <p>8 Q Do you remember anything about that that</p> <p>9 was presented for publication by two authors but</p> <p>10 then was only published on behalf of one?</p> <p>11 A Yes.</p> <p>12 Q Do you remember what caused that to be so?</p> <p>13 Was there edits required of the document that one</p> <p>14 author didn't like?</p> <p>15 A I believe that would be the case.</p> <p>16 (Exhibit 29 marked for identification.)</p> <p>17 Q (BY MR. FREEMAN) We'll mark this as the</p> <p>18 next exhibit. Sir, you've been handed what has been</p> <p>19 marked as Exhibit 29 here --</p> <p>20 A Yes.</p> <p>21 Q -- in your deposition. Take a look at it</p> <p>22 and let me know what this document is.</p> <p>23 A The first one is a staff write-up or we're</p> <p>24 talking about 92 is the staff write-up for the</p> <p>25 member benefit and for the member services</p>
<p style="text-align: right;">Page 122</p> <p>1 subjects in there.</p> <p>2 A Right.</p> <p>3 Q I just grabbed a bunch of them, but it</p> <p>4 looked like to me there were sheets that sort of</p> <p>5 document the review process articles.</p> <p>6 A Yes.</p> <p>7 Q So I guess the first page would be an</p> <p>8 example of that.</p> <p>9 A Yes.</p> <p>10 Q Can you tell me what's then on the first</p> <p>11 page of that exhibit? What's being depicted or</p> <p>12 shown there?</p> <p>13 A Okay. It's the ballot that staff is</p> <p>14 recording on whether or not an article is going to</p> <p>15 be published. The first one is the technology theme</p> <p>16 article, and it is the recorded vote of each of the</p> <p>17 editors and any comments that they may have.</p> <p>18 Q Okay. So that is the practice then, to</p> <p>19 complete a form like that as articles are considered</p> <p>20 for publication?</p> <p>21 A Yes.</p> <p>22 Q And that's completed by the editorial</p> <p>23 board?</p> <p>24 A Yes.</p> <p>25 Q Okay. I had grand designs for that one.</p>	<p style="text-align: right;">Page 124</p> <p>1 committee. It's a recommendation.</p> <p>2 Q So this is the Lexology member benefit --</p> <p>3 A Right.</p> <p>4 Q -- correct? And what is Lexology?</p> <p>5 A It is a gathering point for all kinds of</p> <p>6 legal news and stories. It's based out of London,</p> <p>7 I believe, and it's -- somebody called it a news</p> <p>8 aggregate or something like that. It's just a big</p> <p>9 bunch of stuff that you can go in and set it for</p> <p>10 whatever you want.</p> <p>11 Q So you can sort of customize the content</p> <p>12 it delivers to you?</p> <p>13 A Yes.</p> <p>14 Q So if you're interested in a certain area</p> <p>15 of the law, it will aggregate news articles on that</p> <p>16 subject?</p> <p>17 A Yes.</p> <p>18 Q It's sent to members in the form of an</p> <p>19 email?</p> <p>20 A Right, if they want it.</p> <p>21 Q If they want it. Okay. Is the frequency</p> <p>22 of the email also controlled by the member?</p> <p>23 A Yes.</p> <p>24 Q And does the member need a certain</p> <p>25 password or something that's given to them by the</p>

<p style="text-align: right;">Page 125</p> <p>1 Bar Association?</p> <p>2 A No.</p> <p>3 Q So I could go ahead and sign up for it?</p> <p>4 A No.</p> <p>5 Q So what's the trick for members of the</p> <p>6 Oklahoma Bar to get the Lexology service?</p> <p>7 A You're not a member of the Oklahoma Bar.</p> <p>8 Q Correct. So I have to be a member of the</p> <p>9 Bar. So Lexology has a member list?</p> <p>10 A They would have access to email.</p> <p>11 Q And that email that's delivered to</p> <p>12 members, does it have the logo of the Oklahoma Bar</p> <p>13 Association on it?</p> <p>14 A Yes.</p> <p>15 Q Is Lexology granted a license by the Bar</p> <p>16 to display that logo?</p> <p>17 A There's an agreement that allows that to</p> <p>18 happen. I don't know if it's the granting of a</p> <p>19 license. There's just approval for that.</p> <p>20 Q Does the Oklahoma Bar Association monitor</p> <p>21 the content delivered to members by Lexology?</p> <p>22 A No. I tried to. It was just too much</p> <p>23 and it was just -- yeah. That would be impossible,</p> <p>24 sir.</p> <p>25 Q There's no Keller compliance requirement</p>	<p style="text-align: right;">Page 127</p> <p>1 Bar with respect to that topic?</p> <p>2 A Yes.</p> <p>3 Q Since 2017, has the Bar Association</p> <p>4 undertaken any initiatives related to diversity,</p> <p>5 equity and inclusion?</p> <p>6 A No.</p> <p>7 Q Has it implemented any programs related</p> <p>8 to DEI?</p> <p>9 A What do you mean "implemented any</p> <p>10 programs"? I don't understand that.</p> <p>11 Q Has it -- well, let's start this way.</p> <p>12 Has it imposed any requirements on itself, the</p> <p>13 organization, in terms of hiring practices?</p> <p>14 A No.</p> <p>15 Q Has it developed any CLE programs on the</p> <p>16 subject of diversity, equity and inclusion?</p> <p>17 A There's a couple of programs that might</p> <p>18 fall under that heading, but I don't know that they</p> <p>19 are. There was one program that they did on lawyer</p> <p>20 bias to make sure that lawyers were in tune with</p> <p>21 clients and giving the best services based upon the</p> <p>22 client and to not have any personal prejudices.</p> <p>23 That's already included in the rules</p> <p>24 governing professional conduct. So I don't know if</p> <p>25 that falls under that.</p>
<p style="text-align: right;">Page 126</p> <p>1 with respect to the content that Lexology delivers</p> <p>2 to members?</p> <p>3 A No association resources are involved in</p> <p>4 that.</p> <p>5 Q Does the Bar Association pay the company</p> <p>6 that has Lexology for this service?</p> <p>7 A No. No.</p> <p>8 Q It's a free service?</p> <p>9 A Yes.</p> <p>10 Q Are ads delivered to members through the</p> <p>11 Lexology service?</p> <p>12 A I have never seen that.</p> <p>13 Q I was just wondering how they make</p> <p>14 their --</p> <p>15 A I've always wondered that, too.</p> <p>16 Q Perhaps the click through to the source</p> <p>17 article, maybe that delivers it back.</p> <p>18 Let's go to Topic No. 6 which is --</p> <p>19 A Okay.</p> <p>20 Q "Any initiatives the OBA has undertaken</p> <p>21 since 2017 or programs or activities the OBA has</p> <p>22 produced, used or endorsed since 2017 related to the</p> <p>23 subject of diversity, equity and inclusion."</p> <p>24 A Okay.</p> <p>25 Q You're here to testify on behalf of the</p>	<p style="text-align: right;">Page 128</p> <p>1 And there was a program that they did on</p> <p>2 the Voting Rights Act that had to do with minority</p> <p>3 impact on some voting legislation.</p> <p>4 Q Okay. Has the Bar Association sent any</p> <p>5 surveys to members on the subject of diversity,</p> <p>6 equity and inclusion?</p> <p>7 A No. I don't think so.</p> <p>8 Q Does the Oklahoma Bar Association do any</p> <p>9 promotion on Pride Month?</p> <p>10 A I believe that the diversity committee in</p> <p>11 like 2019 were part of the Pride celebration in</p> <p>12 Tulsa, and that was not approved by the Board of</p> <p>13 Governors or endorsed by the association. That was</p> <p>14 a committee acting without any permission or</p> <p>15 authority from the association.</p> <p>16 Q In response to that, did the association</p> <p>17 do anything vis-a-vis that committee, send them a</p> <p>18 letter saying don't do that unless you get our</p> <p>19 permission?</p> <p>20 A No.</p> <p>21 Q Did it publish any disclaimers, the</p> <p>22 actions of this committee are not necessarily the</p> <p>23 actions endorsed by the Bar Association or any of</p> <p>24 its members?</p> <p>25 A For what?</p>

1	ERRATA SHEET	Page 133
2	Schell vs. Janet Johnson, et al.	
3	DEPOSITION OF JOHN WILLIAMS	
4	REPORTED BY: Jane McConnell, CSR RPR RMR CRR	
5	DATE DEPOSITION TAKEN: November 25, 2024	
6	JOB FILE NO. 171856	
7	PAGE LINE IS SHOULD BE	
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1	CERTIFICATE	Page 134
2	STATE OF OKLAHOMA)	
3) SS:	
3	COUNTY OF OKLAHOMA)	
4	I, Jane McConnell, Certified Shorthand	
5	Reporter within and for the State of Oklahoma, do	
6	hereby certify that the above-named JOHN WILLIAMS	
7	was by me first duly sworn to testify the truth, the	
8	whole truth, and nothing but the truth, in the case	
9	aforsaid; that the above and foregoing deposition	
10	was by me taken in shorthand and thereafter	
11	transcribed; and that I am not an attorney for nor	
12	relative of any of said parties or otherwise	
13	interested in the event of said action.	
14	IN WITNESS WHEREOF, I have hereunto set my	
15	hand and official seal this 4th day of December,	
16	2024.	
17		
18		
19	Jane McConnell, CSR RPR RMR CRR	
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EXHIBIT 2

Mark E. Schell vs. Janet Johnson
Clayton Charles Taylor, Jr.

February 14, 2025

19-00281-HE

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UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF OKLAHOMA

Mark E. Schell,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No.
)	19-00281-HE
)	
Janet Johnson, et al.,)	
)	
Defendants.)	
_____)	

DEPOSITION OF CLAYTON CHARLES TAYLOR, JR.

Oklahoma City, Oklahoma
February 14, 2025

Prepared by:

Gerard T. Coash, RPR, RMR
Certified Reporter
Certification No. 50503



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3	CLAYTON CHARLES TAYLOR, JR.		3	Exhibit 25	Schell v. The Chief Justice and Justices of the Oklahoma Supreme Court, et al., No. 20-6044 --
4	Examination by Mr. Freeman	7	4		
5	Examination by Mr. Maye	71	5	Exhibit 26	Clay Taylor LinkedIn Profile --
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8	EXHIBITS MARKED		8		
9	EXHIBITS	DESCRIPTION	9		
10	Exhibit 1	Bills of Interest to the Practice of Law PowerPoint, March 6, 2018 TAYLOR.001 - .012	10		
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23	Exhibit 9	Email string ending from Clay Taylor to John Williams dated 1-22-18 OBA_000717 - 000718	23		
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1	Exhibit 10	OBA Board of Governor's Update 2-5-18; Email from Clay Taylor to John Williams dated 3-5-18 OBA_000720 - 000722	1	DEPOSITION OF CLAYTON CHARLES TAYLOR, JR.	
2			2	was taken on February 14, 2025, commencing at 1:33 p.m.,	
3			3	with the witness appearing from the offices of Riggs	
4	Exhibit 11	Email from Clay Taylor to Janet Johnson, et al., dated 5-15-23 OBA_000934	4	Abney, 528 NW 12th Street, Oklahoma City, Oklahoma; with	
5			5	all other participants appearing via videoconference from	
6	Exhibit 12	Please Vote No on HJR 1037 OBA_000949	6	their respective locations, before Gerard T. Coash, a	
7	Exhibit 13	Please Vote No on SJR43 OBA_000950	7	Certified Reporter in the State of Arizona.	
8			8	* * *	
9	Exhibit 14	Text messages OBA_000962 - 000970	9	APPEARANCES:	
10	Exhibit 15	Email string ending from Clay Taylor to John Williams dated 2-20-18 OBA_001003 - 001005	10	For the Plaintiff:	
11			11	GOLDWATER INSTITUTE	
12	Exhibit 16	Email from Clay Taylor to John Williams dated 5-11-20 OBA_001019 - 001021	12	By: Scott Day Freeman, Esq.	
13			13	Adam Shelton, Esq.	
14	Exhibit 17	Please Vote No on SB1404, SB1626, SB1801, SB1861 OBA_001040 - 001046	14	500 East Coronado Road	
15			15	Phoenix, Arizona 85004	
16	Exhibit 18	Email string ending from Clay Taylor to John Williams dated 3-4-18 OBA_001100 - 001104	16	602-462-5000	
17			17	Litigation@goldwaterinstitute.com	
18	Exhibit 19	OBA Board of Governor's Update 2-5-18 OBA_001105	18	For the Defendants Members of the Board of Governors and The Executive Director of the Oklahoma Bar Association, in their Official Capacities:	
19			19	PHILLIPS MURRAH, PC	
20	Exhibit 20	Addendum to December 1, 2014 Consulting Agreement OBA_001106	20	By: Heather L. Hintz, Esq.	
21			21	424 NW 10th Street	
22	Exhibit 21	Consulting Agreement OBA_001120 - 001121	22	Suite 300	
23	Exhibit 22	Screenshots of conversations OBA_001126 - 001134	23	Oklahoma City, Oklahoma 73103	
24			24	405-235-4100	
25	Exhibit 23	Oklahoma Bar Association Keller Policy	25	hlhintz@phillipsmurrah.com	
				For the Defendants Chief Justice and Justices of the Oklahoma Supreme Court in their Official Capacities:	
				MAYE LAW FIRM, PLLC	
				By: Kieran D. Maye, Jr., Esq.	
				3501 French Park Drive	
				Suite A	
				Edmund, Oklahoma 73034	
				405-990-2415	
				kdmaye@mayelawfirm.com	

