

IN BRIEF

The newsletter of

Feldman, Franden, Woodard, Farris & Boudreaux

March 15, 2002

Tulsa, Oklahoma



FLOATING OVER THE NEWS

NO UM COVERAGE FOR THOSE NOT INSURED

When Dad was killed by an uninsured motorist, son was living with Grandma and qualified as an insured under Grandma's policy. Dad did not live with Grandma, and did not qualify as an insured under Grandma's policy.

A claim was made by Son for benefits for the wrongful death of Dad. The insurance company denied the claim, since Dad was not an insured under Grandma's policy.

The Son claimed he was "a person insured thereunder" who was "legally entitled to recover damages" "because of bodily injury or death." (36 OS § 3636(B).

The policy required that the bodily injury was sustained by an insured. The Son claimed that the policy was in conflict with the statute.

The court of civil appeals affirmed summary judgment for the insurer. While some courts have found that the insured survivors are entitled to coverage, this position was rejected. The court stated:

We hold survivors are not

entitled to recover under their own UM policy for the wrongful death of a person who is not an insured under that policy. We reject Appellant's argument that this conclusion violates public policy. The policy provision allowing recovery for UM benefits is intended to provide indemnity for damages resulting from an insured's wrongful death payable to those persons entitled to bring a wrongful death action. If UM coverage were to be extended for a decedent who is not an insured under the claimant's policy, such coverage would create coverage where none existed under either the terms of the insurance policy or the UM statute.

London v Farmers Ins. Co., Inc., 2003 OK CIV APP 10; (cert denied and mandate issued)

SHORT JOKE

A man was telling his neighbor, "I just bought a new hearing aid. It cost me four thousand dollars, but it's state of the art. It's perfect."

"Really," answered the neighbor. "What kind is it?"

"Twelve thirty."

WE ARE PROUD OF . . .

. . .our lawyers for their recent accomplishments

Jack Freeman and **Thayla Bohn** won a defense verdict for an insurance company in a "bad faith" case. The jury's verdict followed a one-week trial.

Joe Farris and **Jody Nathan** won a federal court appeal in a wrongful death case, involving a truck/ATV collision.

Paula Quillin obtained dismissal of a race discrimination claim.

Joe Farris obtained dismissal of a civil rights suit filed in federal court against a lawyer.

Jason Goodnight mopped the courtroom floor with a plaintiff's lawyer who had the temerity to challenge his motion for protective order.

Joe Farris and **Jason Goodnight** settled a legal malpractice case against our client in the middle of a trial that was not going well for the plaintiff. The settlement was less than it would have cost to complete the trial.

Paul Prather obtained the dismissal of several civil cases.

Joe Farris and **Jody Nathan** obtained dismissal of a legal malpractice case.

Paula Quillin obtained dismissal of a bad faith case against a worker's compensation insurer.

Joe Farris won a motion to dismiss a legal negligence action filed in federal court.

Joe Farris negotiated a partial settlement for our clients of a large class action by the former employees of McDonnell-Douglas Corporation who lost certain ERISA benefits as a result of a plant closing.

Joe Farris and **Thayla Bohn** obtained the dismissal in a case against an insurance agent seeking punitive damages.

John Woodard and **Thayla Bohn** won summary judgment in an ERISA case involving a disability policy. The court found that the administrator's decision was correct in denying benefits, because evidence showed that the plaintiff had a pre-

**OKLAHOMA SUPREME COURT:
NO BAD FAITH AGAINST
WORKERS' COMP INSURERS**

Retreating from what it characterized as dicta in prior opinions, the Oklahoma Supreme Court has now expressly declined to recognize a tort for bad faith against a self-insured employer who failed to pay for medicine prescribed for its employee as ordered by the Workers' Compensation Court. The Court refused to create a common law remedy because the Legislature had provided a statutory remedy in the Workers' Compensation Act.

The Court clearly stated that "No Oklahoma case holds that a workers' compensation insurer has a duty of good faith in paying a workers' compensation award, the violation of which is a tort."

