



# In Brief

“It’s Not Spam”

Feldman Franden  
Woodard & Farris

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## Oklahoma Sets Limits on Passenger Contributory Negligence

The saga of Oklahoma’s passenger contributory negligence jurisprudence continued with the recent decision in *Snyder v. Maldonado Onefre Dominuez*, 2008 OK 53. The Oklahoma Supreme Court concluded that the trial court erred in instructing the jury on contributory negligence when there was neither direct nor reasonable circumstantial evidence leading to an inference of passenger contributory negligence. This decision does not explicitly overrule established precedent. But it does represent an effort by the Oklahoma Supreme Court to provide a more definitive standard for the defense of passenger contributory negligence.

The facts neither supported a finding of direct evidence

of the passenger negligence, nor could any inference of negligence be drawn from the available evidence that would be anything other than speculation. *Miller v. Price*, 1934 OK 332, 33 P.2d 332 (holding that where no weather, mechanical, nor driver incapacity issues existed, there was no basis for an inference of passenger negligence). *Id.* at ¶ 22. The Court found no showing of a preexisting condition or any evidence of an intervening change that was significant enough to put a reasonable passenger on alert. Therefore, it concluded that the surrounding circumstances did not give rise to the level of “minimal evidence” required for a passenger contributory negligence instruction.

Absent “excessive speed, careless driving, bad weather, or any other condition which would have



It is clearly unsafe to back over a bridge onto a telephone pole. The passenger should have spoken up.

alerted the passenger of the need to take affirmative action for their own safety” no contributory negligence instruction is warranted.

## We are proud of . . .

our lawyers for their recent accomplishments

**Paula Quillin** for winning a corporate client’s appeal of a suit alleging discrimination and Equal Pay Act violations.

**Curtis Roberts** and **Joe Farris**, for successfully defending the appeal of a wrongful death case which they had tried. The jury returned a defense verdict for the trucking company.

**Belinda Aguilar** for winning an appeal, affirming the dismissal of a case for lack of personal jurisdiction.

**Jason Goodnight**, for winning summary judgment for a rental truck company in a wrongful death case. Also, Jason won \$5 in the scratch-off lottery.

**Paula Quillin** for winning summary judgment in favor of a lawyer sued for wiretapping.

**Harry Parrish** succeeded in obtaining a writ in the Oklahoma Supreme Court to prevent the continuation of a personal injury claim, when a property damage suit had already been concluded.

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### NEW ADDRESS on October 1, 2008:

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## Where has IN BRIEF been?

Our loyal readers have asked where IN BRIEF has been the last several months. Thanks to both of you for asking.

Your inquiries prompted the firm to go around to the offices of the IN BRIEF staff to inquire. We found the offices empty.

Frankly, we had not noticed that the newsletter staff was gone. All they do is write the newsletter.

When we go to look for them, their secretaries say that they are out on a story. After being given this explanation several times, one of the partners mentioned that all of the alleged "news" reported by the newsletter staff occurs right here in the office, or is made up.

What the staff didn't realize is that the pay-as-you-go cell phones they carry are equipped with GPS.

So where have they been? Las Vegas, New York, Hawaii, Mexico, California, Texas . . . you name it.

A call to one of John Woodard's colleagues who supervises Border Patrol enabled us to nab them as they crossed the Mexican border into southern California.

They are back, and we're watching those expense accounts very closely now.



They weren't that hard to find, using a GPS locator.

## How many lawyers does it take to change a light bulb?

Whereas the party of the first part, also known as "Lawyer", and the party of the second part, also known as "Light Bulb", do hereby and forthwith agree to a transaction wherein the party of the second part (Light Bulb) shall be removed from the current position as a result of failure to perform previously agreed upon duties, i.e., the lighting, elucidation, and otherwise illumination of the area ranging from the front (north) door, through the entryway, terminating at an area just inside the primary living area, demarcated by the beginning of the carpet, any spillover illumination being at the option of the party of the second part (Light Bulb) and not required by the afore-

mentioned agreement between the parties.

The aforementioned removal transaction shall include, but not be limited to, the following steps:

- 1.) The party of the first part (Lawyer) shall, with or without elevation at his option, by means of a chair, stepstool, ladder or any other means of elevation, grasp the party of the second part (Light Bulb) and rotate the party of the second part (Light Bulb) in a counter-clockwise direction, this point being non-negotiable.
- 2.) Upon reaching a point where the party of the second part (Light Bulb) becomes separated from the party of the third part

("Receptacle"), the party of the first part (Lawyer) shall have the option of disposing of the party of the second part (Light Bulb) in a manner consistent with all applicable state, local and federal statutes.

- 3.) Once separation and disposal have been achieved, the party of the first part (Lawyer) shall have the option of beginning installation of the party of the fourth part ("New Light Bulb"). This installation shall occur in a manner consistent with the reverse of the procedures described in step one of this self-same document, being careful to note that the rotation should occur in a clockwise direction, this point also being non-negotiable.

The above described steps herein may be performed, at the option of the party of the first part (Lawyer), by any or all persons authorized by him, the objective being to produce the most possible revenue for the party of the fifth part, also known as "Partnership."