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<p>1 For the Third Party Clayton Taylor: RIGGS ABNEY</p> <p>2 By: Gary Wood, Esq. 528 NW 12th Street 3 Oklahoma City, Oklahoma 73103 405-843-9909 4 gwood@riggsabney.com</p> <p>5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 BY MR. FREEMAN:</p> <p>2 Q. Okay. I'll ask it again.</p> <p>3 Have you been deposed before, Mr. Taylor?</p> <p>4 A. No, sir.</p> <p>5 Q. Are you generally familiar with how a deposition 6 process works?</p> <p>7 A. Generally.</p> <p>8 Q. Okay. Let me just walk through some basic depo 9 one-on-one ground rules so we're all on the same page.</p> <p>10 You understand today that you're giving 11 testimony, it's under oath. It has the same penalties for 12 perjury as if you were testifying in a courtroom before a 13 judge and a jury and all that. You understand that?</p> <p>14 Did you say yes?</p> <p>15 A. Yes, sir.</p> <p>16 Sorry. Are we having audio problems?</p> <p>17 Q. Yeah.</p> <p>18 Okay. It's -- particularly in the context 19 of this video deposition, we've got to try to not talk on 20 top of each other, so just please try to wait until I'm 21 finished with my question before you answer, and I'll do 22 my best to wait until you're finished with your answer 23 before I ask the next question, because the court reporter 24 is taking down everything to make a record. And if we're 25 talking on top of each other, that can't be done. So I'll</p>
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<p>1 CLAYTON CHARLES TAYLOR, JR., 2 the witness herein, having been first duly sworn by the 3 Certified Reporter, was examined and testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. FREEMAN:</p> <p>6 Q. Good afternoon, Mr. Taylor. My name is Scott 7 Freeman.</p> <p>8 Would you please state your full name for 9 our record?</p> <p>10 A. Clayton Charles Taylor, Jr.</p> <p>11 Q. And I know you understand this, but today we're 12 here for your deposition in the matter of Schell versus 13 Oklahoma Bar Association, et al.</p> <p>14 I'm one of the attorneys -- Mr. Shelton and 15 I are attorneys for Mr. Schell in that matter, and with us 16 today are also counsel for the Bar and for the justices of 17 the Oklahoma Supreme Court.</p> <p>18 I appreciate you and your counsel making the 19 time for us today. I know we've had scheduling issues 20 with this, so I'm happy to get this behind us today, 21 hopefully, and give us some time to ask you some questions 22 about the work you've done.</p> <p>23 Have you been deposed before?</p> <p>24 (An off-the-record discussion ensued.) 25</p>	<p>1 try to work with you on that, and hopefully you'll try to 2 work with me on that as well.</p> <p>3 If you don't understand a question I ask, 4 please let me know that you don't understand and I'll try 5 to rephrase it or ask you what you don't understand about 6 it. Because if you answer my question, it's going to be 7 assumed that you understood it. Okay?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay.</p> <p>10 A. I'm trying to give you time to talk and finish so 11 I don't speak over you. Apologies.</p> <p>12 Q. And another thing is the court reporter takes 13 down the spoken word, so gestures and nods don't -- or 14 even uh-huhs or huh-uhs don't work. So if I ask you, 15 "Hey, would you say that again," I'm just trying to get 16 the record. I'm not trying to be obnoxious.</p> <p>17 A. They're not going to write down that I was 18 smiling brightly?</p> <p>19 Q. Correct.</p> <p>20 A. Okay.</p> <p>21 Q. If you need to take a break at any time today, 22 just let us know. We're happy to take a break.</p> <p>23 Did you do anything to prepare for today's 24 deposition?</p> <p>25 A. I think I -- I mean, define "prepare." I looked</p>

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<p>1 presentation?</p> <p>2 A. We do have a legislative kickoff, yes, sir.</p> <p>3 Q. Right. Is that something -- is that a</p> <p>4 presentation that is given to the -- the Oklahoma Bar</p> <p>5 Association board of directors or is it to the public?</p> <p>6 A. I think it's open to all Bar members.</p> <p>7 And honestly, I don't know -- go ahead,</p> <p>8 sorry.</p> <p>9 Q. I was just going to say, is that something that</p> <p>10 you're required to do per your contract with the Oklahoma</p> <p>11 Bar Association?</p> <p>12 A. No, sir.</p> <p>13 Q. When the legislature is in session -- let's just</p> <p>14 think of last year, 2024 session -- are you able to say</p> <p>15 how much time during any given week you would devote to</p> <p>16 Bar issues as opposed to your other clients?</p> <p>17 A. Honestly, no.</p> <p>18 Q. Thinking again about 2024, were there any bills</p> <p>19 before the legislature that the Bar specifically tasked</p> <p>20 you to monitor?</p> <p>21 A. I'm sure --</p> <p>22 Q. Can't hear you.</p> <p>23 A. We think it might be a connection issue of some</p> <p>24 kind, guys. Sorry. Am I back?</p> <p>25 The answer to that -- please ask the</p>	<p>1 really narrow because it could get really broad. There's</p> <p>2 so many different issues that, you know, kind of bleed</p> <p>3 into the legal community that I -- I feel like I try to</p> <p>4 keep people aware of but it's not, you know, totally -- I</p> <p>5 try to keep it narrow for our issues, if that makes sense.</p> <p>6 Otherwise, I could be chasing my tail around. There's</p> <p>7 3,900 pieces of new legislation introduced every</p> <p>8 legislative session, just about.</p> <p>9 Q. Again, just focusing on last year, I think you</p> <p>10 said you don't recall what those bills were last year,</p> <p>11 correct?</p> <p>12 A. Yes, sir. Apologies.</p> <p>13 Q. But do you recall being tasked to take any</p> <p>14 specific action with respect to any bills that were of</p> <p>15 interest to the Bar last year?</p> <p>16 A. It did happen, the specifics of those</p> <p>17 conversations, forgive me. There's just so many of them</p> <p>18 about so many different issues.</p> <p>19 Q. No -- and I get it. I'm just trying to test your</p> <p>20 memory here on this.</p> <p>21 Do you recall last year being -- the Bar</p> <p>22 asking you "You need to go speak with legislators about a</p> <p>23 piece of legislation"?</p> <p>24 A. I -- I don't know that I even get that direct</p> <p>25 conversation. You know what I mean? I don't know that it</p>
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<p>1 question again, I'm sorry.</p> <p>2 Q. In 2024, during that legislative session, were</p> <p>3 there any bills before the legislature that the Bar had a</p> <p>4 particular interest in you monitoring?</p> <p>5 A. I'm sure there were.</p> <p>6 Q. Okay. Do you recall what those were?</p> <p>7 A. Not off the top of my head.</p> <p>8 Q. Does the Bar typically have legislation that</p> <p>9 they're asking -- particular legislation they're asking</p> <p>10 you to monitor in any given year?</p> <p>11 A. I'm not sure I quite understand.</p> <p>12 The question is -- could you reframe the</p> <p>13 question?</p> <p>14 Q. Well, let me put it a better way.</p> <p>15 So last year you know that there was</p> <p>16 legislation they wanted you to watch, correct?</p> <p>17 A. Yes, sir. Yeah, when bills got introduced last</p> <p>18 year, we identified legislation that fit the parameters of</p> <p>19 things I should keep my eyes on, yes, sir.</p> <p>20 Q. Okay. What are the parameters -- what are those</p> <p>21 parameters?</p> <p>22 A. Basically, like, access to justice, kind of, you</p> <p>23 know, those broad things. Anything touching the judicial</p> <p>24 nominating commission, how -- how the courts kind of get</p> <p>25 constructed. And, you know, there's -- I try to keep it</p>	<p>1 is ever, hey, X, go talk to Y. It is, "Hey, this is a</p> <p>2 bill out there. Can we figure out what's going on with</p> <p>3 it?"</p> <p>4 Does that make sense?</p> <p>5 Q. Right. Have you been asked -- again, we'll just</p> <p>6 leave it in 2024 right now.</p> <p>7 Were you asked to engage in any sort of bill</p> <p>8 crafting or proposing amendments to bills?</p> <p>9 A. I typically do not get involved in kind of</p> <p>10 crafting of legislation.</p> <p>11 Q. Have you in your career?</p> <p>12 A. God, it would be -- I mean, sure -- I'm sure it's</p> <p>13 happened before. But my job is to bring lawyers in the</p> <p>14 room who can write -- you know what I mean? -- that</p> <p>15 actually write stuff for a living, so . . .</p> <p>16 Q. Have you -- when you say bring the lawyers to the</p> <p>17 table, does that mean bringing something that the Bar</p> <p>18 might have suggested and presenting that to the member of</p> <p>19 the legislature?</p> <p>20 A. No. I think I'm speaking too broadly there. I'm</p> <p>21 kind of talking about my practice in general. You asked</p> <p>22 if I had typically written anything in the past, and I was</p> <p>23 kind of thinking more broadly for any of my clients. And</p> <p>24 the answer is no. I typically try to let lawyers -- you</p> <p>25 know, lawyers who practice in those areas, regardless of</p>

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<p>1 who the client is, do that writing for it.</p> <p>2 Q. Again, just on last year for now, were you asked</p> <p>3 to state a position on behalf of the Bar either in favor</p> <p>4 or opposing a piece of legislation?</p> <p>5 A. I do recall that the Board of Governors did vote</p> <p>6 to take a position on several pieces of legislation. I</p> <p>7 don't remember what they were.</p> <p>8 Q. How would they communicate that to you? Meaning</p> <p>9 how would they let you know the Bar is in favor or --</p> <p>10 A. Typically a call from the executive director.</p> <p>11 Sorry, I didn't mean to -- my apologies for</p> <p>12 speaking over you there.</p> <p>13 Q. So that would be by phone call typically?</p> <p>14 A. Typically.</p> <p>15 Q. And then -- hypothetically speaking, last year,</p> <p>16 if the Bar asked you to relay sort of the Bar's support</p> <p>17 for legislation X, how would you do that at the</p> <p>18 legislature?</p> <p>19 A. It just depends on what the subject matter is.</p> <p>20 It's a broad -- I mean, anything from verbal</p> <p>21 communications in person to email communications or</p> <p>22 anything in between are kind of how I communicate with the</p> <p>23 legislature, depending on what the subject matter and the</p> <p>24 need is in the case.</p> <p>25 Q. Does Oklahoma have -- I'm thinking about</p>	<p>1 with members of the legislature to discuss that particular</p> <p>2 issue?</p> <p>3 A. Do I recall the specific meeting? No. Do I know</p> <p>4 that those meetings occurred? Yes.</p> <p>5 Q. And was that --</p> <p>6 A. And let me say -- let me define "meeting" for you</p> <p>7 a little bit broadly. I just want you to get kind of --</p> <p>8 you probably understand this, but meetings for me often</p> <p>9 typically happen in a hallway outside somebody's office</p> <p>10 with like 55 people around, but those are how our</p> <p>11 conversations happen.</p> <p>12 Q. Yeah, I got a sense of what your life is like for</p> <p>13 sure.</p> <p>14 Hold on a second. Excuse me.</p> <p>15 So while you don't recall any specific</p> <p>16 meetings, you know that they did occur last year, correct?</p> <p>17 A. I would say conversations occur.</p> <p>18 Q. Okay. And was one of the points of those</p> <p>19 conversations to relay the Bar's position as to the</p> <p>20 judicial nomination and selection process?</p> <p>21 A. I mean, yes. That's kind of a crude way of</p> <p>22 putting it. I don't mean to call your framing of it</p> <p>23 crude, but yeah. I mean, that's a broad way of describing</p> <p>24 it.</p> <p>25 Q. Other than bills related to the judicial</p>
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<p>1 Arizona's system now. But does the Oklahoma legislature</p> <p>2 have a sort of formal system where parties can -- and</p> <p>3 individuals -- can sort of log their support or opposition</p> <p>4 to a particular bill?</p> <p>5 A. There is no real formal public comment whatsoever</p> <p>6 involved in the Oklahoma legislative process.</p> <p>7 Q. Was judicial selection -- the judicial selection</p> <p>8 process on the legislative agenda last year, 2024?</p> <p>9 A. Yes.</p> <p>10 Q. Is that --</p> <p>11 A. Can you clarify -- can you specify that a little</p> <p>12 bit more? Because judicial selection process is a pretty</p> <p>13 broad topic.</p> <p>14 Q. Modifying the way judges are nominated and</p> <p>15 appointed to their positions?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. And that was part of last year's</p> <p>18 legislative drama, so to speak?</p> <p>19 A. I have vague recollections of that subject matter</p> <p>20 being one of the many thousands of fights I was in last</p> <p>21 year at the capitol, yes, sir.</p> <p>22 Q. And that is a subject of interest to the Oklahoma</p> <p>23 Bar Association, correct?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And so did you -- do you recall last year meeting</p>	<p>1 nominating and selection process -- and I'm going to --</p> <p>2 let's maybe look back instead of one year to five years.</p> <p>3 Can you recall any other bills that the Bar</p> <p>4 had a particular interest in having you down there talking</p> <p>5 with members about?</p> <p>6 A. Not in particular. I mean, that's kind of pretty</p> <p>7 much the central theme to our work is around access to</p> <p>8 justice is what I would call it in what you would call</p> <p>9 kind of making sure we have quality judges in Oklahoma,</p> <p>10 that kind of seems to be the themes. And typically the</p> <p>11 legislation that is in those subject matters relates to</p> <p>12 the judicial nominating commission more often than not.</p> <p>13 I don't know that there are a lot of other</p> <p>14 things I can think of over time that we have really gotten</p> <p>15 involved with. I could be wrong. But it just doesn't --</p> <p>16 I mean, that's kind of the central theme of what we've</p> <p>17 worked on.</p> <p>18 Q. All right. Let me see if I can figure out how to</p> <p>19 share documents here.</p> <p>20 A. And we have, I think, pulled up your exhibits.</p> <p>21 So if you do want to tell us what it is --</p> <p>22 THE WITNESS: Is that what this is, Gary?</p> <p>23 MR. WOOD: Yeah.</p> <p>24 THE WITNESS: If you want to tell us what</p> <p>25 exhibit number you're looking at, we can also try to pull</p>