In *Kuykendall v. Gulfstream Aerospace Technologies*, 2002 OK 96, the Court held that no common law remedy is available against an employer which is self-insured even though he fails to pay an award of the workers' compensation court. The wronged employee must follow the remedy provided by 85 O.S. 2001, § 42 (A) — that is, file suit to enforce the award.

**Are You An Anachronism?
Or Just OLD?**

If you don't know who Britany Spears is, you're old.

If you hear her name and launch into a brief dissertation on projectile weapons of the northwest French Coast, you're anachronistic.

Correction

We misspelld the name of the firm with which Jake Woodard (John Woodard's son) is associated. It's **Meagher & Geer, P.L.L.P.** in Minneapolis, Minnesota. Jake can be reached at jwoodard@meagher.com. Don't know howe this teribble mistak happent. We are soooo carefull. Sorry Jake. We now have a new spelcheker so it wonnt happn aggain.

**Man Arrested for Taking
Gideon Bible from
Hospital Room**



We recently ran across an Oklahoma Supreme Court case decided in 2002 that involved a man who was arrested, charged with petty larceny, and served one month in jail because he took the Gideon Bible from his hospital room after he was discharged. Apparently, two overzealous security guards employed at Presbyterian Hospital spotted Mr. Hathaway with the Bible immediately after he was discharged and while he was standing outside the hospital, called the police, and detained Mr. Hathaway until they arrived. Not to be outdone by the security guards, the police arrested Mr. Hathaway for the heinous crime, and kept him in jail for one month until the petty larceny charge was dismissed. It turns out Presbyterian Hospital did not own the Gideon Bible.

Although Mr. Hathaway was successful in pursuing a suit for false arrest and imprisonment, malicious prosecution, and intentional infliction of emotional distress, we think it prudent to warn our readers. Don't take anything from your hospital room or your hotel room, not Gideon Bibles, not those little soaps, not matchbooks, nothing, nada, zip. One month in jail is just not worth it. We wonder if there was a Gideon Bible supplied in his cell. *Hathaway v. State ex rel. Medical Research and Technology Authority*, 2002 OK 53, 49 P.3d 740.



As a senior citizen was driving down the freeway, his car phone rang. Answering, he heard his wife's voice urgently warning him, "Herman, I just heard on the news that there's a car going the wrong way on Interstate 280. Please be careful!" "It's not just one car," said Herman. "It's hundreds of them!"

**Oklahoma Adopts Daubert
Standard for Expert Witnesses**



"The Christians sued after they had attended a circus performance. They alleged that they were injured by airborne chemicals they inhaled while attending the circus." So began the Oklahoma Supreme Court's discussion of the admissibility of expert evidence in state court.

The expert in this case stated that he did not "know exactly what was there in the air" in the arena on the day of the circus, and that he could not state the exact cause of the impairment. He stated that Plaintiff's exposure to lime in the form of an inhalant could have caused the lung impairment. He stated that his opinion, with a reasonable degree of medical certainty, was that "lime exposure or some other type of inhalant that they were exposed to at that time has caused their lung damage." The doctor further stated that Plaintiff's symptoms could have been caused by a "number of things" that could have been airborne. "The only thing that I can give a reasonable, you know, degree of medical certainty is that perhaps the lime exposure or some other type of inhalant that they were exposed to at that time has caused their lung impairment." He stated that he would tell the jury that "I'm going to say from their history and from what I have seen, it's possible that this could be caused from some exposure to chemicals. What chemicals and is it Lime? I don't know."

