

# IN BRIEF

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Tulsa, Oklahoma

The newsletter of  
Feldman, Franden, Woodard, Farris & Boudreaux

## JURISDICTION OVER SUBSIDIARY NOT ENOUGH FOR JURISDICTION OVER PARENT

In *Conoco Inc. v. Agrico Chemical Company*, 2004 OK 83, the Oklahoma Supreme Court delved into the intricacies of jurisdiction over non-resident defendants. The case arose from a breach of a 1972 purchase agreement between Conoco and Agrico, whose performance under the agreement was guaranteed by Williams, Agrico's former parent company. Conoco sought reimbursement for clean up costs related to the purchase agreement. Conoco also sued other Agrico entities, which either owned or managed Agrico when the suit was brought. In 1972, both Agrico and Williams were Oklahoma companies. The agreements were negotiated and executed in part in Oklahoma. When suit was filed, all parties were Delaware corporations or partnerships; Williams was still a resident of Oklahoma and Agrico and the Agrico entities were Illinois residents.

There was personal jurisdiction over Williams and Agrico. When personal jurisdiction is an issue, the record must demonstrate the court's jurisdiction; and if the party is a nonresident, the record must demonstrate

the minimum contacts required to satisfy due process. Because Agrico was an Oklahoma company at the time of the contract, and continued as an Oklahoma company for years afterwards, there were sufficient minimum contacts to sue Agrico in Oklahoma. But there was little evidence of Oklahoma contacts by the other Agrico entities. Agrico entities are registered to do business in Oklahoma and file state income tax returns even though the return reports no tax liability. The business management and operation of Agrico and the Agrico entities are interrelated. The court found that evidence of the overlapping business management relationship between Agrico and the Agrico entities did not satisfy the constitutional minimum contacts requirement. The Agrico entities were properly dismissed.

The case is interesting because it shows that even where companies are licensed to do business in Oklahoma, that may not be enough to give the courts jurisdiction over them. Further, overlapping business management and ownership of a subsidiary are an insufficient basis for exercising personal jurisdiction.



YOUR SPIN ON TODAY'S TOP NEWS

## WE ARE PROUD OF ...

...our lawyers for their recent accomplishments

**Jason Goodnight, Jody Nathan, and Paula Quillin** won an appeal involving an effort to recover alleged fraudulent transfers.

**Curtis Roberts** obtained dismissal of a suit alleging violation of the Residential Lead Based Paint Hazard Reduction Act.

**John Woodard and Victor Wandres** obtained dismissal of a products liability case which was barred by the applicable two-year statute of limitations.

**Joe Farris and Jody Nathan** won an appeal involving a substantial property award.

**John Woodard and Jason Goodnight** won summary judgment on an insurance bad faith claim, leaving for trial a minor claim for benefits.

**Paula Quillin and Paul Prather** won a motion for change of venue to a more convenient forum in an employment case.

**Victor Wandres** defeated a motion to quash subpoenas he had issued in a breach of warranty suit.

**Victor Wandres**, continuing a long winning streak, obtained an injunction preventing interference with a business owner's rights.

**Paul Boudreaux** received a jury verdict for the amount he requested for property damage to a bus. As prevailing party, he is entitled to attorneys fees and costs.

**John Woodard and Victor Wandres** obtained dismissal of a patent infringement case.

**Jasen Corns**, tackling an unusual problem, skillfully resisted dismissal of a state court appeal.

**Paul Boudreaux and Jody Nathan** were successful in defeating opposing counsel's last minute maneuvering, including an attempt to disqualify our client's expert and obtain additional discovery on the eve of trial. The court granted our motion for protective order.

**Victor Wandres and John Woodard** were successful in getting a case moved from an unfavorable venue.

## ASK MR. LAW GEEK



Dear Mr. Law Geek:

I own a fried chicken restaurant at a truck stop. The EPA is trying to stick me with a big fine, for throwing out our old used grease. What can I do?

—Myra at the Truck ‘N Cluck

Dear Myra:

You want to know what to do with old grease? Do I look like Martha Stewart?

Dear Mr. Law Geek:

Sort of.