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<p>1 it up here.</p> <p>2 MR. FREEMAN: I want to make sure everyone</p> <p>3 can -- yeah, I will.</p> <p>4 THE WITNESS: Perfect.</p> <p>5 MR. FREEMAN: I don't know what people can</p> <p>6 see now.</p> <p>7 THE WITNESS: I see the beginning of a slide</p> <p>8 show from March 6, 2018.</p> <p>9 MR. FREEMAN: Okay. Heather, can you see</p> <p>10 that as well?</p> <p>11 MS. HINTZ: Yes.</p> <p>12 (Deposition Exhibit 1 was marked for</p> <p>13 identification.)</p> <p>14 BY MR. FREEMAN:</p> <p>15 Q. Okay. So what I've done is I've pulled up what</p> <p>16 we've sort of premarked as Exhibit 1 to today's</p> <p>17 deposition. And I'm going to scroll around here and just</p> <p>18 looking at the Bates label. I'll represent to you this is</p> <p>19 one of the documents that you produced to us. It's Bates</p> <p>20 labeled TAYLOR.001. Do you see that?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Okay. And as you point out -- you recognize this</p> <p>23 document, correct?</p> <p>24 A. I do.</p> <p>25 Q. You're able to, in your office, scroll through</p>	<p>1 A. Yes. And then -- I mean, I think sometimes we</p> <p>2 have members -- I don't -- I don't want to say that</p> <p>3 they're members or the public there. But I don't know</p> <p>4 that we would prohibit somebody from walking in off the</p> <p>5 street that wanted to participate in this. Does that make</p> <p>6 sense?</p> <p>7 Q. Yes.</p> <p>8 And where is that conducted?</p> <p>9 A. At the Bar Association.</p> <p>10 Q. Okay. And this says "Clay Taylor, Taylor Capitol</p> <p>11 Group, LLC." Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. Was that the entity you were operating under as</p> <p>14 of 2018?</p> <p>15 A. Yes.</p> <p>16 Q. Is that your LLC or is that your dad's or both?</p> <p>17 A. That is -- that is me. Yes, that's me. Just me.</p> <p>18 Q. Does the Taylor Capitol Group still exist?</p> <p>19 A. It does.</p> <p>20 Q. Okay. Does it do anything other than lobbying?</p> <p>21 A. No. No, it doesn't.</p> <p>22 Sorry, there's -- my wife is also in the</p> <p>23 business, so I was trying to make sure there wasn't</p> <p>24 anything else that she had contracted me out for that I</p> <p>25 wasn't aware of. But no, it's just a lobbying business.</p>
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<p>1 the whole thing. I mean, I can do it here, too, but --</p> <p>2 A. Oh, yeah. He's -- yeah, we can do that now here,</p> <p>3 too, yes, sir. This is going to be a lot of information</p> <p>4 now. We've got it going two places.</p> <p>5 Q. Well, I'm going to try and make it simple.</p> <p>6 A. Got it.</p> <p>7 Q. See how well that goes.</p> <p>8 So what -- what is this document?</p> <p>9 A. A slide show that I put together for one of</p> <p>10 those -- I think what we called legislative kickoff days,</p> <p>11 or one of those, I think. Yeah, March -- no -- okay,</p> <p>12 that's not what this is going to be. This is March 6. So</p> <p>13 this is going to be like legislative day at the capitol</p> <p>14 actually.</p> <p>15 Q. Okay. And maybe that's what I was thinking of,</p> <p>16 legislature day at the capitol.</p> <p>17 A. And then forgive me. I didn't mean to stump you</p> <p>18 on Law Day. But I think Law Day may actually be something</p> <p>19 else also specific that we do. So that's why I wanted to</p> <p>20 clarify.</p> <p>21 Q. Okay. Now, who was this presentation meant for?</p> <p>22 A. Members of the Bar Association.</p> <p>23 Q. Okay. So this is a meeting that just included</p> <p>24 any member of the Bar Association that wanted to show up</p> <p>25 and attend?</p>	<p>1 Q. Okay. I'm just trying to figure out what that</p> <p>2 is.</p> <p>3 A. You're good. Sorry.</p> <p>4 Q. And representing the Oklahoma Bar Association,</p> <p>5 correct?</p> <p>6 A. Correct. That's what it says.</p> <p>7 Q. Is this sort of a yearly thing, ritual you would</p> <p>8 do every time, this year?</p> <p>9 A. Yes. Yes. Give or take.</p> <p>10 Q. Do you --</p> <p>11 A. Go ahead, sorry.</p> <p>12 Q. Do you have one coming up next month, similar</p> <p>13 presentation?</p> <p>14 A. Might be on my calendar. I cannot recall if it's</p> <p>15 on my calendar yet. I infrequently am aware of these</p> <p>16 things at a time sufficient ahead of time, if that gives</p> <p>17 you an idea. They sneak up on me is the best way to put</p> <p>18 it.</p> <p>19 Q. Okay. I just scrolled to the fifth page.</p> <p>20 A. Right.</p> <p>21 Q. It's headed "Bills To Pay Attention to." Do you</p> <p>22 see that?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Recognizing this was 2018, my question is why --</p> <p>25 there's three bills listed on this slide, and if you have</p>

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<p>1 any recollection as to why they are listed?</p> <p>2 A. I mean, as I look at them, they seem to be</p> <p>3 interesting to practitioners of law in the state of</p> <p>4 Oklahoma, if that makes -- if that make sense. Like,</p> <p>5 people who are coming in, attending, who are trying to</p> <p>6 consume information about what's going on with the</p> <p>7 legislature. I think this topically might be of interest</p> <p>8 to them.</p> <p>9 Q. These weren't necessarily bills or resolutions --</p> <p>10 current resolutions that the Bar had specifically tasked</p> <p>11 you to follow?</p> <p>12 A. I would say the Bar had nothing to do with any of</p> <p>13 these. These are more just Clay Taylor thought these were</p> <p>14 interesting to lawyers and you should -- in case you</p> <p>15 practice in these areas or whatever, just know that</p> <p>16 they're going on out there.</p> <p>17 Q. Would you preview this slide show to Mr. Williams</p> <p>18 before giving this presentation?</p> <p>19 A. I would not preview it to anybody. I mean, they</p> <p>20 would get it ahead of time if I knew to get it to them</p> <p>21 ahead of time. But sometimes they would get it when I</p> <p>22 walk in the room. So nobody -- nobody's giving editorial</p> <p>23 commentary on any of this that I know about. Although, I</p> <p>24 mean, for all I know -- it's happened over so many years,</p> <p>25 I just can't really tell you, you know, every time it's</p>	<p>1 of the United States who works over at the capitol. In my</p> <p>2 expert opinion, I feel like that's good advice. But</p> <p>3 anyway, yes, sir. Not any way associated with what the</p> <p>4 Bar is telling me.</p> <p>5 Q. On the 11th page -- and you were cutting out a</p> <p>6 little bit on that one. "But Why is This Important?"</p> <p>7 First bullet, "As you all know, far better</p> <p>8 than I, everything the legislature does impacts the</p> <p>9 practice of law in the state of Oklahoma."</p> <p>10 Sorry. Again, that's Clay Taylor, citizen</p> <p>11 of the United States, speaking there?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay. All right. Let me --</p> <p>14 A. Pardon me. It's getting warm in here. I'm</p> <p>15 losing my jacket.</p> <p>16 (Deposition Exhibit 2 was marked for</p> <p>17 identification.)</p> <p>18 BY MR. FREEMAN:</p> <p>19 Q. So I'm showing you what we've marked as Exhibit 2</p> <p>20 to today's deposition, which the first page is Bates</p> <p>21 labeled TAYLOR.013. Do you have that one up in front of</p> <p>22 you?</p> <p>23 A. I see it on your screen, and we've got it up here</p> <p>24 as well. Thank you.</p> <p>25 Q. Okay. And I'll just quickly kind of scroll</p>
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<p>1 happened.</p> <p>2 Q. A couple more slides with bills to pay attention</p> <p>3 to, but they're the same comment on all those?</p> <p>4 A. Again, I tried to fill the space with things that</p> <p>5 I think people would be interested in and tried to make it</p> <p>6 somewhat topically interesting. You know, it's more than</p> <p>7 just -- I want people to feel like they got some value out</p> <p>8 of their time, and I don't want to bore them to death with</p> <p>9 just everything that, you know, is process. I want to</p> <p>10 give them some color. So anyway.</p> <p>11 Q. Do you view this presentation as more of a</p> <p>12 marketing thing for you, or is this something that you're</p> <p>13 obligated to do by one or more of your clients?</p> <p>14 A. I kind of see it as marketing. It's -- I feel</p> <p>15 like -- I don't know. I just feel like it's part of my</p> <p>16 duty as a lawyer who practices over at the capitol to</p> <p>17 show -- to kind of give some insight over there. And it</p> <p>18 has -- I mean, yeah, it's good for my business to be out</p> <p>19 there and be seen by people.</p> <p>20 Q. Page 8, there's a bullet point there, "We need to</p> <p>21 do a better job of encouraging our colleagues to run for</p> <p>22 the legislature, and then to help them get elected."</p> <p>23 That is your personal opinion then you're</p> <p>24 sharing with them?</p> <p>25 A. That is me, Clay Taylor, yes, as a free citizen</p>	<p>1 through it, but make sure we're looking at the same thing.</p> <p>2 It's kind of long.</p> <p>3 Okay. So it's titled "OBA Legislative</p> <p>4 Kickoff 2021." Do you recognize this document?</p> <p>5 A. I do, yes, sir.</p> <p>6 Q. Okay. What is it?</p> <p>7 A. That is the PowerPoint I put together for the</p> <p>8 2021 legislative kickoff.</p> <p>9 Q. That would typically be presented in February</p> <p>10 then?</p> <p>11 A. It's typically like the Friday before session</p> <p>12 starts, the last Friday in January usually.</p> <p>13 Q. And on the first slide there it says "Clay</p> <p>14 Taylor, OBA Legislative Liaison." Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. Okay. Any reason why it says "liaison" and not</p> <p>17 "lobbyist"?</p> <p>18 A. I wish I could tell you. No, honestly.</p> <p>19 Q. And one of the reasons why I ask is I know I was</p> <p>20 in an organization where we retained a lobbyist one time,</p> <p>21 but his job was purely to report. And --</p> <p>22 A. Right.</p> <p>23 Q. -- so he's kind of just relaying and a filter for</p> <p>24 information. It wasn't to meet with anyone or talk with</p> <p>25 anyone or --</p>

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<p>1 A. Yeah.</p> <p>2 Q. -- testify or anything like that. I might</p> <p>3 consider that person a liaison.</p> <p>4 But you do -- you do more than just report,</p> <p>5 correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Okay. If you need to get in there and talk with</p> <p>8 the legislators, you will, correct?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And that's part of the services you offer the</p> <p>11 Oklahoma Bar Association, correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Scroll to page 42.</p> <p>14 (An off-the-record discussion ensued.)</p> <p>15 BY MR. FREEMAN:</p> <p>16 Q. Okay. So back to our exhibit, Exhibit Number 2.</p> <p>17 And I scrolled down to the page Bates-labeled TAYLOR.042.</p> <p>18 A. We're there.</p> <p>19 Q. You with me?</p> <p>20 And it's titled "Let's Talk Strategy." Is</p> <p>21 that something that you would -- would you discuss a</p> <p>22 strategy with the Oklahoma Bar Association before each</p> <p>23 legislative session?</p> <p>24 A. I mean -- I'm not sure I follow the question.</p> <p>25 So this -- only because this slide confuses</p>	<p>1 Could we just take a break real quick?</p> <p>2 MR. FREEMAN: Okay.</p> <p>3 (A recess ensued.)</p> <p>4 BY MR. FREEMAN:</p> <p>5 Q. Do you remember what the question was?</p> <p>6 A. It was confusing me. You had my bill strategy</p> <p>7 slide up and it had me all kinds of flummoxed. That's all</p> <p>8 I -- you were asking me about strategy.</p> <p>9 Q. Well, I guess in the abstract basically.</p> <p>10 Has the -- the Bar Association, as your</p> <p>11 client, discussed -- at any time when they've been your</p> <p>12 client -- discussed a strategy with you whereby the</p> <p>13 objective was to kill a bill, basically, that was before</p> <p>14 the legislature?</p> <p>15 A. Sure. Yes, sir.</p> <p>16 Q. That's happened?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Do you remember bills that the Bar has</p> <p>19 asked you to kill?</p> <p>20 A. Not specifically, no. But I mean, that's -- I</p> <p>21 mean, those bills we were talking about from last session</p> <p>22 would fall under that category, I'm sure. Things to</p> <p>23 either -- and when you say kill, let's be -- let's be</p> <p>24 clear. That's probably too harsh of a term. Engage on,</p> <p>25 kill, work on in some way.</p>
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<p>1 me. This is just kind of a slide talking about the</p> <p>2 strategizing using the process. So I'm sorry, it's just</p> <p>3 confusing me a little bit. I'm sure we talk strategy</p> <p>4 about legislation as it comes up, yes, sir.</p> <p>5 Q. And so -- so you've had strategic conversations</p> <p>6 with the Bar about legislation. Is that fair?</p> <p>7 A. I mean, I think that every -- every conversation</p> <p>8 when you're talking about legislation has some strategy</p> <p>9 involved with it, so -- I mean, sure.</p> <p>10 Q. And I guess -- to me, that means something more</p> <p>11 than just reporting on it. It's a strategy because</p> <p>12 there's a result you want at the end of the day. Is that</p> <p>13 fair?</p> <p>14 A. Sure. I'm not totally sure I follow the</p> <p>15 question, but yes, sounds right.</p> <p>16 Q. Well, I guess you wouldn't need -- if the</p> <p>17 strategy -- I guess the strategy could be tell us</p> <p>18 everything that's happening at every moment about bill X.</p> <p>19 I guess that could be categorized a strategy. A strategy</p> <p>20 could also be let's do everything we can to kill this bill</p> <p>21 kind of strategy.</p> <p>22 In your work for the Bar, did you -- have</p> <p>23 you ever had instances where the Bar said, "Hey, our</p> <p>24 strategy is kill this bill on our behalf"?</p> <p>25 A. Hold on one second.</p>	<p>1 Q. Right. I was speaking colloquially.</p> <p>2 A. I would say -- probably the better way to say is</p> <p>3 the bills that impede some of our priorities, like access</p> <p>4 to justice or how we think the best judges are picked.</p> <p>5 They will ask me to engage on and we will strategize about</p> <p>6 the best way to work on those things.</p> <p>7 Q. So I mean -- okay, so how judges are selected,</p> <p>8 that's one category. You mentioned access to justice.</p> <p>9 What falls under access to justice?</p> <p>10 A. God, that's probably a better -- that's a good</p> <p>11 question.</p> <p>12 I would -- I think of it as also kind of --</p> <p>13 that the courts -- the construction of the courts, making</p> <p>14 sure -- when I say access to justice, I'm really, in my</p> <p>15 brain, saying that everybody has access to the best, most</p> <p>16 qualified impartial judge that they can have access to.</p> <p>17 (Deposition Exhibit 7 was marked for</p> <p>18 identification.)</p> <p>19 BY MR. FREEMAN:</p> <p>20 Q. I'm going to skip to Exhibit 7. So I'm skipping</p> <p>21 now to Exhibit 7. This is Bates-labeled TAYLOR.125. So</p> <p>22 that's telling me it came from your file.</p> <p>23 A. Yeah.</p> <p>24 Q. Do you recognize this document?</p> <p>25 A. I do.</p>