The trial court ruled that Plaintiff's expert witness was not competent to give a medical opinion on causation and granted a motion in limine, stating that plaintiff's expert "is not competent to give a medical opinion on the cause of injury based upon the test set forth in Daubert and similar cases. On appeal, the Oklahoma Supreme Court adopted Daubert and its progeny as appropriate standards for Oklahoma trial courts in deciding the admissibility of expert tes-

A LESSON IN LIFE

A philosophy professor stood before his class and had some items in front of him. When the class began, wordlessly he picked up a very large and empty mayonnaise jar and proceeded to fill it with rocks, rocks about 2" in diameter. He then asked the students if the jar was full? They agreed that it was. So the professor then picked up a box of pebbles and poured them into the jar. He shook the jar lightly. The pebbles, of course, rolled into the open areas between the rocks. He then asked the students again if the jar was full. They agreed it was.

The professor picked up a box of sand and poured it into the jar. Of course, the sand filled up everything else. He then asked once more if the jar was full. The students responded with an unanimous -- yes. The professor then produced two cans of beer from under the table and proceeded to pour their entire contents into the jar -- effectively filling the empty space between the sand. The students laughed.

"Now," said the professor, as the laughter subsided, "I want you to recognize that this jar represents your life. The rocks are the important things — your

family, your partner, your health, your children--things that if everything else was lost and only they remained, your life would still be full. The pebbles are the other things that matter like your job, your house, your car. The sand is everything else. The small stuff."

"If you put the sand into the jar first," he continued, "there is no room for the pebbles or the rocks. The same goes for your life. If you spend all your time and energy on the small stuff, you will never have room for the things that are important to you. Pay attention to the things that are critical to your happiness. Play with your children. Take time to get medical check-ups. Take your partner out dancing. There will always be time to go to work, clean the house, give a dinner party and fix the disposal. "Take care of the rocks first -- the things that really matter. Set your priorities. The rest is just sand."

One of the students raised her hand and inquired what the beer represented. The professor smiled. "I'm glad you asked. It just goes to show you that no matter how full your life may seem, there's always room for a couple of beers."

A SHORT DACHSUND TALE

A wealthy man decided to go on a safari in Africa. He took his faithful pet dachshund along for company. One day, the dachshund starts chasing butterflies and before long the dachshund discovers that he is lost.



So, wandering about, he notices a leopard heading rapidly in his direction with the obvious intention of having lunch. The dachshund thinks, "OK, I'm in deep trouble now!"

Then he noticed some bones on the ground close by, and immediately settles down to chew on the bones with his back to the approaching cat. Just as the leopard is about to leap, the dachshund exclaims loudly, "Boy, that was one delicious leopard. I wonder if there are any more around here?"

Hearing this, the leopard halts his attack in mid stride, as a look of terror comes over him, and slinks away into the trees.

Whew," says the leopard. "That was close. That dachshund nearly had me." Meanwhile, a monkey who had been watching the whole scene from a nearby tree figures he can put this knowledge to good use and trade it for protection from the leopard. So, off he goes.

But the dachshund saw him heading after the leopard with great speed, and figured that something must be up. The monkey soon catches up with the leopard, spills the beans and strikes a deal for himself with the leopard. The leopard is furious at being made a fool of and says, "Here monkey, hop on my back and see what's going to happen to that conniving canine."

Now the dachshund sees the leopard coming with the monkey on his back, and thinks, "What am I going to do now?" But instead of running, the dog sits down with his back to his attackers, pretending he hasn't seen them yet... and just when they get close enough to hear, the dachshund says, "Where's that monkey? I sent him off half a hour ago to bring me another leopard."

Easy as falling over backwards . . .



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**TRIAL TOOLBOX:
Using An Offer of Judgment
To Reduce the Cost of Litigation**
By Jody R. Nathan



Sometimes a plaintiff will file a frivolous suit, hoping to extract a settlement because the defendant will pay *something* in order to settle the case so that the defendant can save the costs and attorney fees associated with litigation. Keep in mind that the federal rules, and many state courts, have a provision which allows a defendant to shift the cost of litigation to a losing plaintiff. It's called an "offer of judgment."

In the Federal Rules of Civil Procedure, Rule 68 is the fee-shifting provision which should be a part of every defendant's arsenal. Rule 68, known as the "offer of judgment rule," shifts the burden of post-offer costs to a plaintiff who rejects a settlement offer which proves more favorable than the ultimate judgment. Rule 68 provides in pertinent part:

At any time more than 10 days before commencement of trial, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against the defending party for the money or property or to the effect specified in the order, with costs then accrued . . . If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer.