Dear Mr. Law Geek:

Can a big heartless corporation suffer from “emotional distress”?

—Silent Scream Inc.

Dear SSI:

Only if there’s no place it can dispose of chicken grease.

Dear Mr. Law Geek:

I had to take a deposition at a man’s home not too long ago. His hamster was making a lot of racket, little twittery sounds. So I had to sing to it a little. I find that I liked this better than I do legal work, and the hamster was enjoying it. Although the deposition is over, I keep going back over there with more questions, just to see the hamster.

—Mr. Sensitive

Dear Mr. Sensitive:

Can’t comment. Conflict of interest. I’m representing the hamster. And we’re getting an injunction.

## OKLAHOMA APPELLATE COURT FURTHER IMPAIRS INSURANCE COMPANIES’ SUBROGATION RIGHTS

By Jody R. Nathan, Attorney

The Oklahoma Court of Civil Appeals further impaired insurance companies’ subrogation rights in *Strong v. Hanover Insurance Company*, 2005 OK CIV APP 9. The Court of Civil Appeals found that failure to give “technical” notice of a settlement with a tortfeasor as required by statute would not bar a claim for UM coverage. The insured received medical payments from its insurance company, then sued the tortfeasor. Notice of the suit was given to the insurance company, as was notice of a scheduled mediation. The insured settled the claim against the tortfeasor for policy limits, without either reserving the UM carrier’s subrogation rights against the tortfeasor, or advising the UM carrier of the potential settlement so that the UM carrier could substitute its payment for that of the tortfeasor.

Because the UM carrier had notice of the lawsuit and had notice of the mediation, it was not entitled to require strict compliance with the statute. The court stated, “In view of (1) the evidentiary materials indicating that [the insured] claimed UIM coverage both at the time of reporting the accident and when forwarding the . . . lawsuit papers to [the insurance company]; and (2) [the insurance company’s] admitted knowledge of the lawsuit . . . and admitted notice of the scheduled mediation, we are unable to conclude, as a matter of law, that [the

insured’s] technical breach of the notice of settlement provision prevented [the insurance company] from protecting its subrogation rights.”

The Court noted that the insured had constructive notice of the statutory requirement of giving notice to the UM carrier before settling with the tortfeasor. A violation of the statute does not automatically create a defense to payment under the policy. The Court found the insurance company might be estopped from a claim that the impairment of its subrogation rights was from lack of notice.

Under Oklahoma law, when a tentative agreement to settle for policy limits is reached with a tortfeasor, the UM carrier should be given notice so that it can substitute payment and retain its subrogation rights. 36 O.S. § 3636 (E). If notice is given and substituted payment is not offered, then the UM carrier’s subrogation rights are waived as a matter of law. Under this ruling, anytime a UM carrier is given notice of a lawsuit and of mediation, it should specifically request that it be advised if any settlement is reached so a determination can be made with regard to subrogation rights.



## Long Enough

The longest official city name in the world, made up of 164 letters, is "Krungthep Mahanakhon Amorn Rattanakosin Mahintara Yudthaya Mahadilok Pohp Noparat Rajathanee Bureerom Udomrajniwes Mahasatarn Amorn Pimarn Avaltarnsatit Sakattiya Visanukram Prasit" a.k.a. Bangkok, Thailand.

The song with the longest title is "I'm a Cranky Old Yank in a Clanky Old Tank on the Streets of Yokohama with my Honolulu Mama Doin' Those Beat-o, Beat-o Flat-On-My-Seat-o, Hirohito Blues" written by Hoagy Carmichael in 1943.

The longest film ever released was "\*\*\*\*\*" by Andy Warhol in 1967, which lasted 25 hours. After its utter failure, it was withdrawn and re-released in a 90-minute form as "The Loves of Ondine."

## FARRIS LAUNCHES INTERNAL PARALEGAL FATWAH INVESTIGATION

*Editor's Note: A recent news story reported that a paralegal was arrested and tried for his role in issuing a fatwah, which we have learned is an edict. The story is a reminder that paralegals should be supervised. This realization caused Joe Farris to launch an internal investigation to ensure that our paralegals are not engaging in conduct which would present a danger to themselves and others. The results of the investigation were surprising.*



"This story startled me, to say the least," says Farris. "I mean, who knows exactly what our paralegals are doing, or what their political affiliations are? We don't ask; they don't tell."