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<p>1 Q. What is it?</p> <p>2 A. It was a handout, a legislative handout sent</p> <p>3 to -- you could ask me what members of the legislature, I</p> <p>4 can't tell you what particular ones. If it was in front</p> <p>5 of a committee, those committee members. If it was in</p> <p>6 front of the floor, all of the members who were on the</p> <p>7 floor. But a handout that I would use in front of the</p> <p>8 legislature to work on that legislation.</p> <p>9 Q. Okay. And so did you assemble the information</p> <p>10 that's in this exhibit?</p> <p>11 A. That is all my lovely work, I think. I mean,</p> <p>12 yeah. I mean, it's obviously a lot of quotes, but I put</p> <p>13 it together, yes.</p> <p>14 Q. And you did that in your role as lobbyist for the</p> <p>15 Oklahoma Bar Association?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And you would distribute that to members of the</p> <p>18 legislature?</p> <p>19 A. Absolutely.</p> <p>20 Q. And forgive me, because I should know this, but</p> <p>21 SJR43, do you remember what year that was?</p> <p>22 A. No, I'm sorry. I apologize.</p> <p>23 I mean, it's at least not in 2020, I can get</p> <p>24 you that far.</p> <p>25 Q. Yeah, it's after 2020. We know that.</p>	<p>1 A. I do.</p> <p>2 Q. It seems like perhaps a different version or a</p> <p>3 variation of the same theme here?</p> <p>4 A. Something along those lines, yes, sir.</p> <p>5 Q. Okay. Is this a document that you prepared?</p> <p>6 A. I believe so, yes.</p> <p>7 Q. And you prepared it as the Bar's lobbyist,</p> <p>8 correct?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. And again, also opposing -- or advocating</p> <p>11 for a vote no on SJR43, correct?</p> <p>12 A. That is correct.</p> <p>13 (Deposition Exhibit 9 was marked for</p> <p>14 identification.)</p> <p>15 BY MR. FREEMAN:</p> <p>16 Q. I'll have you look at Exhibit 9.</p> <p>17 A. Am I supposed to be seeing something up there?</p> <p>18 Q. No. I'll -- I'll tell you --</p> <p>19 A. Okay.</p> <p>20 Q. This was produced by the Bar Association.</p> <p>21 Something was redacted. I'm going to assume it was an</p> <p>22 attorney-client communication they redacted.</p> <p>23 A. Gotcha. Okay. Sorry. Thank you.</p> <p>24 Q. And let me see. I don't think it's very long,</p> <p>25 but there's an email chain between you and Mr. Williams.</p>
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<p>1 A. We can look those things up. I mean, they're</p> <p>2 easy -- they're easy enough to find.</p> <p>3 Q. Yeah, that's why I'm not worried about it.</p> <p>4 But your quotes that you've assembled, is it</p> <p>5 a fair characterization of them that they -- you've put</p> <p>6 them in there because the strategy is to oppose SJR43?</p> <p>7 A. Yes, sir.</p> <p>8 Q. SJR43 was a joint resolution that the Bar was</p> <p>9 interested in, correct?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And the Bar opposed that joint resolution,</p> <p>12 correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. At the time SJR43 was being considered, did you</p> <p>15 do -- did you write any opinion pieces that were published</p> <p>16 in any publication opposing SJR43?</p> <p>17 I don't know if we heard you on that one.</p> <p>18 A. I'm sorry.</p> <p>19 No. I do not believe I've ever written an</p> <p>20 opinion piece.</p> <p>21 (Deposition Exhibit 8 was marked for</p> <p>22 identification.)</p> <p>23 BY MR. FREEMAN:</p> <p>24 Q. Okay. I'm going to go to Exhibit 8.</p> <p>25 Do you see Exhibit 8?</p>	<p>1 And if you look at it and let me know whether you recall</p> <p>2 whether -- what this communication was about?</p> <p>3 A. It looks like it's an audit -- something about</p> <p>4 audits. Here we go.</p> <p>5 Okay. Yes, sir, I'm familiar. Got it.</p> <p>6 Q. I know this is from 2018, but do you recall there</p> <p>7 being a bill -- looks like Senate Bill 1070 -- that</p> <p>8 related to audits that might have implicated the Bar in</p> <p>9 some way, requiring them to produce audits before they</p> <p>10 were ready or something to that effect?</p> <p>11 A. This issue vaguely -- I guess -- Okay. I'd say</p> <p>12 this. It doesn't actually ring a bell. I don't remember</p> <p>13 any of this. But my thinking on this would be if you</p> <p>14 showed me a bill on audits today for agencies, I would</p> <p>15 alert the Bar to it just to let them know that they may</p> <p>16 have to do something, if that makes sense.</p> <p>17 Q. Yeah.</p> <p>18 A. It's something that could potentially touch -- so</p> <p>19 yeah, it could potentially touch things that they're</p> <p>20 required to do, which would be why I would alert them to</p> <p>21 it.</p> <p>22 (Deposition Exhibit 10 was marked for</p> <p>23 identification.)</p> <p>24 BY MR. FREEMAN:</p> <p>25 Q. Let me switch to Exhibit 10. And first, I'll</p>

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<p>1 president at whatever -- during whatever legislative 2 session?</p> <p>3 A. It kind of depended on the president. Some 4 presidents are people who want to talk and some presidents 5 aren't.</p> <p>6 Q. Talk in terms of strategy or just they like to 7 gossip about what's going on at the capitol?</p> <p>8 A. More -- yeah, more gossip about -- somebody who's 9 more interested in those things or, you know, somebody 10 who's more typically interested in courthouse, right?</p> <p>11 They're kind of just different flavors.</p> <p>12 Q. Did you ever -- did you interface with a 13 legislative committee of the Bar?</p> <p>14 A. No, not really.</p> <p>15 Q. Have you ever received any kind of performance 16 review or evaluations from the Bar?</p> <p>17 A. I am unaware.</p> <p>18 MR. FREEMAN: Okay. That's all I wanted to 19 go over with you, appreciate your time.</p> <p>20 Heather, I'll turn it over to you if you 21 have any questions.</p> <p>22 MS. HINTZ: Let's take a five-minute break 23 for me to look at my notes.</p> <p>24 MR. FREEMAN: Okay.</p> <p>25 (A recess ensued.)</p>	<p>1 I'm wrong -- is that the OBA legislative kickoff is an 2 annual free continuing legal education put on by the OBA, 3 as you indicated, in late January or early February?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Is that consistent with your understanding?</p> <p>6 A. Yes, sir.</p> <p>7 Can you guys hear me?</p> <p>8 Q. You're doing great.</p> <p>9 A. Okay.</p> <p>10 Q. Are the attendees of that anybody who wants to 11 come, but particularly it's open to all members of the Bar 12 Association?</p> <p>13 A. I believe that is correct, yes, sir.</p> <p>14 Q. They can just walk in, register. But it's open 15 to all. Is that your understanding?</p> <p>16 A. Yes. My understanding, correct.</p> <p>17 Q. Now, your exhibit that we have in front of you 18 that starts with TAYLOR.013, you prepared that?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Was any of the content of that directed by the 21 OBA?</p> <p>22 A. No, sir.</p> <p>23 Q. Did they have any meaningful input in the 24 content?</p> <p>25 A. No, sir.</p>
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<p>1 MR. MAYE: Mr. Taylor, my name is Kieran 2 Maye. I don't think I had the pleasure of you in any of 3 my classes when you were at OCU, but we were there at the 4 same time, just on different sides of the podium.</p> <p>5 Scott, I don't know if -- I don't want to 6 impose, but could you bring up Exhibit 2 again?</p> <p>7 MR. FREEMAN: Yes.</p> <p>8 MR. MAYE: You're the master of screen 9 sharing.</p> <p>10</p> <p>11 EXAMINATION</p> <p>12 BY MR. MAYE:</p> <p>13 Q. And while he's doing that, Mr. Taylor, I have the 14 privilege in this litigation of representing the chief 15 justice and the associate justices of the Oklahoma Supreme 16 Court. And I just have one short series of questions 17 regarding that one exhibit when Scott gets it in front of 18 all of us.</p> <p>19 MR. MAYE: Look at that. Do you hire out, 20 Scott?</p> <p>21 MR. FREEMAN: I'm expensive.</p> <p>22 MR. MAYE: Yeah, that's probably not an 23 efficient hourly rate, is it?</p> <p>24 BY MR. MAYE:</p> <p>25 Q. Mr. Taylor, my understanding -- and correct me if</p>	<p>1 Q. Did they prescreen the content?</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. Were you one of multiple speakers at that CLE or 4 was it all you?</p> <p>5 A. Never just all me, always multiple speakers.</p> <p>6 Q. Okay. In your -- in discussing your Exhibit 1, 7 which I don't need Scott to pull up, that was the one 8 entitled "Bills of Interest to the Practice of Law, 9 March 6, 2018." And I only give you that as a reference 10 point.</p> <p>11 You describe that as doing part of your -- 12 what you perceived as your duty as a lawyer to help other 13 lawyers be better lawyers. Do you recall that discussion?</p> <p>14 A. I do, yes, sir.</p> <p>15 Q. And my question is, would this -- your 16 participation in this legislative kickoff CLE, would that 17 be consistent or fit into that same mode, model that you 18 described in relation to Exhibit 1?</p> <p>19 A. Yes, sir.</p> <p>20 MR. MAYE: I have no further questions. 21 Thank you, sir.</p> <p>22 THE WITNESS: Thank you, pleasure to meet 23 you.</p> <p>24 MR. MAYE: Good to meet you. Tell your 25 father I said hello. We're of a different generation.</p>

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1 MS. HINTZ: Nothing from me, Scott.
2 (An off-the-record discussion ensued.)
3 MR. MAYE: I don't need anything. This is
4 Kieran Maye.
5 MS. HINTZ: Heather Hintz would like the
6 early transcript, a regular -- like a rush transcript or a
7 dirty transcript, and a synced transcript to the video,
8 and a regular transcript.
9 THE COURT REPORTER: There actually is no
10 video.
11 (An off-the-record discussion ensued.)
12 MS. HINTZ: My order is simply for a dirty
13 copy and then a regular copy in the due course of time.
14 MR. FREEMAN: Same for me, same for
15 plaintiff.
16 MR. WOOD: No order from the witness.
17 He does want to read and sign.
18 (Exhibits submitted but not used during the
19 deposition were marked for identification.)
20 (The deposition was concluded at 3:33 p.m.)
21
22
23
24
25

CLAYTON CHARLES TAYLOR, JR.

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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)
3 BE IT KNOWN the foregoing deposition was
4 taken by me pursuant to stipulation of counsel; that I was
5 then and there a Certified Reporter of the State of
6 Arizona, and by virtue thereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; notice was provided that
9 the transcript was available for signature by the
10 deponent; that the questions propounded by counsel and the
11 answers of the witness thereto were taken down by me in
12 shorthand and thereafter transcribed into typewriting
13 under my direction; that the foregoing pages are a full,
14 true, and accurate transcript of all proceedings and
15 testimony had and adduced upon the taking of said
16 deposition, all to the best of my skill and ability.
17 I FURTHER CERTIFY that I am in no way related to
18 nor employed by any parties hereto nor am I in any way
19 interested in the outcome hereof.
20 DATED at Phoenix, Arizona, this 21st day of
21 February, 2025.
22
23
24
25



Gerard T. Coash, RMR
Certified Reporter #50503

EXHIBIT 3

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

MARK E. SCHELL,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-19-0281-HE
)	
JANET JOHNSON, et al.,)	
)	
Defendants.)	

**DECLARATION OF JANET JOHNSON, EXECUTIVE DIRECTOR
OF THE OKLAHOMA BAR ASSOCIATION, IN SUPPORT OF
DEFENDANTS' RESPONSE IN OPPOSITION TO
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

I, Janet Johnson, Executive Director of the Oklahoma Bar Association ("OBA"), affirm the following to be true, upon information and belief, under penalties of perjury:

1. I am an attorney licensed to practice law in the State of Oklahoma and am Executive Director ("ED") of the OBA. I am fully familiar with the facts and circumstances set forth herein based upon my participation in this case as a defendant, named in my official capacity, and as ED of the OBA.

2. This Declaration is submitted in support of the Defendants' Response in Opposition to Plaintiff's Motion for Summary Judgment filed in the above captioned action.

3. I began my career at the OBA on June 15, 2020 as the Director of Educational Programs. On January 1, 2023 I became the OBA ED.

4. According to the 'About Us' tab on its website, the Oklahoma Bar Foundation is a 501(c)(3) corporation under the Internal Revenue Code.

5. The Oklahoma Bar Journal (“OBJ”) is a publication of the OBA. The Board of Editors is made up of lawyers from around the State.

6. The primary purpose of the OBJ is to provide a forum for information on the practice of law, to educate lawyers in their practice areas and updates in the law, and to provide practitioners OBA-related notices and information on rules, budgets, and developments.

7. Until a point in 2022, OBA published nine OBJ issues annually - seven issues were practice-themed bar journals and two were general-practice themed, for a total of nine annual publications.¹ At a point in 2022, the OBA began publishing ten issues annually, all of which are practice-area specific. The monthly theme of each of the practice-themed bar journals, from and including March 2017 through the present, is designed to address an area of the law in which an OBA member might practice (appellate law, family law, oil and gas law, and the like). The general practice-themed OBJ issues, which are presently not published, also contain articles about the practice of law but those articles were not related to one practice area.

8. Every practice area-themed issue of the OBJ also contains a “President’s Message” under a banner reading FROM THE PRESIDENT.

¹ The OBA also publishes an OBJ publication called “Courts & More”, which is only available digitally. It contains newly decided decisions of the Oklahoma Supreme Court, the Oklahoma Court of Criminal Appeals, and the Oklahoma Court of Civil Appeals. Courts & More publications also contain information about OBA governance, and other information that impacts the practice of law in the State.

9. The statements in the President's Message are not intended to be official OBA statements.

10. Rather, information contained in the President's Message generally contain the personal leadership statements and goals of the current President.

11. Almost every general practice and practice area-themed issue of the OBJ also contains a column authored by the ED.

12. The statements in the ED column are not intended to be official OBA statements.

13. Rather, information contained in the ED's column is intended to be a personal message of the ED.

14. From March 2017 through June 2022, the OBA published 53 editions of the OBJ, which contained approximately 643 published, authored articles, not limited to practice-themed articles. This approximate figure includes the BOG President and ED columns, Practice Tips, Back Page, Legal Practice Tips, Ethics & PR, Young Lawyers Division, and other authored items.