Rule 68 shifts to the plaintiff the cost of litigating a claim that the defendant should not have been forced to litigate. Rule 68's mandatory cost shifting provision removes the incentive for the plaintiff to continue a lawsuit worth less than the defendant's offer. It can therefore be an effective means of avoiding unnecessary litigation in federal court.

Rule 68 offers may be served late in a case, but should be considered and, if appropriate, served as early as possible. Because Rule 68 requires the plaintiff to

pay the costs incurred after the date of the rejected offer, the later the offer is made, the smaller the penalty for refusal. This, of course, translates into less of an incentive to settle. Further, the judgment against which the Rule 68 offer is compared includes the plaintiff's pre-offer costs. An early offer limits the plaintiff's costs to the date of the offer, thereby increasing the offeror's chance of successfully invoking the rule. If attorney fees are available under the relevant substantive statute, pre-offer fees also are included in a Rule 68 judgment. In such cases, an early Rule 68 offer may mean the difference between a successful and unsuccessful offer.

Although no admission of liability is required to effectuate a Rule 68 offer, the defendant must be willing to have a judgment entered against him.

A Rule 68 offer only can be served after suit is filed. After the offer has been served, the offeree has 10 days to respond before the offer is deemed rejected. Therefore, the offer must be served more than 10 days before the trial begins. Additionally, some courts have held that the offer is irrevocable for the 10-day period.

A successful Rule 68 offer not only relieves a losing defendant of liability for plaintiff's post-offer costs, he can also recover his own post-offer costs from the plaintiff. Additionally, if a plaintiff sues under a statute which awards attorneys' fees as part of costs, Rule 68 also precludes the plaintiff from recovering post-offer fees. In this way, the rule removes the incentive for a plaintiff to pursue a claim in the face of a reasonable offer.

Rule 68 may, in some cases, provide defendants an effective tool for limiting litigation costs. Consideration of a well-timed offer should be part of a defendant's trial strategy.

A FEW SHORT JOKES

An efficiency expert concluded his lecture with a note of caution. "You don't want to try these techniques at home."

"Why not?" asked someone in the audience.

"I watched my wife's routine at breakfast for years," the expert explained. "She made lots of trips to the refrigerator, stove and table, often carrying just a single item. So I suggested, 'Honey, why don't you try carrying several things at once?'"

Another person asked, "Did it save time?"

The expert replied, "Actually, it did. It used to take her twenty minutes to get breakfast ready. . . and now I do it in about ten."

A football player calls his girlfriend and says, "Please come over here and help me! I have a killer jigsaw puzzle, and I can't figure out how to get it started."

His girlfriend asks, "What is it supposed to be when it's finished?"

The player says, "According to the picture on the box, it's a tiger."

The girlfriend decides to go over and help with the puzzle.

He lets her in and shows her where he has the puzzle spread all over the table. She studies the pieces for a moment, then looks at the box, then turns to him and says, "First of all, no matter what we do, we're not going to be able to assemble these pieces into anything resembling a tiger."

She held her hand out and said, "Second, just relax. . . . Let's have a cup of coffee, and then . . ." she sighed, "let's put all these Frosted Flakes back in the box."



Book News — What Our Lawyers Are Reading

By Jody R. Nathan

Jason Goodnight just finished *High Fidelity* by Nick Hornby. He said it was much funnier and more intellectual than the movie of the same name starring John Cusack and recommends this book.

Thayla Bohn has been reading *The Corrections* by Jonathan Franzen. It is a novel about a family whose lives are swirling out of control. There is wit. Franzen draws his characters with skill. The book is set in London rather than Chicago like the movie. It is truly hilarious and a good read.