Paul Boudreaux added: "I see them sitting in their offices with their feet propped up on their desks, firing off letters. It made me wonder, are they also firing off fatwahs?"

"Oh, I'd know," said John Woodard. "I review most of the bills. If I saw an entry, 'Issued fatwah, .25 hours, believe me, there would be a paralegal who would be called onto the carpet.'"

Convinced the partners were essentially clueless about the activities of the paralegal staff, the courageous reporters of IN BRIEF — knowing full well this story would never make it past the Censorship Committee or the firm's Committee for the Protection of Minorities, Woman, Old People, and Right Wing Republicans — decided to interview the paralegals themselves.

We started with Terri Cooper, veteran litigation paralegal. Terri was issuing subpoenas, not fatwahs, when we arrived in her office for our 6:30 a.m. appointment. "I can give you 4 minutes," she announced, brandishing a stapler in her teeth while applying tabs with her left hand and exhibit stickers with her right.

We asked Terri to first comment on John Woodard's denial of the problem. Terri scoffed. "Don't tell John this," she confided, "but there were four fatwahs issued last week, *that I know about.*"

Wow. Explosive stuff. "Tell, tell," we urged Terri. She was eager to do so, even going so far as to remove the stapler from her mouth.

"I issued one myself," she admitted, "against Paul Boudreaux. We were getting ready for trial, and he decided he needed yet another blow-up of the insurance contract. The part that says 'We will pay benefits when you-know-what freezes over.' I decided right then it was Paul that needed to be blown up — into little smithereens." Gnashing her teeth, Terri smiled grimly. "But they all get a little crazy during trial. *And so do we.*"

"The next fatwah came from Paula Quillin's secretary. It was 4:15. The courthouse closes at 4:30. Paula gave Rosanna her 27th consecutive revision of a brief — this time she wanted two words italicized. Rosanna did the revisions first, and then the fatwah."

According to Cooper, another paralegal issued a fatwah after discovering that one of the lawyer's secretaries hadn't updated the filing in one of the cases. There were two one-page letters that were just loose in the file. They're supposed to be fastened into the file. Kristen went ballistic. She issued her 11th fatwah of the month.

"Are any of these fatwahs ever executed?" asked IN BRIEF.

Terri paused, flipping through a trial notebook with her foot while simultaneously dialing a telephone number and conducting a Westlaw search.

"Are you kidding?" she asked. "We have no power to enforce our fatwahs. We'd have to take over a country first or something." She held up a hand, signaling me to be quiet, and spoke directly into the telephone. "So you think New Zealand is basically unstable?" she said. "How do we get our troops in?"

## Keeping A High Profile in the Office

Use the speaker phone whenever possible. Most people probably want in on your conversations but forgot to ask.

Try to whistle, hum, snap your gum, or tap your fingers while you work. It is a comfort to others to know that you're still there.

Never write an email if you can phone or visit instead; everyone wants to talk whenever you're ready.



Turn up the volume on your cell phone. Most people probably enjoy that distinctive ring tone as much as you do.

Don't sit down to talk. The acoustics are better the higher you are, and remember that most people are a bit distracted by their work, so speak up louder!

Buy something loaded with onions for lunch. Eat half of it at your desk. Put the rest of it in your trash can, unless there's one that's more centrally located.

Not busy? Make sure no one else can work, either. . . . To start, with, everyone will individually want to know about your weekend. In detail.

The very best place for a conversation is in the hall, beside someone else's desk. If the hall is full, try leaning against their desk or hanging over their computer monitor. Or just shout from wherever you are.

Never warn people of your approach by knocking on their desk or office door. People love surprises, especially if they're busy.

Did you just get an email? Forward it to *everyone*. No matter what it says.

Always hold meetings around a desk, especially if it's not yours. If you book a conference room everyone will think you've got something to hide.