15. Every issue of the OBJ published during the time-period at issue herein contains the following disclaimer on the masthead page (adjusted for copyright year):

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reject any advertising copy for any reason. Legal articles carried in THE OKLAHOMA BAR JOURNAL are selected by the Board of Editors. Information about submissions can be found at www.okbar.org.

16. Since mid-2022, it is the practice of the OBA that every paper OBJ has included the following disclaimer on the footer of each page of every practice-themed OBJ article, which disclaimer is to appear in both the paper form of the OBJ and the pdf form of the OBJ (which are accessible on the OBA website):

Statements or opinions expressed in the Oklahoma Bar Journal are those of the authors and do not necessarily reflect those of the Oklahoma Bar Association, its officers, Board of Governors, Board of Editors or staff.

17. On the OBA website, there are clickable links to digital copies of each OBJ issue's individual practice-themed articles. In this format, the entire article presents as one page, such that the foregoing disclaimer appears at the end of the article.

18. It is OBA practice that the foregoing disclaimer appears in both the paper and digital version of articles published in the OBJ.

19. It is OBA practice that pdf versions of the OBJ issues are accessible on the website. In these pdf versions of the OBJ issues, the foregoing disclaimer appears at the end of the article.

20. When the Lexology benefit became available to membership, the OBA's Jim Calloway posted information on the OBA website explaining Lexology. Attached as Exhibit A is a screen shot taken directly from such an informational notice posted on the OBA website captioned "LEXOLOGY is here, a new tool for OBA members", dated May

14, 2021. Exhibit A is true and correct copies of the information contained in the foregoing item as captured on May 19, 2025.

21. Attached as Exhibit B is a copy of screen shot taken directly from a subsequent informational piece by Mr. Calloway, also posted on the OBA website, captioned “Finetuning Your Lexology Member Benefit”, dated January 22, 2022. Exhibit B is true and correct copies of the information contained in the foregoing item as captured on May 19, 2025.

22. Attached as Exhibit C is a copy of pp. 1301 & 1304 of OBJ Vol. 38, No. 24 (June 24, 1967), together with the OBJ cover page. Exhibit C is a true and correct copy of the pages from the identified OBJ Volume & Issue.

23. Attached as Exhibit D is a copy of p. 1983 of OBJ Vol. 87, No. 27 (Oct. 15, 2016) providing notice of “Resolution No.1: Reaffirming the Merit Selection of Judges” to be submitted to the House of Delegates at the Nov. 4, 2016 OBA annual Meeting, and p. 2357 of OBJ Vol. 87, No. 30 (Nov. 19, 2016), announcing the House of Delegates’ approval of “Resolution No. 1: Reaffirming the Merit Selection of Judges” at the Annual Meeting held Nov. 4, 2016. Exhibit D is a true and correct copies of the pages from the respective identified OBJ Volumes & Issues.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: May 20, 2025

Respectfully submitted,

A handwritten signature in black ink that reads "Janet Johnson". The signature is written in a cursive, flowing style.

JANET JOHNSON

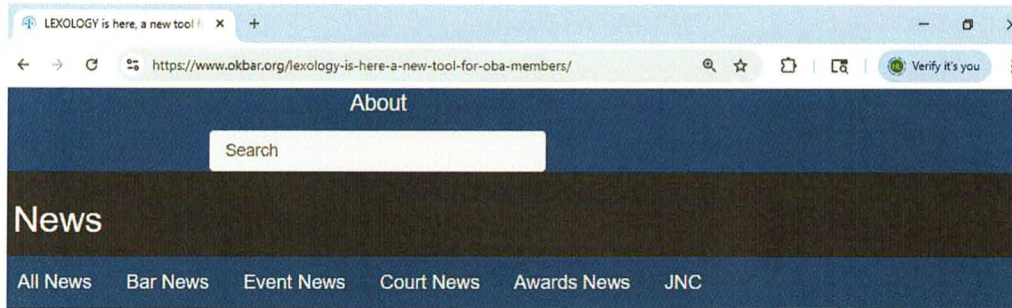
EXHIBIT

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May 14, 2021

If you've received an email with the subject line, "OBA Newsstand – powered by Lexology," it marks the arrival of a new OBA member service that rounds up legal news and information for you. The service can be customized to your practice area and interests, and while it is yet another email being delivered to...

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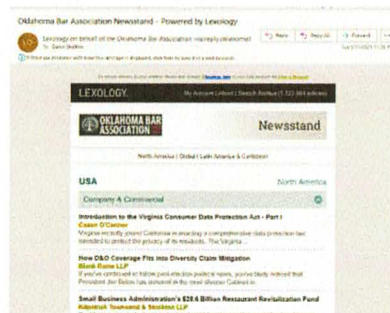


The service can be customized to your practice area and interests, and while it is yet another email being delivered to your Inbox, members are already finding it a helpful service.

The OBA began telling members about Lexology back in December in the *Oklahoma Bar Journal*, and then again in the May Issue.

"Investing a few moments to customize this service to focus on your particular interests is the path to turn this from a good service to an outstanding one."

Jim Calloway, OBA Management Assistance Program director



Lexology sends a daily email with legal news and information. OBA members can set their preferences for practice areas and interests.

In explaining the service, a spokesperson for Lexology said the service is free to the bar and to its members. Lexology has not paid to get access to member details, but is rather providing a member benefit service and customized information resource to members on behalf of the bar.

"We do this for dozens of state, metro and county bars across the US. Personal and contact information is always kept completely confidential."

Darran Clarke, Manager, Association and Corporate Partnerships, Lexology

Clarke also explains how the service is funded, "The contributing law firms pay a fee to have their content considered by our editorial and research team for inclusion on the service. The editorial and research team only selects the content that is deemed substantive, and will be of interest and value to our 650,000 subscribers. This is the only way the service is funded."

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EXHIBIT B

Finetuning Your Lexology Member Benefit

January 20, 2022

By Jim Calloway Most lawyers receive a lot of emails. Every few months I find myself unsubscribing from some email update service I subscribed to previously that sounded like a good idea at the time. OBA provides Lexology as a member benefit. But sometimes less is more and limiting the subjects for which you receive...

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Finetuning Your Lexology Member Benefit

By Jim Calloway

Most lawyers receive a lot of emails. Every few months I find myself unsubscribing from some email update service I subscribed to previously that sounded like a good idea at the time.

OBA provides Lexology as a member benefit. But sometimes less is more and limiting the subjects for which you receive updates makes Lexology more valuable rather than less, in my view. If you are opening Lexology emails to 50 suggested articles to read that week, you may find yourself deciding you don't have the time to read any. But if you have fine-tuned the content and only receive 4 or 5 suggestions based on your unique situation, it may be a more valuable tool.

Updating your content preferences is easy. Go to any recent Lexology email you have received and click on My Account at the top of it.

LEXOLOGY

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If you know your password, use it to log in. But if you don't recall it, just click the Send Verification code box and Lexology will send you a code to enter in the Code box. Then hit submit.

Confirm your login details

Dear **James Calloway** (not me? [change user](#))

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Alternatively we can email you a one-time code to grant you access immediately.

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Code:

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Now, having successfully logged into your account,


you can do administrative tasks like changing your password. But you can also select Work Areas to change the content that you receive. Try asking for less rather than more. Make your Work Area selections and don't forget to click on Save.

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EXHIBIT

THE JOURNAL



June 24, 1967

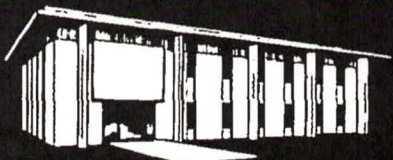
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Official Advance Sheets



Published by

OKLAHOMA BAR ASSOCIATION

THE JOURNAL

Published weekly, except during the recess periods of the Supreme Court when published monthly, at 210 Courthouse Square, Madill, Oklahoma 73446, by Oklahoma Bar Association. Second Class postage paid at Madill, Oklahoma. Subscriptions \$15 per year, except for law students.

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Vol. XXXVIII

June 24, 1967

No. 24

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While articles are solicited from members of the bench and bar for publication in the Oklahoma Bar Association Journal, no responsibility is assumed for the views of the contributor. It is the endeavor of the editors to give both sides of every question without prejudice, reserving the right to take whatever position upon the issue that seems most likely to advance the orderly administration of justice.

REPORT OF THE SPECIAL SESSION OF HOUSE OF DELEGATES

The special session of the House of Delegates held at 2:00 p.m. Saturday, June 10, 1967, at the Bar Center resulted in the House unanimously voting to favor State Question 448, which provides a reorganization of the judicial system and a nonpartisan election of judges. The House also voted 59 to 8 to favor State Question 446, which provides for the appointment of members of the Supreme Court and the Court of Criminal Appeals. State Question 447 will become effective only if State Question 448 is also adopted by the people at the election to be held July 11.

By the action of the House of Delegates the Oklahoma Bar Association will support the two proposed constitutional amendments in principle and in order to implement the direction of the House of Delegates, it is suggested that interested individual lawyers or County Bar Associations arrange to have speakers available for civic clubs or other such groups to explain the two proposals, and that appropriate publicity be given in local newspapers by newspaper editorials, news stories, and advertisements.

The Administration of Justice and County Bar Organizations Committees will furnish speakers to any County Bar Association or any civic or other club upon request at the Bar Center.

The complete text of each of the proposed constitutional amendments appears in the May 20, 1967, issue of The Journal. As was pointed out by the Administration of Justice Committee, which unanimously recommended the two proposals to the House of Delegates, the proposals contained many reforms which have been a part of the Bar Association's program for many years.

Sincerely yours,

JOSEPH M. CULP,
President

EXHIBIT D

ANNUAL MEETING

House of Delegates Actions

The following resolution and title examination standards report were submitted to the House of Delegates at the 112th Oklahoma Bar Association Annual Meeting at 10:30 a.m. Friday, Nov. 4, 2016, at the Sheraton Hotel in Oklahoma City. Actions are as follows:

RESOLUTION NO. 1: REAFFIRMING MERIT SELECTION OF JUDGES

BE IT RESOLVED that the House of Delegates of the Oklahoma Bar Association reaffirm its commitment to merit selection of Judges in the State of Oklahoma through the Judicial Nominating Commission, place protection of the Judicial Nominating Commission perpetually on the Legislative Program and acknowledge and celebrate the 50th anniversary of judicial reform in the State of Oklahoma. (Submitted by the Bench and Bar Committee, Cosponsored by the Family Law Section and Young Lawyers Division, 60% vote required.)

ADOPTED

TITLE EXAMINATION STANDARDS

Action: The Oklahoma Title Examinations Standards revisions and additions published in the *Oklahoma Bar Journal* 87 1992 (Oct. 15, 2016) were approved in the proposed form. The revisions and additions are effective immediately.

ADOPTED

2016 OBA OFFICERS AND NEW BOARD MEMBERS

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2016 RESOLUTION

The following resolution will be submitted to the House of Delegates at the 112th Oklahoma Bar Association Annual Meeting at 10 a.m. Friday, Nov. 4, 2016, at the Sheraton Hotel in Oklahoma City.

RESOLUTION NO. 1: REAFFIRMING MERIT SELECTION OF JUDGES

Be it Resolved that the House of Delegates of the Oklahoma Bar Association reaffirm its commitment to merit selection of Judges in the State of Oklahoma through the Judicial Nominating Commission, place protection of the Judicial Nominating Commission perpetually on the Legislative Program and acknowledge and celebrate the 50th anniversary of judicial reform in the State of Oklahoma. *(Submitted by the Bench and Bar Committee, Cosponsored by the Family Law Section and Young Lawyers Division, 60% vote required.)*

Whereas the Oklahoma Bar Association was formed "for the advancement of justice according to law."

Whereas Article VIII Section 3 of the Bylaws of the Oklahoma Bar Association provides: "The Legislative Program of the Association shall be confined to those measures relating to the administration of justice; to court organization, selection, tenure, salary and other incidents of the judicial office; to rules and laws affecting practice and procedure in the courts and in administrative bodies exercising adjudicatory functions; and to the practice of law. However, measures relating to these matters may, at the discretion of the Association, be endorsed in principle rather than be included in the Legislative Program."

Whereas the House of Delegates is the governing body of the Oklahoma Bar Association;

Whereas in a special meeting on June 10, 1967 the House of Delegates endorsed in principle the proposed amendments to the Oklahoma Constitution creating the Judicial Nominating Commission;

Whereas as a result of prior corruption in office by three (3) members of the Oklahoma Supreme Court, on July 11, 1967, by a vote of the people of the State of Oklahoma the Oklahoma Constitution was amended adding Article 7B which created the Judicial Nominating Commission;

Whereas on the eve of the 50th anniversary of this historic amendment to the Oklahoma Constitution creating merit selection in the appointment of members of the judiciary, it should be acknowledged that merit selection of judges has withstood the test of time and provided a fair and nonpolitical system of judicial selection; and

Whereas there have been consistent attempts to politicize the appointment of judges and to repeal the Judicial Nominating Commission to return to the practice of popular political elections of appellate judges in the State of Oklahoma where bribery and corruption can be camouflaged as campaign contributions now therefore, be it

Resolved, that the Oklahoma Bar Association:

1. by and through its House of Delegates, pursuant to its Authority and acting in furtherance of its solemn duties, reaffirms and rededicates itself to the principles of judicial fairness and merit selection of judges and justices in the State of Oklahoma;
2. perpetually have as part of its Legislative Program the protection of the Judicial Nominating Commission and that it uses all proper and legal resources to protect and defend the fair, unbiased and nonpolitical selection of judges and justices in the State of Oklahoma; and
3. acknowledge and celebrate the 50th anniversary of extraordinary judicial reform in the State of Oklahoma.