John Woodard just finished the new Robert Ludlum novel. He found it to be an easy and entertaining read. He is currently reading *Samuel Pepys* by Claire Tomalin. It is an historical book regarding England in the 17th Century. He is enjoying it. He just finished *Winston Churchill*, a Penguin Life book by John Keegan. It was a crisp and interesting look at Winston Churchill from the eyes of one of the foremost military historian scholars. It discussed how Winston Churchill was influenced by the Bible and Gibbons Rise and Fall of the Roman Empire.

Paula Quillin just finished *The Rise of Theodore Roosevelt Years* by Edmund Morris. She enjoyed this book more than Mr. Morris's *Theodore Rex*. She highly recommends, however, *Cryptonomicon* by Neal Stephenson. When questioned why, she said it has everything from Nazis to computer nerds, General McArthur and Ronald Reagan, action and intellect, Tolkien and Bach, mystery, and riches. (**Bob Franden** also highly recommends this book.)

I am reading Pat Conroy's *My Losing Season*. Although much of the basketball narrative is lost on me, I think I could even read Mr. Conroy's shopping list. While basketball is the backdrop, it really is a coming of age growing up type story. I highly recommend it. In addition, I am also reading Robert Caro's latest volume on LBJ – *Master of the Senate*. For reasons unknown, I find Lyndon Johnson an intriguing figure and have enjoyed Mr. Caro's previous two books on Johnson. This one picks up with Johnson becoming a mover and shaker in the Senate. While I haven't gotten very far into it, it starts out with a fascinating history of the Senate. I recommend it to everyone.

TRUE FACTOIDS

Mary Walker was the first (and only) woman to receive the US Medal of Honor. She was a Civil War surgeon. Her medal was rescinded in 1916 when the Army purged its files to cut down on "unwarranted" issues. It was not reinstated until 1976.

Clans of long ago that wanted to get rid of their unwanted people without killing them used to burn their houses down - hence the expression "to get fired."

Barbers at one time combined shaving and haircutting with bloodletting and pulling teeth. The white stripes on a field of red that spiral down a barber pole represent the bandages used in the bloodletting.

In 1945 a computer at Harvard malfunctioned. Grace Hopper investigated, found a moth in one of the circuits and removed it. Ever since, when something goes wrong with a computer, it is said to have a bug in it.



The firm has welcomed two new law clerks, **Michael Schern** and **Curtis Roberts**. Both will join the firm as litigators after admission to the Bar.

Congratulations to **Jason Goodnight**, who was married and toured Italy in January.

Ray Feldman visited Turkey, Cyprus, Portugal and Spain.

Paula Quillin attended the IADC (International Association of Defense Counsel) annual meeting.

John Woodard obtained CLE credits at the recent FICC (Federation of Insurance and Corporate Counsel) meeting in Southern California.

Jody Nathan and **Joe Farris** authored an article on legal malpractice which appeared in a statewide publication.

SIGN OF THE TIMES

A sign at a business establishment in Philadelphia, PA:

"WE WOULD RATHER DO
BUSINESS WITH 1000 AL
QAEDA TERRORISTS THAN
WITH A SINGLE AMERICAN"

This sign was prominently displayed in the window of a business in Philadelphia. You are probably outraged at the thought of such an inflammatory statement. One would think that anti-hate groups from all across the country would be marching on this business. . . And that the National Guard might have to be called to keep the angry crowds back. But, perhaps in these stressful times one might be tempted to let the proprietors simply make their statement . . . We are a society who holds Freedom of Speech as perhaps our greatest liberty . . . And after all, it is just a sign. You may ask what kind of business would dare post such a sign?

Answer: A Funeral Home (Who said morticians had no sense of humor?)



New Federal Law Protects Whistleblowers

By Paula J. Quillin, Attorney

Propelled into action by recent corporate scandals, Congress has passed a new federal statute which could impact civil litigation as well as criminal proceedings. The purpose of the Act is to restore investor confidence in public companies.