## HOW MANY LIGHT BULBS?

Q: How many software programmers does it take to replace a dead light bulb?

A: None. They just have Marketing portray the dead bulb as a feature.

Q: How many auto mechanics does it take to change a light bulb?

A: Two, one to screw in all the bulbs he has until he finds one that fits, and the other to tell you he thinks he'll have to replace the whole socket.

Q: How many nurses does it take to change a light bulb?

A: Will somebody please call house-keeping?

Q: How many dyslexics does it take to bulb a light change?

A: Eno.

## SHORT LAWYER JOKE

There are three reasons why lawyers are replacing rats as laboratory research animals.

One is that they are plentiful, another is that lab assistants don't get so attached to them and the third is that they will do things that you just can't get rats to do.

## Meet New Attorney Jason Corns

"All dressed up and nowhere to go," says Jason Corns, the firm's newest lawyer, on his first day on the job. "That's how I felt."

We, the seemingly empathetic IN BRIEF staff, encouraged Jason to talk about it.

"I got here 15 minutes before the doors opened," recalls Jason. "Wearing my new shirt. And couldn't even get in."

The receptionist arrived a few minutes later but didn't recognize Jason. Although he seemed okay, maybe he was just a little bit *too* appropriately dressed. She was understandably hesitant to let him in.

"I finally convinced her that I'd been hired, and this was my first day on the job," Jason explained. "I showed her my tie, my new briefcase . . . Then she asked to inspect my cuffs, and luckily they were monogrammed, so she let me in."

The office manager arrived within a few minutes and showed Jason his office and his computer. It was then that Jason

realized there was absolutely nothing for him to do.



"You may not realize this," says Jason, "but most people come in to work with a 'Things to Do' list they made up the previous day. But, for me there was no previous day. I simply hadn't been there before. It was *literally* my first day."

As Jason continued to repeat what he perceived as a personally traumatic event, his IN BRIEF reporter began edging toward the door, a bit like the wedding guest in *The Rhyme of the Ancient Mariner*.

Obscure literary allusions aside, once word got around that there was a new lawyer with nothing on his calendar, the situation rapidly changed as the more seasoned lawyers found Jason had free time as well as ability and experience. By noon, Jason didn't have time to eat lunch, and prospects for dinner were not all that auspicious.

Details about Jason are available on our website at [tulsalawyer.com](http://tulsalawyer.com).

## THINGS YOU NEED TO KNOW IF YOU VISIT OKLAHOMA

The store clerks *will* call you "Sweetie" and "Hon." It would be a mistake to act on this, dear.

"Right of way"? You make me laugh, Visitor-Boy.

Sure, it's a little bit of trouble to get a prison pass allowing you to visit the maximum security institutions, but that's where you can learn Oklahoma political history firsthand, from those who were actually involved in it.

Enjoy our fried sushi!

Bring plenty of spare change. Plan to stop every 15 minutes & pay road tolls. Thanks for building our infrastructure, nickel and dime at a time.



fish, which still stands as a solemn warning to all who would invade Oklahoma by sea.

Buy all the liquor you want . . . but there's a limit on Sudafed, and you'll need I.D.

It's okay to use the pot holes after a heavy rain to play with your radio-controlled boats. It is *not* okay to use full-sized watercraft.

Oklahoma's state slogan is "Work Conquers All." It is enforced through our worker's compensation system.

If you tour Muskogee, you can view the *USS Bat-*

At most restaurants, you will need to formally opt out of gravy. You might get gravy anyway. Do not despair. Beneath it lurks an unknowable fried meat.

Tornado sirens are signals to go outside and look up at the sky.

If you can eat it, then it's sold "on a stick" at the State Fair.

Yes, that is Abraham Lincoln in the Cowboy Hall of Fame.

If you want to drive here, please activate your turn signal first. Thank you. Don't forget to turn it off when you leave Oklahoma.