EXHIBIT 4

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE WESTERN DISTRICT OF OKLAHOMA</p> <p>3 MARK E. SCHELL,</p> <p>4 Plaintiff,</p> <p>5 vs. No. 5:19-CV-00281-HE</p> <p>6 JANET JOHNSON, et al.,</p> <p>7 Defendants.</p> <p>8</p> <p>9 *****</p> <p>10</p> <p>11 DEPOSITION OF MARK SCHELL</p> <p>12 TAKEN ON BEHALF OF THE DEFENDANTS</p> <p>13 ON NOVEMBER 26, 2024, BEGINNING AT 10:07 A.M.</p> <p>14 IN OKLAHOMA CITY, OKLAHOMA</p> <p>15</p> <p>16 *****</p> <p>17</p> <p>18 APPEARANCES</p> <p>19 On behalf of the PLAINTIFF:</p> <p>20 Scott Day Freeman</p> <p>21 GOLDWATER INSTITUTE</p> <p>22 500 East Coronado Road</p> <p>23 Phoenix, Arizona 85004</p> <p>24 (602) 462-5000</p> <p>25 sfreeman@goldwaterinstitute.org</p> <p>(Appearances continued on next page.)</p> <p>REPORTED BY: Jane McConnell, CSR RPR CMR CRR</p>	<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2 Page</p> <p>3 Direct Examination by Ms. Hintz 5</p> <p>4 Cross-Examination by Mr. Maye 104</p> <p>5 Redirect Examination by Ms. Hintz 115</p> <p>6 Recross-Examination by Mr. Maye 131</p> <p>7</p> <p>8 EXHIBITS</p> <p>9 Exhibit Description</p> <p>10 1 Official Form 201 24</p> <p>11 2 Vanguard - Firehawk Aerospace Inc. 27</p> <p>12 Article</p> <p>13 3 U.S. SEC Form 8-K 29</p> <p>14 4 Case No. PB-21-97 Petition to 39</p> <p>15 Determine Death of Last Surviving</p> <p>16 Joint Tenant</p> <p>17 5 Legislative Guide 2014 46</p> <p>18 6 Oklahoma Continuing Legal Education 58</p> <p>19 Commission Attorney Credits Report</p> <p>20 7 Oklahoma Statute - Title 5, Section 92</p> <p>21 Preamble - Lawyer's Responsibilities</p> <p>22 8 Oklahoma Statute - Title 5, Section 96</p> <p>23 1.1 - Competence</p> <p>24 9 Coates vs. Fallin, 316 P.3d 116</p> <p>25 924(2013)</p> <p>10 Brief of Amicus Curiae Unit 119</p> <p>11 Corporation in Support of</p> <p>12 Respondents Filed with Consent</p> <p>13 of all Parties</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES (Continued)</p> <p>2 On behalf of the DEFENDANT MEMBERS OF THE BOARD OF</p> <p>3 GOVERNORS AND THE EXECUTIVE DIRECTOR OF THE OKLAHOMA</p> <p>4 BAR ASSOCIATION, IN THEIR OFFICIAL CAPACITIES:</p> <p>5 Heather L. Hintz</p> <p>6 PHILLIPS MURRAH</p> <p>7 424 N.W. 10th, Suite 300</p> <p>8 Oklahoma City, Oklahoma 73103</p> <p>9 (405) 235-4100</p> <p>10 hlhintz@phillipsmurrah.com</p> <p>11 - and -</p> <p>12 Michael Burrage</p> <p>13 WHITTEN BURRAGE</p> <p>14 512 N. Broadway</p> <p>15 Oklahoma City, Oklahoma 73012</p> <p>16 (405) 516-7800</p> <p>17 mburrage@whittenburrage.com</p> <p>18 On behalf of the DEFENDANTS CHIEF JUSTICE AND</p> <p>19 JUSTICES OF THE OKLAHOMA SUPREME COURT:</p> <p>20 Kieran D. Maye, Jr.</p> <p>21 MAYE LAW FIRM</p> <p>22 3501 French Park Drive</p> <p>23 Suite A</p> <p>24 Edmond, Oklahoma 73034</p> <p>25 (405) 990-2415</p> <p>kdmaye@mayelawfirm.com</p> <p>ALSO PRESENT: John Williams</p>	<p style="text-align: right;">Page 4</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and agreed by and</p> <p>3 between the parties hereto, through their respective</p> <p>4 attorneys, that the deposition of Mark Schell may be</p> <p>5 taken pursuant to notice and in accordance with the</p> <p>6 Federal Rules of Civil Procedure on November 26,</p> <p>7 2024 at the offices of 512 N. Broadway, Oklahoma</p> <p>8 City, Oklahoma, before Jane McConnell, CSR RPR RMR</p> <p>9 CRR.</p>

<p>Page 53</p> <p>1 Q Do you remember what kind of issues you</p> <p>2 raised on behalf of Unit at the legislature in your</p> <p>3 career?</p> <p>4 A Certainly, work comp reform was a big one.</p> <p>5 Legislator -- I mean, judicial reform and tort</p> <p>6 reform, as well as drug testing.</p> <p>7 Q You said you were lobbying for judicial</p> <p>8 reform. What kind of judicial reform were you</p> <p>9 lobbying for?</p> <p>10 A To revise the way judges, Supreme Court</p> <p>11 judges, were appointed.</p> <p>12 Q Are you unhappy with the way Supreme Court</p> <p>13 judges are presently appointed?</p> <p>14 A I am.</p> <p>15 Q How would you like for them to be</p> <p>16 appointed?</p> <p>17 A Like the US Senate does.</p> <p>18 Q So could you --</p> <p>19 A I think they call it the Madison program.</p> <p>20 Q Well, could you explain, please, what that</p> <p>21 means to you?</p> <p>22 A I think that the -- there should be</p> <p>23 recommendations made as to who can be -- who should</p> <p>24 be a judge. They should be vetted in public by the</p> <p>25 Senate, and then the Governor can choose who he</p>	<p>Page 55</p> <p>1 Q The Oklahoma judicial system does that?</p> <p>2 A No. I'm sorry. Maybe I misunderstood</p> <p>3 your question.</p> <p>4 Q Do you think the Oklahoma judicial system</p> <p>5 is not an independent branch of government in</p> <p>6 Oklahoma?</p> <p>7 A No. It's set up to be an independent</p> <p>8 branch, certainly.</p> <p>9 Q Well, do you think -- my question was:</p> <p>10 Do you think an independent judiciary is an</p> <p>11 important part of Oklahoma's governmental structure?</p> <p>12 A I think an independent judiciary is an</p> <p>13 important part, but the question and the answer</p> <p>14 assume that it's independent.</p> <p>15 Q So my question was: Do you think</p> <p>16 Oklahoma's judicial -- judiciary is not an</p> <p>17 independent branch of government?</p> <p>18 A I do not think they're independent, no.</p> <p>19 Q And what's the basis for your thinking</p> <p>20 that the Oklahoma judiciary is not an independent</p> <p>21 branch of government?</p> <p>22 A Because they involve themselves in</p> <p>23 legislative policy matters.</p> <p>24 Q Which branch of the judiciary involves</p> <p>25 itself in legislative policy matters, in your</p>
<p>Page 54</p> <p>1 decides he wants to have it.</p> <p>2 Q Is it your understanding the Governor</p> <p>3 cannot presently decide who -- he cannot make a</p> <p>4 choice presently?</p> <p>5 A He has three people given to him to choose</p> <p>6 and that's it.</p> <p>7 Q Do you think an independent judiciary is</p> <p>8 an important part of Oklahoma's governmental</p> <p>9 structure?</p> <p>10 A Do I think it is? I think it would be.</p> <p>11 Q My question was: Do you think an</p> <p>12 independent judiciary is an important part of</p> <p>13 Oklahoma's governmental structure?</p> <p>14 A Your question assumes that it's</p> <p>15 independent.</p> <p>16 Q Is it your testimony that you think the</p> <p>17 current judicial system in Oklahoma is not</p> <p>18 independent?</p> <p>19 A That's correct.</p> <p>20 Q In what way do you think the Oklahoma</p> <p>21 judicial system is not independent?</p> <p>22 A Because they go down and advocate for</p> <p>23 changes in what I believe to be policy issues, that</p> <p>24 they should have no business getting involved in as</p> <p>25 an organization.</p>	<p>Page 56</p> <p>1 opinion?</p> <p>2 A Judges.</p> <p>3 Q Which branch of the judiciary?</p> <p>4 A Well, we have district court judges and</p> <p>5 we have appellate court judges and Supreme Court</p> <p>6 judges. Several of the Supreme Court judges have.</p> <p>7 Q Several of the Supreme Court judges have</p> <p>8 done what?</p> <p>9 A Have gone to the legislature and advocated</p> <p>10 against legislation that was pending in the</p> <p>11 legislature.</p> <p>12 Q And you think that activity that you</p> <p>13 contend occurred makes the judiciary not</p> <p>14 independent?</p> <p>15 A If they're supposed to be sitting judgment</p> <p>16 of any legislation in the past, but they went down</p> <p>17 and advocated against it, then I think they're not</p> <p>18 independent.</p> <p>19 Q Which judges do you think went and</p> <p>20 advocated at the Oklahoma legislature?</p> <p>21 A I know that Noma Gurich did.</p> <p>22 Q What's your knowledge of that?</p> <p>23 A Because one of the members of the</p> <p>24 committee told me that she did.</p> <p>25 Q What committee?</p>

<p style="text-align: right;">Page 57</p> <p>1 A It would have been the judicial committee.</p> <p>2 Q When did that happen, that you were told</p> <p>3 that?</p> <p>4 A I can't recall for sure. It's been</p> <p>5 several years.</p> <p>6 Q Was it after 2019?</p> <p>7 A I can't recall.</p> <p>8 Q Are you familiar with the continuing legal</p> <p>9 education requirements of Oklahoma?</p> <p>10 A I am.</p> <p>11 Q Are you current on your continuing legal</p> <p>12 education?</p> <p>13 A Yes, considering this year is not due yet.</p> <p>14 Q Have you taken classes in 2024?</p> <p>15 A I have carryover hours and I'm signed up</p> <p>16 to take seven more.</p> <p>17 Q Do you recall any continuing legal</p> <p>18 education courses you've taken in the last five</p> <p>19 years?</p> <p>20 A I should. I took some last year. I can't</p> <p>21 recall what they were, but I know I took them.</p> <p>22 Q How do you choose the courses you decide</p> <p>23 to take?</p> <p>24 A I look for courses that are offline so</p> <p>25 that I can do them without having to travel to go</p>	<p style="text-align: right;">Page 59</p> <p>1 classes you've taken?</p> <p>2 A I do not.</p> <p>3 Q So starting at the top of the first page</p> <p>4 of this Exhibit 6, it looks like last December you</p> <p>5 took Social Security Retirement and Survivors</p> <p>6 Benefits: Maximizing Outcomes for your Clients.</p> <p>7 A Uh-huh.</p> <p>8 Q And Corporate Counsel Seminar.</p> <p>9 A Uh-huh.</p> <p>10 Q Are those areas that are relevant to you</p> <p>11 personally or for your legal work?</p> <p>12 A The first one is not. I don't remember</p> <p>13 what the Corporate Counsel Seminar was about.</p> <p>14 Q Well, you've been a corporate counsel for</p> <p>15 30 plus years; right?</p> <p>16 A That's correct.</p> <p>17 Q So that's a Corporate Counsel Seminar?</p> <p>18 A But you don't know what was said in it.</p> <p>19 Q True.</p> <p>20 A So it could be stuff that I would think</p> <p>21 was a rehash of everything I knew or it could be</p> <p>22 something different.</p> <p>23 Q But when you signed up for a CLE course,</p> <p>24 you can look at what the topics are going to be;</p> <p>25 right?</p>
<p style="text-align: right;">Page 58</p> <p>1 see them, and then I just pick the ones I need to</p> <p>2 get my hours.</p> <p>3 Q You agree that you get to choose what</p> <p>4 courses you want to take?</p> <p>5 A Sure. As long as they're accredited with</p> <p>6 Oklahoma, yes.</p> <p>7 Q No one at the Oklahoma Bar Association has</p> <p>8 forced you to choose any particular CLE course?</p> <p>9 A No.</p> <p>10 Q Is it helpful to have the option of taking</p> <p>11 courses that interest you?</p> <p>12 A Well, certainly. Since I have to do it,</p> <p>13 I'd like to have ones that interest me, yes.</p> <p>14 (Exhibit 6 marked for identification.)</p> <p>15 Q (BY MS. HINTZ) Exhibit 6, I'll just</p> <p>16 represent that this is your Oklahoma Continuing</p> <p>17 Legal Education Commission Attorney Credit Report.</p> <p>18 A Okay.</p> <p>19 Q That the most recent taken date is</p> <p>20 December 11, 2023. If you look at the second page,</p> <p>21 the earliest date is September 20, 2017. Do you see</p> <p>22 that?</p> <p>23 A Yes.</p> <p>24 Q Do you have any reason to doubt that this</p> <p>25 is your -- an accurate representation of the CLE</p>	<p style="text-align: right;">Page 60</p> <p>1 A I believe that's the case, yes.</p> <p>2 Q So at least the title there, Corporate</p> <p>3 Counsel Seminar, would relate to your work, your</p> <p>4 career work as a lawyer?</p> <p>5 A Yes.</p> <p>6 Q Then we have "CHATGPT and Generative AI:</p> <p>7 What Lawyers Need to Know."</p> <p>8 A Uh-huh.</p> <p>9 Q Do you remember taking that course?</p> <p>10 A I do not.</p> <p>11 Q Below that is "Part 1, Reg D Offerings and</p> <p>12 Private Placements, 2023." Do you see that?</p> <p>13 A I do.</p> <p>14 Q So presumably, that's relevant to your</p> <p>15 corporate work you've done since we've already</p> <p>16 established you did EDGAR filings and other</p> <p>17 corporate filings for Unit; correct?</p> <p>18 A That's correct.</p> <p>19 Q Then below that is "Preserving Privilege</p> <p>20 in the Corporate Setting." That, I imagine, is</p> <p>21 something that's important to you as a corporate</p> <p>22 lawyer?</p> <p>23 A Uh-huh. It is.</p> <p>24 Q "Ethical and Practical Risks of Using</p> <p>25 Technology: What You and Your Client Need to Know."</p>