The Sarbanes-Oxley Act of 2002 was signed into law on July 30, 2002. In addition to the other provisions, the Act includes a whistleblower provision for the protection of employees who report their employers' financial wrongdoing.

The Act applies to companies which are registered under Section 12 of the Securities and Exchange Act of 1934, and to any company required to file reports under Section 15d. It also applies to officers, agents, and employees of such companies, and also to contractors of such companies. It applies to corporations and also to private individuals.

The entities and persons who are covered by the Act are prohibited from "discharging, demoting, suspending, threatening, harassing, or discriminating against a protected

employee in the terms and conditions of employment" because the individual has engaged in certain protected activities. Protection is extended to any employee who reports conduct which the employee reasonably believes constitutes mail fraud, wire fraud, bank fraud, a violation of an SEC rule or regulation, or a violation of any federal law relating to fraud against shareholders, provided the report is made to a Federal regulatory or law enforcement agency; a member of Congress or a Congressional Committee; a person with supervisory authority over the employee; or a person working for the employer who has the authority to investigate, discover, or end misconduct.

The Sarbanes-Oxley Act further protects any employee who has filed, caused to be filed, participated in, or otherwise assisted in a proceeding filed, or about to be filed (with knowledge of the employer) relating to mail fraud, wire fraud, bank fraud, a violation of an SEC rule or regulation, or a violation of any federal law relating to fraud against shareholders.

If an employee believes he has been the subject of retaliation under the Act, he must commence an action with the De-

partment of Labor within 90 days of the alleged retaliation. If the Department determines that there is reasonable cause to believe that the claim has merit, it will issue an order requiring the employer to, among other things, reinstate the employee to his former position and to provide damages, including back pay, other special damages, attorney fees, and costs. Notably, if the Department of Labor fails to issue a final decision within 180 days of the filing of the complaint, the employee can file suit in federal court to recover damages.

Criminal penalties are available against any person or entity that retaliates against any person for providing a law enforcement officer any information relating to a possible federal offense. The penalties may include fines imprisonment, or both.

The Act requires that each covered entity establish policies and procedures whereby employees can report to the Audit Committee any concerns regarding questionable accounting or auditing matters. Such procedures must be separate from other reporting procedures aimed at addressing sexual harassment or other matters, since the complaints are to go directly to the Audit Committee.

A LITTLE FOUNTAIN PEN HISTORY

Dip pens, in use for about a thousand years, had limited use and were fairly messy. There was a need for a pen that worked better. Ballpoints would not come along until the 1940s.

Along came Lewis Waterman to patent the first practical fountain pen in 1884. Writing instruments which could carry their own supply of ink had existed in principle for over 100 years before Waterman's patent. Waterman, an insurance salesman, was inspired to improve the early foun-

tain pen designs after destroying a valuable sales contract with leaky-pen ink.

Peregrin Williamson, a Baltimore shoemaker, received the first American patent for a pen in 1809. John Jacob Parker patented the first *self-filling* fountain pen in 1831. Early fountain pen models were plagued by ink spills and were not practical, but today's designs are far more easy to use.

Another important development in fountain pen history is the development of the ink cartridge, first sold around 1950. It was a disposable, pre-filled plastic or glass cartridge designed for

clean and easy insertion. Cartridges were an immediate success. But the introduction of the ballpoints overshadowed the invention of the cartridge and dried up business for the fountain pen industry for many years. Interest in fountain pens has rebounded in recent years and current designs are very interesting, stylish, and can range in price from a few dollars to \$10,000 or more.



IN BRIEF is initially prepared with a fountain pen before it is transferred into its electric format. This article was prepared with a 1940s Parker "51."