It only takes one lawyer to change your light bulb to his light bulb.

## We Are Moving

Since 1986, Feldman Franden Woodard & Farris has called the Park Centre building at 6<sup>th</sup> and Main home. But as the firm continues to grow and expand in the services it offers its clients, a bigger location was needed.

Preparations are in full swing and our new office is already under construction. October 1, 2008 will find Feldman Franden on the 9<sup>th</sup> floor of Williams Tower II,

located at 3<sup>rd</sup> and Boulder in downtown Tulsa. Tower II has an expansive 23 floors and will offer great new views of the Tulsa skyline. It is also within five blocks of the Tulsa County Courthouse, the Federal Courthouse, City Hall, and the downtown library.

This new location will offer great improvements to our clients. This location offers select reserve parking under the building for client

parking. There will also be more conference space, more storage space, and even more room to expand as the firm continues to grow.

The building is also near a skybridge that is connected to the newly renovated Crowne Plaza Hotel, and houses Tulsa's only full service Starbucks Café.



Some of the lawyers are insisting on moving their own valuable breakable items. They are not looting the building.

## Favorite Web Links for Spam Fun

The 3rd Annual Nigerian Email Conference:

[www.j-walk.com/other/conf/](http://www.j-walk.com/other/conf/)

"Write Like an Email

Scammer" Day:

[www.crackunit.com/2008/01/09/write-like-a-email-scammer-day-060208/](http://www.crackunit.com/2008/01/09/write-like-a-email-scammer-day-060208/)

Scammer performing Monty Python's dead parrot sketch:

[www.youtube.com/watch?v=LvyrzQldOKE](http://www.youtube.com/watch?v=LvyrzQldOKE)

Which Nigerian Spammer Are You? Take this test:

[www.bbspot.com/News/2004/04/nigerian\\_quiz2.php](http://www.bbspot.com/News/2004/04/nigerian_quiz2.php)

Classic fun with spam:

[www.xach.com/togo/](http://www.xach.com/togo/)

A Psychoanalytical Conversation Robot Answers Spam

[www.dearspamalyzer.com/](http://www.dearspamalyzer.com/)

Spam-O-Matic:

[blogscoped.com/spam/](http://blogscoped.com/spam/)

*Try it for free NOW! JUST \$29... to good to be troo? I thought s0 too .... at first. Try it now. CLICK HERE [www.buy-lawyers2008.com](http://www.buy-lawyers2008.com)*

## New Insurance Legislation in 2008

36 O.S. 6060.4a. prohibits a health plan from excluding an allowable claim which occurs in conjunction with an arrest or pretrial detention of a policyholder prior to adjudication of guilt and sentencing. Effective 11/1/08.

36 O.S. 6045. A policy that reimburses for any mental or behavioral health or alcohol and drug treatment service shall provide reimbursement equitably, so long as the service provider is practicing in his scope of practice. Effective 11/1.

Amendments to 36 O.S. 625.1 modify the "Home Office Credit" that may be taken by insurers against premium taxes. SB 2122 prohibits a person convicted of a criminal felony involving dishonesty from engaging in the business of insurance.



Oklahoma's Viatical Settlement Act of 2008 is effective November 1, 2008.



## IN BRIEF



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IN BRIEF: Keeping the News In Perspective

## This Edition of IN BRIEF Composed Entirely On An iPod Shuffle

Some members of the firm are using the new iPhone 3G for email, movies, music, drafting personal correspondence, finding the nearest Starbucks locations, playing monkey-themed games, watching videos of themselves on Youtube (videos that they just uploaded on their iphones), and other daily tasks.

"I don't foresee further need for my desktop computer, telephone, GPS, or microwave oven," says Thayla Bohn, who camped out in line for three days to place an order for the phone.

We, the staff of IN BRIEF, cannot afford fancy iPhone devices. Amongst the four of us, we have one cell phone, which we share. We bought it for \$16 on eBay.

It's a "pay as you go" phone, too, so we have to reimburse the firm for the minutes we use. As you might have expected, it's a rotary-dial cell phone. Not too many of those left these days.

So, when it comes to drafting IN BRIEF "on the fly," a term we picked up in the break room from the iPhone users, we used an iPod Shuffle. It only holds 2 GB of songs, which we had to erase to make room for the big graphics that are required for IN BRIEF. Once we got Linux installed, though, the rest was a breeze. We hooked up a monitor and drafted a small program that translates wheel clicks into letters of the alphabet, based on the interval between clicks.

It is all touch typing, so it feels

natural. The Shuffle clips right onto our clothing, so it's always with us. It's nice to have the Shuffle available at all times because unexpected inspiration strikes most often when you are far away from your computer.

After completing the final draft, we then transmitted IN BRIEF over the internet by tapping in the IP address and data against the desk top in Morse Code. The sound was picked up by our desktop computer microphones and translated using Windows Media Player and a speech-to-voice converter.

Feeling empowered by the success of this venture, we plan to start using the Shuffle as a GPS, to find our way to work.



*The lowly Shuffle will produce as good a newsletter as "they" could have written on their fancy iPhones.*