<p>Page 61</p> <p>1 Is that something that would be relevant</p> <p>2 to your practice as a corporate lawyer?</p> <p>3 A I don't know that it is or is not,</p> <p>4 frankly. That's such a broad statement. So it</p> <p>5 would be dependent on what they were, I think.</p> <p>6 Q Do you remember the course?</p> <p>7 A No, I do not.</p> <p>8 Q But you picked it?</p> <p>9 A Yes, I picked it.</p> <p>10 Q Below that is "West Virginia Versus EPA:</p> <p>11 The Future of Climate Change Regulation Under the</p> <p>12 Clean Air Act." Do you see that?</p> <p>13 A I do.</p> <p>14 Q Do you remember taking that?</p> <p>15 A I do vaguely that one, yes.</p> <p>16 Q Was that something that interested you</p> <p>17 intellectually or was that relevant to your work?</p> <p>18 A It was just out of curiosity.</p> <p>19 Q Below that we have "Record Retention and</p> <p>20 Information Management for Lawyers: A Modern Guide</p> <p>21 for Preserving, Destroying."</p> <p>22 A Uh-huh.</p> <p>23 Q That is something that was relevant to</p> <p>24 your work as corporate counsel?</p> <p>25 A It would be.</p>	<p>Page 63</p> <p>1 Q I think you testified that you did</p> <p>2 insurance work when you were with Unit, including</p> <p>3 workers' compensation insurance; is that right?</p> <p>4 A Yes.</p> <p>5 Q And below that, "Legal Ethics in Employee</p> <p>6 Benefits: The Fiduciary Exception and Other</p> <p>7 Practice Dilemmas." Relevant to your practice as a</p> <p>8 corporate lawyer in the human resources area?</p> <p>9 A More for my just intellectual knowledge.</p> <p>10 Q All right. "Accounting for Lawyers: The</p> <p>11 Basics and Beyond 2021," relevant to your work?</p> <p>12 A Not really.</p> <p>13 Q Just intellectual curiosity?</p> <p>14 A Uh-huh.</p> <p>15 Q Moving on a couple rows. "M&A Agreement</p> <p>16 Survival Guide," you took that in 2020. Was that</p> <p>17 relevant to your corporate practice, mergers and</p> <p>18 acquisition at the time?</p> <p>19 A That's an area that I had worked in. I</p> <p>20 can't remember the details of that particular</p> <p>21 seminar.</p> <p>22 Q Well, and shortly thereafter, you were</p> <p>23 negotiating in the bankruptcy with respect to Unit</p> <p>24 and its assets; right?</p> <p>25 A I wasn't negotiating.</p>
<p>Page 62</p> <p>1 Q Below that we have "Preparing for the</p> <p>2 Corporate Transparency Act." Again, pertinent to</p> <p>3 your practice as a corporate lawyer?</p> <p>4 A Yes.</p> <p>5 Q Below that, "Lawyers Behaving Badly: How</p> <p>6 to Respond to Uncivil and Unprofessional Conduct."</p> <p>7 That's probably something that's pertinent to all of</p> <p>8 us as lawyers?</p> <p>9 A I would think so.</p> <p>10 Q Below that, "Letters of Intent: Execute</p> <p>11 the Deal, Skip the Courtroom." Is that something</p> <p>12 that would be relevant to your corporate practice?</p> <p>13 A It could be.</p> <p>14 Q Below that, "Drafting LLC Agreements: Top</p> <p>15 10 Mistakes and Oversights." Relevant to your work?</p> <p>16 A It could be.</p> <p>17 Q "Ethical Negotiations: Six Principles for</p> <p>18 Effective (but Not Deceptive) Advocacy." Relevant</p> <p>19 to your work?</p> <p>20 A Relevant to everybody's work.</p> <p>21 Q Below that, "D&O Insurance: Managing</p> <p>22 Liability in Today's Corporate Climate." Relevant</p> <p>23 to your corporate legal practice?</p> <p>24 A It's an area I have to deal with or had to</p> <p>25 deal with.</p>	<p>Page 64</p> <p>1 Q You didn't negotiate that?</p> <p>2 A No.</p> <p>3 Q Did you have any involvement in it or</p> <p>4 oversee it?</p> <p>5 A I had involvement, as I was supposed to</p> <p>6 sign all the documents, but that was --</p> <p>7 Q You did sign all the documents?</p> <p>8 A The ones they had asked me to sign.</p> <p>9 Q And similarly, at the same time, it looks</p> <p>10 like you took -- in November and December you took</p> <p>11 M&A was December of 2020, and in November of 2020</p> <p>12 you took "Drafting Asset Purchase Agreements:</p> <p>13 Minimizing the Most Commonly Disputed Issues."</p> <p>14 Is that accurate?</p> <p>15 A I did take that. Assuming this is</p> <p>16 correct, I took it.</p> <p>17 Q It looks like you were interested in that</p> <p>18 topic at that time. Below that, second from the</p> <p>19 bottom, "What Litigators Should Know About Contract</p> <p>20 Drafting," is that something you chose to take?</p> <p>21 A Yes.</p> <p>22 Q Turning to the second page, the fourth one</p> <p>23 from the top, "The Conservative Case for Class</p> <p>24 Actions." You took that in January of 2020. Do you</p> <p>25 remember that?</p>

<p>Page 65</p> <p>1 A Do I remember it? No.</p> <p>2 Q Is that relevant to your corporate</p> <p>3 practice?</p> <p>4 A Yes. More of an intellectual.</p> <p>5 Q Below that, "Negotiating Business</p> <p>6 Contracts," that's pertinent to your corporate</p> <p>7 contract?</p> <p>8 A Yes.</p> <p>9 Q I'm sorry, corporate legal work, not</p> <p>10 corporate contract.</p> <p>11 A It would be relevant to my contracts, too.</p> <p>12 Q Yes, to your contracts you did in your</p> <p>13 corporate practice.</p> <p>14 Let's see, ten, ten from the top on</p> <p>15 December 23, 2019, again, "Advanced Mergers and</p> <p>16 Acquisitions," something you had interest in in</p> <p>17 your corporate work?</p> <p>18 A Yes.</p> <p>19 Q Right below that, "Understanding How</p> <p>20 Regulation M Applies to your Offering," something</p> <p>21 relevant to your corporate legal work for Unit?</p> <p>22 A Not really. Just more of an intellectual,</p> <p>23 just wanting to know.</p> <p>24 Q You didn't do any Reg M filings?</p> <p>25 A I can't say we never did, but I certainly</p>	<p>Page 67</p> <p>1 A I think I signed up for a Facebook account</p> <p>2 when it first came out, and I never got back on it.</p> <p>3 Q Do you have an Instagram account?</p> <p>4 A I think the same thing. I think I signed</p> <p>5 up when it first came out and never got back on it.</p> <p>6 Q Would it be under your name, Mark Schell,</p> <p>7 or would it be under some kind of other --</p> <p>8 A No. It should be under my name.</p> <p>9 Q Do you have a Twitter or an X account?</p> <p>10 A No.</p> <p>11 Q You never have?</p> <p>12 A No.</p> <p>13 Q Are you on LinkedIn?</p> <p>14 A Yes.</p> <p>15 Q Do you maintain a LinkedIn actively?</p> <p>16 A No.</p> <p>17 Q Are you active in any way on any other</p> <p>18 social media accounts?</p> <p>19 A No. I don't believe I am.</p> <p>20 Q Do you follow the Oklahoma Bar Association</p> <p>21 on social media?</p> <p>22 A No.</p> <p>23 Q Have you ever reviewed Oklahoma Bar</p> <p>24 Association's social media accounts?</p> <p>25 A No.</p>
<p>Page 66</p> <p>1 don't recall doing any.</p> <p>2 Q You would agree with me that it's helpful</p> <p>3 to have the option of taking courses that relate to</p> <p>4 areas in which you practice law?</p> <p>5 A Assuming you have to take them, yes.</p> <p>6 Q Do you contend in this litigation that</p> <p>7 having CLE courses to choose from violates your</p> <p>8 First Amendment rights?</p> <p>9 A Because it's a Bar mandated, I do.</p> <p>10 Q That wasn't my question. My question was:</p> <p>11 Do you contend that having CLE courses to choose</p> <p>12 from, being able to choose from a variety of</p> <p>13 courses, violates your First Amendment rights?</p> <p>14 MR. FREEMAN: Form.</p> <p>15 A Having -- please repeat that again so I</p> <p>16 can --</p> <p>17 Q (BY MS. HINTZ) Do you contend in this</p> <p>18 litigation that having an array of CLE courses to</p> <p>19 choose from violates your First Amendment rights?</p> <p>20 MR. FREEMAN: Form.</p> <p>21 A Just having them available, no, I don't</p> <p>22 think it does.</p> <p>23 Q (BY MS. HINTZ) Are you on social media?</p> <p>24 A No.</p> <p>25 Q Do you have a Facebook?</p>	<p>Page 68</p> <p>1 Q Do you read the Oklahoma Bar Journal?</p> <p>2 A Occasionally.</p> <p>3 Q Do you get it in paper form or do you look</p> <p>4 at it online?</p> <p>5 A I get, I believe, a notice, an electronic</p> <p>6 notice that the Bar Journal is available. When it</p> <p>7 was only in paper form, I received it in paper form.</p> <p>8 Q And have you reviewed it since it's been</p> <p>9 available electronically?</p> <p>10 A I have reviewed some of them, yes.</p> <p>11 Q Have you ever submitted an article for</p> <p>12 publication in the Oklahoma Bar Journal?</p> <p>13 A Yes, I think I did.</p> <p>14 Q When was that?</p> <p>15 A Oh, Lord. It was dealing with the Energy</p> <p>16 Litigation Reform Act, as I recall, and I don't</p> <p>17 remember when that was passed. But the gentleman</p> <p>18 was the primary author and he asked since I had</p> <p>19 helped work on that legislation, if it would be okay</p> <p>20 to include my name, and I said fine.</p> <p>21 Q So was it published?</p> <p>22 A I believe it was.</p> <p>23 Q Can you put that in any kind of time frame</p> <p>24 for me? The gentleman that you worked with, was</p> <p>25 that someone you knew at Unit?</p>

<p style="text-align: right;">Page 73</p> <p>1 Q (BY MS. HINTZ) Well, you didn't watch</p> <p>2 them before you put them --</p> <p>3 A I did not watch them, no, if that was your</p> <p>4 question.</p> <p>5 Q Did your lawyers decide which programs to</p> <p>6 challenge in the lawsuit?</p> <p>7 MR. FREEMAN: Form; foundation.</p> <p>8 A Did my lawyers decide? I think we</p> <p>9 discussed those things, but that would be privilege.</p> <p>10 So I'm not sure how to answer your question.</p> <p>11 Q (BY MS. HINTZ) When did you form the</p> <p>12 intent to file the lawsuit at issue?</p> <p>13 A I have been considering it for a very long</p> <p>14 time.</p> <p>15 Q When did you form the intent to do it?</p> <p>16 MR. FREEMAN: Form.</p> <p>17 A When did I form the intent? It would have</p> <p>18 been sometime, obviously, before the lawsuit was</p> <p>19 filed, but I can't tell you exactly how long.</p> <p>20 Q (BY MS. HINTZ) Did you assist in drafting</p> <p>21 the initial complaint?</p> <p>22 A Did I insist on drafting it?</p> <p>23 Q Assist.</p> <p>24 A Assist.</p> <p>25 MR. FREEMAN: Form.</p>	<p style="text-align: right;">Page 75</p> <p>1 A Please, you need to help me out when you</p> <p>2 say "assisted."</p> <p>3 Q (BY MS. HINTZ) Did you make edits?</p> <p>4 A I'm sure I may have made edits.</p> <p>5 Q Have you read or reviewed any part of the</p> <p>6 10th Circuit Court of Appeals order in this case?</p> <p>7 A I read it when it came out.</p> <p>8 Q What do you recall about it?</p> <p>9 A That part of it survived, part of it</p> <p>10 didn't, and it was sent back down.</p> <p>11 Q Do you recall that the 10th Circuit</p> <p>12 determined that a number of articles that you</p> <p>13 challenged were on their face germane?</p> <p>14 A I don't recall that. I do recall, I</p> <p>15 think, that there was a time limit imposed.</p> <p>16 Q Were you involved in the decision to file</p> <p>17 a second amended complaint?</p> <p>18 A I'm sure I was.</p> <p>19 Q And, again, did you assist in drafting the</p> <p>20 second amended complaint?</p> <p>21 A I would have reviewed it and made whatever</p> <p>22 edits I thought might have been appropriate.</p> <p>23 Q Did you, again, with the second amended</p> <p>24 complaint review any of the continuing legal</p> <p>25 education courses that are challenged in the</p>
<p style="text-align: right;">Page 74</p> <p>1 A I reviewed it and I may have made some</p> <p>2 changes, comments, etc.</p> <p>3 Q (BY MS. HINTZ) You don't specifically</p> <p>4 recall?</p> <p>5 A No, I don't.</p> <p>6 Q Do you recall when it was filed?</p> <p>7 A As we sit here, no.</p> <p>8 Q Did you assist in drafting the amended</p> <p>9 complaint?</p> <p>10 A Again, I'm sure I looked at it and had</p> <p>11 comments, suggestions, etc.</p> <p>12 Q But you don't recall?</p> <p>13 A But I don't recall.</p> <p>14 Q Do you know why the complaint was amended?</p> <p>15 A I believe it was because of some rulings</p> <p>16 that were made. I don't recall that specifically.</p> <p>17 Q You don't have any specific knowledge?</p> <p>18 A I did at one time, but I certainly don't</p> <p>19 now.</p> <p>20 Q Did you assist in drafting any of the</p> <p>21 appellate briefing in this case?</p> <p>22 A Again, I'm sure I reviewed it.</p> <p>23 Q But you don't recall whether you assisted</p> <p>24 in drafting it?</p> <p>25 MR. FREEMAN: Form.</p>	<p style="text-align: right;">Page 76</p> <p>1 complaint before it was filed?</p> <p>2 A My recollection is that I had reviewed</p> <p>3 several of them.</p> <p>4 Q You took the course?</p> <p>5 A I didn't hear you say "took the course."</p> <p>6 Q Reviewing -- let me rephrase it. Did you</p> <p>7 take the course?</p> <p>8 A Did I take the course? Well, without</p> <p>9 looking at them specifically, I couldn't be</p> <p>10 absolutely sure, but I probably did not take the</p> <p>11 courses, plural.</p> <p>12 Q Are you aware that your lawsuit challenges</p> <p>13 the Lexology service offered to Oklahoma Bar</p> <p>14 members?</p> <p>15 A That Lexology service, perhaps you need to</p> <p>16 explain that. Refresh my memory.</p> <p>17 Q I would just like to know if you're aware</p> <p>18 of that?</p> <p>19 A As you stated it, I'm not aware of it.</p> <p>20 Q Do you know what the Lexology service is?</p> <p>21 A No.</p> <p>22 Q Do you know what the basis of your First</p> <p>23 Amendment challenge to the Lexology service is?</p> <p>24 A I'd have to go back and look at it, but I</p> <p>25 don't recall as I sit here.</p>