Oklahoma Insurance Law Update

By Thayla Painter Bohn

Contrary to Oklahoma Supreme Court Precedent, Court of Civil Appeals Holds that Failure of Insured to Comply with Cooperation Clause Does Not Void Policy

In *Baldrige v. Kirkpatrick*, 2002 WL 31969651, ___ P.3d ___ (Okla. Civ. App. 2002), a recent unpublished opinion, the Oklahoma Court of Civil Appeals considered whether an injured Plaintiff could garnish the proceeds from the tortfeasor's insurance policy when the insurer had no notice of the suit. The insurance company relied upon the Oklahoma Supreme Court case, *Independent School Dist. No. 1 v. Jackson*, 1980 OK 38, 608 P.2d 1153. The *Jackson* court held that the cooperation clause of the insurance policy requiring the insured to provide notice of suit to the insurer was valid and enforceable. Thus, where an insurer received no notice of suit, the injured party could not recover under the policy.

The *Baldrige* court retreated from *Jackson* finding that Oklahoma's compulsory automobile insurance statutes and twenty years of subsequent case law demonstrate that Oklahoma has a strong public policy in protecting injured third-parties from uninsured and often judgment proof motorists. Based upon this public policy, the court of civil appeals concluded that the insurer could not rely upon a violation of the cooperation clause to avoid liability on the policy. Such a result would effectively penalize the injured party for the inaction of the person who allegedly caused the damage. Due process concerns, however, require the trial court in the garnishment proceedings to allow the insurer an opportunity to offer a defense and receive its day in court. The doctrine of collateral estoppel did not apply because the insurer did not have a "full and fair opportunity" to litigate the issue of the insured's liability.

Employer and Insurer May Exclude Employee-owned Vehicles from UM/UIIM Coverage Even if Employee is an Insured Under Liability Provisions

In *Graham v. Travelers Insurance Company*, 2002 OK 95, 61 P.3d 225, an employee brought an action against employer's UM/UIIM insurer. The insurer denied the employees' claim on the basis that the policy did not provide coverage for employees operating a vehicle the employer did not own. The accident



occurred when the employee was driving his own car on his employer's business. The employee contended that while the UM/UIIM provisions provided coverage only to "owned" autos, other endorsements expanded coverage. Specifically, an endorsement provided that employees are insureds for purposes of liability coverage. The employee further argued that 36 O.S. sec. 3636 required UM/UIIM coverage for all employees since they were insured under the liability portion of the contract. The Oklahoma Supreme Court rejected the employee's arguments and held that the employer and the insurer may limit UM/UIIM coverage to company-owned autos, and there is no public policy in sec. 3636 that is violated by the agreement of the parties.

VERY SHORT JOKE

A Polar Bear goes into a bar and says, "Can I have a gin and..... (Several minutes later)tonic please?"

The barman serves him and says, "Sure, but why the large pause?"

Polar Bear says, "Don't know, I've always had them."

STRANGE BUT TRUE COURTROOM EPISODES

This story came from a Minnesota lawyer:

As city attorney, I was prosecuting a woman for shoplifting a cassette tape from a local store by slipping it into a package of diapers she was buying. After putting on the state's case, I rested. The defense attorney called the woman to the stand to testify on her own behalf. After running through the standard questions, he asked her whether she remembered the day in question. The woman answered that she remembered it well because she was doing her Christmas shopping even though she wasn't feeling well. Without knowing the answer, the defense attorney asked her why she wasn't feeling well.

The defendant replied, "Because I had drunk Mop & Glo the night before." He could not resist asking, "Why would you drink Mop & Glo?" Her explanation was that someone had dropped the Mop & Glo bottle, and since it had cracked, they put the contents into a milk carton. She thought it was milk and did not realize her mistake until she took a second sip. Luckily for the state, the jury was not overwhelmed with pity for the woman's obvious deficiencies and came back with a guilty verdict.

During general background questioning regarding the relatives of a witness, the following testimony was given:

Q: How long have you known your current husband?

A: Two years.

Q: Have you had any children with your current husband?

A: Yes, my 12-year-old.

Q: How can you have a 12-year-old if you've only known your current husband for two years?

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MARCH WINDSOCK EDITION



We've
Rolled
Out
A
New
Edition of
IN BRIEF

John Woodard (left) and Joe Farris (right) in employee cafeteria, putting the finishing touches on IN BRIEF.