

2024 Civil Litigation

Oklahoma Court of Civil Appeals

Carter v. Pendley, 2024 OK CIV APP 3

- Defendant admitted fault in a collision, so the jury decided only damages, awarding George \$0 and Berdine \$2,000. Plaintiffs appealed, claiming defense counsel’s “unclean hands” remark prejudiced the verdict. The appellate court found no substantial influence on the jury. Plaintiffs also argued a defense medical expert’s religious references violated 12 O.S. section 2610. The court held the testimony was a reasonable response to bias inquiries, not offered solely to bolster credibility through religion. Finally, plaintiffs sought a punitive damages instruction, but no evidence showed reckless disregard. Concluding no abuse of discretion occurred on any issue, the appellate court affirmed.

Phillips v. National Oilwell Varco, 2024 OK CIV APP 4

- Plaintiffs, injured in a collision caused by defendant driver employed by defendant corporation, claimed severe, permanent injuries. The defense admitted fault but disputed injury severity. Plaintiffs sought punitive damages, alleging defendant driver's distraction and corporate recklessness. At trial, the court combined plaintiffs' cases, admitted fault as directed verdicts, and barred punitive damages. The jury awarded each plaintiff modest damages. On appeal, plaintiffs objected to consolidation, exclusion of punitive damages, and defendants' counsel's conduct, and claimed inadequate verdicts. The appellate court found no error: consolidation was proper, counsel's conduct was not preserved for review, evidence supported the awards, and punitive damages were not warranted. Judgment affirmed.

Ondobo v. Integris Baptist Medical Center, 2024 OK CIV APP 5

- The plaintiff claimed a physician and hospital caused injuries after a cesarean section. Defendants, supported by a board-certified OB-GYN's testimony, showed compliance with the standard of care and no causal link to plaintiff's later ailments. Plaintiff offered no qualified expert testimony; her own affidavit lacked necessary expertise, and a foreign doctor's affidavit did not satisfy U.S. standards. The trial court found no factual dispute and granted summary judgment for defendants. On appeal, the court affirmed, finding no error in evidence rulings or summary judgment.

Holland v. Roberts, 2024 OK CIV APP 6

- Roberts asserted a RICO counterclaim against Holland, alleging a scheme of racketeering acts. The trial court dismissed the claim. On appeal, the court agreed Roberts alleged extortion, but found the alleged mail and wire fraud insufficient because no scheme to obtain money or property was shown. Since RICO requires at least two predicate acts, and Roberts effectively pled only one (extortion), no pattern of racketeering activity existed. The court affirmed dismissal of the RICO counterclaim, concluding that one predicate act alone cannot sustain a RICO action.

Orthman v. Premiere Pediatrics, 2024 OK CIV APP 7

- Plaintiffs sued Premiere after hackers accessed their personal and medical data via a third-party data manager. The trial court dismissed all claims for lack of standing and failure to state a claim. The appellate court reversed in part, finding plaintiffs' general allegations of harm sufficient to establish standing. It also reinstated claims for negligence, breach of implied contract, and breach of fiduciary duty, ruling that Oklahoma's notice-pleading standard allows these claims at an early stage. Other claims, including negligence per se, invasion of privacy, and unjust enrichment, were properly dismissed. The court remanded, allowing plaintiffs to amend their petition.

Prewitt v. QuikTrip Corporation, 2024 OK CIV APP 9

- A claimant with a compensable 2012 low back injury sought authorization for a spinal cord stimulator as continued medical maintenance. The trial court denied the request, requiring a motion to reopen and a showing of changed condition. The appellate court reversed, holding that post-2011 legislation defining continuing medical maintenance does not require a changed condition for additional necessary treatment. The claimant need only show that the requested treatment is reasonable and necessary to maintain his condition. The case was remanded to determine if the stimulator meets that standard.

Easdale v. Foshee, 2024 OK CIV APP 10

- In a negligence case arising from a boating accident, defendant Foshee made an initial offer of judgment under section 1101.1(A) and a subsequent offer under section 1101. After prevailing at trial with a judgment below the first offer, Foshee sought attorneys' fees based on the first offer. The trial court denied the fees, ruling the second offer nullified the first. On appeal, the court held that offers under sections 1101 and 1101.1(A) are separate and do not negate each other. Foshee is entitled to attorneys' fees under section 1101.1(A). The court affirmed the award of costs and remanded for fee determination.

North Star Mutual Insurance Co. v. Zielny, 2024 OK CIV APP 11

- The Court of Civil Appeals reversed the denial of attorney fees to North Star under section 3629(B) after it prevailed in a declaratory action concerning its homeowners policy's appraisal provision and the Zielnys' counterclaims for breach of contract and bad faith. The court held that attorney fees are mandatory when the core issue involves determining an insured loss. North Star successfully defended against the counterclaims and obtained declaratory relief, making it the prevailing party. The case was remanded for a fee determination.