<p style="text-align: right;">Page 77</p> <p>1 Q Do you recall receiving emails from a 2 Lexology service? 3 A I received emails from a Lexology service? 4 Q I'm asking if you recall ever having 5 received one. 6 A Would they say Lexology? 7 Q I'm just asking what you recall. 8 A I received a lot of emails. Whether I 9 received any from them or not, I don't know. 10 Q Is it your contention that when a person 11 reads an article published in the Oklahoma Bar 12 Journal, that person could reasonably believe it's 13 your speech? 14 MR. FREEMAN: Form. 15 A When you say me, are you referring to the 16 author of the article? 17 Q (BY MS. HINTZ) Is it your contention, 18 that when a person reads an article published in 19 the Oklahoma Bar Association, that person could 20 reasonably believe it is your speech? 21 A I see. 22 MR. FREEMAN: Form. 23 A Yeah. I mean, I think it depends on the 24 article. 25 Q (BY MS. HINTZ) Do you think that the</p>	<p style="text-align: right;">Page 79</p> <p>1 and do it. 2 We talked about how I thought that the Bar 3 was active in some of this stuff and shouldn't be, 4 judges were active and shouldn't be, and what we 5 could do about it and what we couldn't do about it, 6 and whether some of the articles that the Bar was 7 publishing were appropriate, etc. There were just a 8 lot of things we talked about. 9 Q You just testified that you discussed 10 that -- I believe the word you used was "judges were 11 doing that." 12 A Uh-huh. 13 Q What do you mean by "doing that"? 14 A Like I previously testified, we had one 15 Supreme Court judge apparently come down and 16 advocate against a bill that was pending, and then 17 I know that we had a district court judge call the 18 head of the judiciary committee at that time and 19 tell him he better not pass that thing. 20 Q And you recall discussing those with other 21 people? 22 A I do. I recall the discussions. I can't 23 recall all the specifics. 24 Q Who did you have the discussions with? 25 A Well, the one gentleman, he's a lawyer in</p>
<p style="text-align: right;">Page 78</p> <p>1 article that you published back in the day is my 2 speech? 3 A Do I think it's your speech? The article 4 was nothing but an explanation of the law. So it's 5 not really anybody's speech. 6 Q You indicated that you thought about 7 filing this lawsuit before it was filed; is that 8 accurate? 9 A Yes. 10 Q Did you talk about the issues related to 11 the challenges that you're bringing in your lawsuit 12 with anyone before you filed the lawsuit? 13 A Yes. I'm sure I did. 14 Q Do you remember who you talked to? 15 A I know I -- excuse me. I spoke with a 16 number of people over a time period, legislators, 17 lobbyists, other lawyers about various issues and 18 then other businessmen that I knew and associated 19 with. There were quite a few people, but to ask me 20 if I remember specifically, I can't. 21 Q What issues did you talk about? 22 A We talked about a lot of things. We 23 talked about how plaintiffs' lawyers were very 24 active at the legislature and other -- if you wanted 25 to assert a position, you needed to go down there</p>	<p style="text-align: right;">Page 80</p> <p>1 Sapulpa, on the work comp thing. I can't recall his 2 name right now, though. It's been too many years 3 ago. 4 I don't recall which, whether it was the 5 House or the Senate judiciary committee member that 6 told me about Justice Gurich's involvement. 7 Q You said "the workers' comp thing" just a 8 moment ago. What did you mean by that? 9 A The reform effort. I'm sorry. The work 10 comp reform effort. 11 Q So you believe that there was activity 12 before workers' comp was changed? 13 A Activity? 14 Q You said judges were doing it. 15 A While we were trying to get the reform 16 bill passed, there was a lot of activity insofar as 17 lobbying for and against the bill by various people. 18 Q And you personally were in favor of the 19 workers' compensation bill? 20 A Very much so. 21 Q And you succeeded. It was revised, it was 22 changed, right, in 2012 or thereabouts? 23 A Yes. 24 Q Have you ever communicated in writing, by 25 letter or email, with anyone, other than your</p>

<p>Page 89</p> <p>1 Q You would agree with me that there are 2 Oklahoma citizens that you normally would not want 3 to be associated with?</p> <p>4 A There are some people I would not want to 5 be associated with. That's correct.</p> <p>6 Q And you would agree with me that each 7 Oklahoma citizen is entitled to competent 8 representation in their personal legal matters?</p> <p>9 A Yes.</p> <p>10 Q And you would agree with me that other 11 people's legal matters may involve behaviors or 12 views that you do not want to be associated with?</p> <p>13 A Other people's legal matters. Are you 14 talking about positions they're asserting or 15 something like that?</p> <p>16 Q Well, the question is: You would agree 17 that other people's legal matters may involve 18 behaviors or views you may not want to be associated 19 with?</p> <p>20 A That's probably correct.</p> <p>21 Q But you would agree with me that lawyers 22 generally have a legal obligation to provide 23 competent legal representation to people who have a 24 legal need that they need addressed?</p> <p>25 MR. FREEMAN: Form; foundation.</p>	<p>Page 91</p> <p>1 A In a sense I am because I don't believe 2 that the Oklahoma Bar is regulating lawyers in the 3 least intrusive means possible.</p> <p>4 Q (BY MS. HINTZ) My question is: Are you 5 challenging the Oklahoma Bar Association's right to 6 adopt rules of professional conduct regulating 7 lawyers?</p> <p>8 MR. FREEMAN: Form.</p> <p>9 A Am I challenging the Bar?</p> <p>10 MS. HINTZ: Can you read it back.</p> <p>11 COURT REPORTER: "My question is: Are you 12 challenging the Oklahoma Bar Association's right to 13 adopt rules of professional conduct regulating 14 lawyers?"</p> <p>15 MR. FREEMAN: Foundation as well.</p> <p>16 A I don't believe I am.</p> <p>17 Q (BY MS. HINTZ) And you would agree with 18 me that the rules of professional conduct in 19 Oklahoma are adopted and approved by the Oklahoma 20 Supreme Court?</p> <p>21 A Yes.</p> <p>22 (Break taken from 12:03 p.m. to 12:12 23 p.m.)</p> <p>24 Q (BY MS. HINTZ) Mr. Schell, we're 25 reassuming this deposition after you had a chance</p>
<p>Page 90</p> <p>1 A Assuming they take that person on as a 2 client, they certainly do.</p> <p>3 Q (BY MS. HINTZ) You agree that the 4 prevailing legal authorities, the Lathrop case and 5 the Keller case, US Supreme Court cases, allow 6 mandatory bars to regulate the legal profession; 7 right?</p> <p>8 MR. FREEMAN: Form; foundation.</p> <p>9 A The two cases you mentioned, which ones 10 were those?</p> <p>11 Q (BY MS. HINTZ) The Lathrop case and the 12 Keller case. They're cited in your pleadings.</p> <p>13 A And Keller. I thought there was another 14 one. Well, anyway, right now, the status of the Bar 15 is, as I understand it, mandatory bars are --</p> <p>16 Q My question is that the existing 17 prevailing case law allows mandatory bars to 18 regulate the legal profession?</p> <p>19 MR. FREEMAN: Form; foundation.</p> <p>20 A Yes.</p> <p>21 Q (BY MS. HINTZ) So you aren't challenging 22 in your lawsuit the Oklahoma Bar Association's 23 obligation and right to adopt rules of professional 24 conduct regulating lawyers; right?</p> <p>25 MR. FREEMAN: Form and foundation.</p>	<p>Page 92</p> <p>1 to have a break; right?</p> <p>2 A Yes. That's correct.</p> <p>3 Q You know you're still under oath?</p> <p>4 A I do.</p> <p>5 Q Just a little bit ago we were discussing 6 the rules creating and controlling the Oklahoma Bar 7 Association. Do you remember that?</p> <p>8 A Yes.</p> <p>9 Q And I asked you if you had ever reviewed 10 them, and you testified about that.</p> <p>11 A That's correct.</p> <p>12 Q You don't have any reason to disagree 13 with me that the rules creating and controlling the 14 Oklahoma Bar Association are promulgated by the 15 Oklahoma Supreme Court, do you?</p> <p>16 MR. FREEMAN: Form; foundation.</p> <p>17 A That's my understanding.</p> <p>18 Q (BY MS. HINTZ) And you testified just 19 before the break that you agree that the rules of 20 professional conduct in Oklahoma are approved by the 21 Oklahoma Supreme Court; correct?</p> <p>22 A Yes.</p> <p>23 (Exhibit 7 marked for identification.)</p> <p>24 Q (BY MS. HINTZ) Take a second to review 25 this.</p>

1 representation requires the legal knowledge, skill,
2 thoroughness and preparation reasonably necessary
3 for the representation."

4 Did I read that accurately?

5 A Yes.

6 Q And then looking at section numerically
7 numbered 6 there on the second page of the Rules of
8 Professional Conduct says, "To maintain the
9 requisite knowledge and skill, a lawyer should keep
10 abreast of changes in the law and its practice,
11 engage in continuing study and education and comply
12 with all the continuing legal education requirements
13 to which the lawyer is subject."

14 And then it continues on. Do you agree
15 with that? Did I read that accurately?

16 A Yes.

17 Q And, again, you would agree with me that
18 it's appropriate that a lawyer is competent in the
19 area as to which he is going to represent his
20 client; right?

21 A Yes.

22 Q And you would agree that to provide
23 competent representation, a lawyer must maintain a
24 requisite knowledge and skill and keep abreast of
25 changes in the law and practice as the rule states;

1 right?

2 A That's what it says, yes.

3 Q But you agree that that makes sense,
4 right, to be competent, you have to keep abreast of
5 changes in the law?

6 A I agree with that statement.

7 Q And maintain a requisite knowledge and
8 skill to do so?

9 A I agree with that statement.

10 Q And do you agree that having access to
11 articles that contain information about updates in
12 the law can help a lawyer maintain the requisite
13 skill and knowledge in his area of practice?

14 A That those articles that discuss the
15 changes in the law, yes, I agree.

16 Q Do you agree that having access to
17 articles that contain information explaining the
18 history and development of laws can help a lawyer
19 maintain the requisite skill and knowledge in his
20 area?

21 A It's possible they do, yes.

22 Q Do you agree that having access to
23 articles that explain how existing laws may be
24 applied to different groups of Oklahomans can help
25 a lawyer maintain the requisite skill and knowledge

1 in this area?

2 A I think it comes down to what that article
3 or information is, frankly.

4 Q Well, I'm asking the question. If an
5 article explains how existing laws may be unequally
6 applied to different groups of Oklahomans, can that
7 help a lawyer maintain skill in representing
8 Oklahomans?

9 MR. FREEMAN: Form.

10 A I think if it's just the law that's
11 applied, yes, I agree with that.

12 Q (BY MS. HINTZ) If a lawyer has a civil
13 rights practice, do you agree that articles
14 explaining disparities in application of existing
15 laws might help that lawyer maintain competence in
16 his field?

17 A It could.

18 Q You testified earlier that you discussed
19 the lawsuit and provided copies of documents related
20 to the lawsuit to OCPA and -- an OCPA member and
21 what was the Federal Bar Association you mentioned?

22 A Federalist Society.

23 Q Federalist Society; right?

24 A I think what I testified, I discussed it
25 with those people. Whether I said I actually gave

1 them all a copy of the lawsuit, I'm not sure, but I
2 did give several people copies of the lawsuit.

3 Q Since we took a little break, do you
4 remember the name of the person at the OCPA that
5 you discussed this litigation with?

6 A No, I don't. It will come to me
7 eventually.

8 Q Was it a man or a woman?

9 A It was a man.

10 Q Do you recall the nature of your
11 conversations?

12 A No. I just know that he felt the same way
13 I did about a lot of this. So I just shared the
14 lawsuit with him.

15 Q Did the OCPA or its membership encourage
16 you to file the lawsuit?

17 A No.

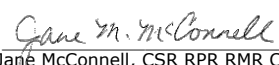
18 Q Did the Federalist Society encourage you
19 to file the lawsuit?

20 A No.

21 Q Did any member of the Federalist Society
22 encourage you to bring a lawsuit?

23 A No.

24 Q Is the OCPA or Federalist Society funding
25 your lawsuit?

<p style="text-align: right;">Page 133</p> <p>1 JURAT</p> <p>2 Schell vs. Janet Johnson, et al.</p> <p>3 I, MARK SCHELL, do hereby state under oath</p> <p>4 that I have read the above and foregoing deposition</p> <p>5 in its entirety and that the same is a full, true</p> <p>6 and correct transcription of my testimony so given</p> <p>7 at said time and place.</p> <p>8</p> <p>9</p> <p>10 _____</p> <p>11 Signature of Witness</p> <p>12</p> <p>13</p> <p>14 Subscribed and sworn to before me, the</p> <p>15 undersigned Notary Public in and for the State of</p> <p>16 Oklahoma by said witness, MARK SCHELL, on this</p> <p>17 _____ day of _____, 2024.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 _____</p> <p>22 NOTARY PUBLIC</p> <p>23 MY COMMISSION EXPIRES: _____</p> <p>24 (JMc) JOB FILE #171857</p> <p>25</p>	<p style="text-align: right;">Page 135</p> <p>1 CERTIFICATE</p> <p>2 STATE OF OKLAHOMA)</p> <p>3) SS:</p> <p>4) COUNTY OF OKLAHOMA)</p> <p>5 I, Jane McConnell, Certified Shorthand</p> <p>6 Reporter within and for the State of Oklahoma, do</p> <p>7 hereby certify that the above-named MARK SCHELL was</p> <p>8 by me first duly sworn to testify the truth, the</p> <p>9 whole truth, and nothing but the truth, in the case</p> <p>10 aforesaid; that the above and foregoing deposition</p> <p>11 was by me taken in shorthand and thereafter</p> <p>12 transcribed; and that I am not an attorney for nor</p> <p>13 relative of any of said parties or otherwise</p> <p>14 interested in the event of said action.</p> <p>15 IN WITNESS WHEREOF, I have hereunto set my</p> <p>16 hand and official seal this 6th day of December,</p> <p>17 2024.</p> <p>18 </p> <p>19 Jane McConnell, CSR RPR RMR CRR</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 134</p> <p>1 ERRATA SHEET</p> <p>2 Schell vs. Janet Johnson, et al.</p> <p>3 DEPOSITION OF MARK SCHELL</p> <p>4 REPORTED BY: Jane McConnell, CSR RPR RMR CRR</p> <p>5 DATE DEPOSITION TAKEN: November 26, 2024</p> <p>6 JOB FILE NO. 171857</p> <p>7 PAGE LINE IS SHOULD BE</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>	