## Associatology 101: The Buzz From The Water Cooler

*Editor's Note: The associates say they're tired of all the news about the partners, and have demanded recognition of their own. This issue is a little thin anyway, since Farris nixed that expose about his college fraternity years. So, let's give it a shot.*



Victor Wandres received an angry letter from Sony Music after Wandres fired off an invoice to Sony for the time he spends downloading music. "It was helping Sony, and I did it in my office," explained a confused Wandres, who then expressed optimism that the Firm would still count those hours toward his yearly billables.

Thayla Painter-Bohn was one of twelve attorneys competing in the annual Barristers Bowl Competition, where lawyers must give brief oral arguments on topics they are handed moments before speaking. Thayla, however, was unaware of the impromptu nature of the competition. Determined to best Joe Farris's winning argument last year in favor of cockfighting, Thayla delivered an impassioned 45-minute argument against cockfighting. Much to the surprise of the audience, her argument included a power-point presentation, pie charts, table graphs, and a dead rooster. The firm has since been asked not to return to next year's competition.

New associate Jasen Corns made the

rookie mistake of impressing Paul Boudreaux with the quality of a brief. Boudreaux responded by assigning Corns 14 briefs to be done within 6 days. "They're all easy," said Boudreaux, who last had the time to write a brief in 1984.

Belinda Aguilar committed a firm taboo—rejecting lunch with the big boys. As Joe Farris and John Woodard, decked to the nines and on their way to the Summit Club, approached the elevators at noon on a recent Friday, Aguilar happened to walk by. "Want to join us for lunch?" queried the ever-sensitive Farris. "No thanks," replied Aguilar. It is believed to be the first time a woman has declined a lunch with Farris since 1979.

Curtis Roberts recently made his first-ever trip to Gotebo, Oklahoma for a deposition, and is now pondering a move there. "All my life, I've felt like I've been wandering, adrift, searching for home," Roberts said. "Then I stepped off the bus in Gotebo, and I found it. The folks there are just so darn special. And the chicken fried steak is out of this world!" Roberts is preparing a proposal to convince the partners to open a Gotebo branch.

Paul Prather recently announced he intends to purchase a second pair of cuff links in late 2005. He received his current links, along with a free toaster, upon opening a free checking account at a local bank. "They're essentially a major award," Prather recently boasted, while gently caressing his links. "I wouldn't wear just anything for 127 straight days. These babies are tight. But at some point, it's just time to move on."

### On the Radar

A motorist was mailed a picture of his car speeding through an automated radar.

A \$40 speeding ticket was included.

Being cute, he sent the police department a picture of \$40.

The police responded with another mailed photo -- of handcuffs.

### Things People Actually said in Court

Q: What is your date of birth?

A: July fifteenth.

Q: What year?

A: Every year.

Q: What gear were you in at the moment of the impact?

A: Gucci sweats and Reeboks.

Q: All your responses must be oral, OK? What school did you go to?

A: Oral.



## A FEW SHORT JOKES

Two lawyers were conducting business in a bank when an armed robbery began.

One of the robbers rushed to the teller windows, while another one guarded the doorway. The third robber stood in the middle of the bank, and proceeded to give out directions to the bank's customers.

"Everyone up against the wall... Okay, now empty your pockets. We want watches, wallets, and anything of value."

One of the lawyers jammed something into his partner's hand.

"What's this?" his partner whispers.

The other partner replies, "It's that \$100 I owe you."

Rick, fresh out of accounting school, went to a interview for a good paying job.

The company boss asked various questions about him and his education, but then asked him, "What is three times seven?"

"22," Rick replied. After he left, he double-checked it on his calculator (he *knew* he should have taken it to the interview!) and realized he wouldn't get the job.

About 2 weeks later, he got a letter that said he was hired for the job! He was not one to look a gift horse in the mouth, but was still very curious. The next day, he went in and asked why he got the job, even though he got such a simple question wrong. The boss shrugged and said, "Well, you were the closest."

Lawyer: "Judge, I wish to appeal my client's case on the basis of newly discovered evidence."

Judge: "And what is the nature of the new evidence?"

Lawyer: "Judge, I discovered that my client still has \$500 left."

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March Hare Edition

## IN BRIEF

*Your  
Best  
News  
Source*

**You Have  
Answers?**

**We've got the  
questions!**