Garrett v. Bell, 2024 OK CIV APP 13

- Garrett sued Bell to enforce a fee-splitting agreement related to referred workers' compensation cases. The district court granted summary judgment for Bell, finding the agreement unenforceable due to noncompliance with Rule 1.5(e) of the Rules for Professional Conduct and barring certain claims under res judicata. On appeal, the court held that rule violations alone do not void fee agreements and that the Workers' Compensation Court lacked jurisdiction to decide private fee disputes between attorneys. Summary judgment on eighteen cases was affirmed, but the remaining claims were remanded for further proceedings.

Phil Boevers Enterprises v. Beck, 2024 OK CIV APP 14

- The appellate court affirmed the trial court's orders vacating a default judgment against the defendant and a related judgment against her insurer. The defendant timely served her answer, making her not in default. The plaintiff failed to provide notice before seeking default judgment, violating District Court Rule 10. Additionally, the trial court had entered a damages award without holding a required evidentiary hearing. Because the default judgment was void, the garnishment judgment against the insurer also failed. The trial court's rulings were affirmed.

Swain v. United Automobile Insurance Co., 2024 OK CIV APP 15

- Karen Swain sued her auto insurer, United, alleging bad faith for initially denying coverage for her son's injury after she lost control of her vehicle. After her son sued her upon reaching adulthood, United defended her and settled within policy limits. The appellate court held the child's claim was a third-party claim, not a first-party claim by Swain. Since United ultimately fulfilled its contractual duties, Swain failed to establish a bad faith claim. The judgment for Swain was reversed, and judgment was entered for United.

Wiley v. Gray Television, 2024 OK CIV APP 16

- Wiley sued Gray Television for libel after it reported his arrest on child pornography charges, alleging inaccuracies in its article. The report misstated that the FBI, rather than local police, seized his devices and falsely claimed the devices contained illegal images. The trial court granted summary judgment, finding the article covered by the fair report privilege. On appeal, the court held that inaccuracies created factual disputes about whether the article was a fair and accurate summary. The judgment was reversed, and the case was remanded for further proceedings.

Lifetouch National School Studios v. Oklahoma School Pictures, 2024 OK CIV APP 17

- Lifetouch sought to hold Oklahoma School Pictures liable for a judgment against Tulsa School Pictures, alleging the latter was its alter ego. The appellate court held that factual disputes about ownership, financing, and operational control precluded summary judgment. Evidence suggested Tulsa School Pictures might be a mere instrumentality of Oklahoma School Pictures, sharing management and business resources. The court emphasized that fraud is unnecessary for alter ego liability if disregarding corporate form is needed to prevent injustice. The judgment was reversed and remanded.

Wilkin v. Mitchell, 2024 OK CIV APP 19

- Defendant Jack R. Mitchell appealed the denial of his motion to compel arbitration after Plaintiff, Ms. Wilkin, sued for breach of a settlement agreement she did not sign. The appellate court applied both Oklahoma and Missouri law, finding no basis to compel arbitration. Ms. Wilkin was not a signatory and did not meet any recognized legal theories binding nonsignatories, such as assumption, agency, or equitable estoppel. As her potential benefits were indirect and incidental, the appellate court affirmed the trial court's denial of the motion to compel arbitration.

Brown v. Muldrow Public Schools, 2024 OK CIV APP 20

- George Brown sued Muldrow Public Schools after being assaulted by a student, B.B., despite repeated warnings about bullying. The school argued the attack was unforeseeable and moved for a directed verdict, which the trial court denied. The jury awarded Brown \$312,600.00, reduced by offsets and capped at \$125,000.00 under the Governmental Tort Claims Act (GTCA). The appellate court affirmed the damage award but vacated \$16,061.74 in expert costs, holding additional recovery would exceed the GTCA cap. The court also upheld the denial of attorney fees.

Henderson v. Day Engineering Consultants, 2024 OK CIV APP 25

- Glendale Apartments LLC appealed the dismissal of its negligence claim against Day Engineering and its engineer, Swain, alleging Swain reported unrelated structural issues to city officials during an insurance damage inspection, causing the city to shut down the complex. The appellate court reversed, holding that while the Trinity Baptist case shields insurance adjusters from negligence claims related to adjusting duties, it does not extend immunity to unrelated acts. The court found dismissal premature, remanding the case for further proceedings on Swain's alleged conduct beyond the insurance scope.

***Exencial Wealth Advisors LLC v. Morgan Stanley Smith Barney, LLC,
2024 OK CIV APP 29***

- The signatory sued a former employee, Ventura, for breaching an agreement containing an arbitration clause. Morgan Stanley, though not a signatory, sought to compel arbitration. The Court reversed the denial of its motion, holding that equitable estoppel applied because the claims arose from the same contract. As Plaintiffs' allegations depended on that agreement, they were estopped from avoiding arbitration with Morgan Stanley, even though it was not a party to the operating agreement.

Thornburg v. State, 2024 OK CIV APP 30

- The issue is whether a defendant's deportation alone establishes good cause under 59 O.S. section 1332 to exonerate a surety bond. Thornburg, who posted bond for a deported defendant, argued she took every step to secure his appearance. The trial court denied exoneration, holding the risk of bonding a foreign national does not shift to the State. The Court affirmed, applying Vaughn's multi-factor test and concluding that deportation alone was insufficient. Denying exoneration was not an abuse of discretion.