THE WINTERS & KING REVIEW

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The Firm's legal insights, news, and recent announcements

WHAT'S INSIDE

DID YOU KNOW?

People often think hearsay is totally inadmissible in court. But there are more than 30 exceptions under the rules of evidence. For example, if someone says something while they're dying, it might be allowed in court.

CONTACT US

WINTERS & KING, INC.
CityPlex Towers
2448 E. 81st St., #5900
Tulsa, OK 74137
Phone: 918.494.6868

Tort Reform in Oklahoma Changes Litigation Landscape

By: Intern Sara Sadeghi

The Oklahoma legislature was busy this session, particularly by pushing through multiple bills with the intent of enacting changes in the Oklahoma civil justice system aiming to reduce liability exposure or limit damages available to plaintiffs in tort lawsuits. These bills, each of which were signed into law, are as follows:

SB632 (Business Courts): Business courts are now a reality in Oklahoma. A "business court" is a specialized division within the judicial system that handles complex commercial and corporate disputes. It is designed to provide faster and more efficient resolution of business-related cases by judges with experience in business law. SB632 officially created new business courts in Oklahoma and Tulsa County. Initial versions of the bill called for exclusive jurisdiction in business courts if matters met certain criteria, but (due likely to constitutional-challenge concerns) the enacted version made inclusion optional. The filing fee for a case in the business court is $1,500, considerably higher than a matter before the district court. Non-jury business court matters *must* proceed to bench trial within 12-months except if the parties can show good cause for an extension. The law takes effect Sept. 1, 2025 but docketing into the business courts will not begin until January 1, 2026. Opponents of business courts filed a lawsuit with the Oklahoma Supreme Court (MA-123,222) on June 26, 2025 seeking to find the new specialized court unconstitutional. It is too early to tell how the Supreme Court will react.

HB2619 (Foreign Litigation Funding Prevention Act): Third-party litigation funding ("TPLF") is a financial arrangement where an outside party unaffiliated with the lawsuit provides financial backing to a plaintiff (or a law firm) to cover legal expenses in exchange for a portion of the final recovery. TPLF is a controversial topic because it raises a concern of conflicts of interest and may give the financiers undue influence over litigation strategy or settlement decisions. Supporters, on the other hand, argue it promotes access to justice by enabling claimants to pursue valid claims that they otherwise would not be able to afford. TPLF is more prevalent than many would surmise. Recent statistics by Zion Market Research suggest that "U.S. litigation funding investment market size was evaluated at $5 billion in 2023 and is slated to hit $10 billion by the end of 2032…" HB2619 aims to increase transparency of outside funding sources within Oklahoma civil cases by requiring parties to reveal in discovery if an outside source is funding a lawsuit. Further, a party must certify under oath to the court if a foreign state, agency or instrumentality is a source of funding for the case. HB2619 is effective November 1, 2025.

SB453 (Cap on Non-Economic Damages; "Oklahoma Expedited Actions Act"): In tort cases, a plaintiff is entitled to various types of damages including quantifiable damages (like medical bills) and non-quantifiable damages (like pain and suffering). Non-quantifiable damages are called "non-economic damages." Since 2019, there has been no cap on non-economic damages based on a ruling by the Oklahoma Supreme Court. SB 452 restored this cap to $500,000 (and $1 million cap for certain permanent mental injuries). To avoid constitutional challenge, the new cap excluded cases involving fraud, intentional or malicious conduct, or where the injury is both permanent and severe (*e.g.*, disfigurement). SB453 also amended Oklahoma's civil procedure to create an expedited route to trial for cases with $250,000 or less in controversy. Called the Oklahoma Expedited Actions Act, the law shortens the discovery period to 180 days, limits parties to 20 hours of depositions, and limits the number of issuable written discovery requests. Trial procedure is also affected. Trial must begin within 90 days after discovery closes with no more than two trial continuances totaling 60 days. Each *side* is limited to 8-hours for its respective case in chief, including jury selection. Importantly, the term "side" does not mean each "party" or "litigant," but rather 1+ litigants with a *common interest*. SB453 takes effect Sept. 1, 2025.

Contact Shareholder Spencer C. Pittman at spencer@wintersking.com with questions about these new bills and whether these changes will affect your business.

New Oklahoma Supreme Court Justice: What to Expect

By: Attorney Zander Chonka

Justice Travis Jett was recently appointed to this State's highest court by Governor Kevin Stitt. Who is Justice Jett and how may his appointment affect you or your business?

After appointment to the Oklahoma Supreme Court, Justices face unopposed "retention elections" every six years. These "retention elections" are largely uneventful. *Until 2024*, when Supreme Court Justice Yvonne Kauger lost her retention election after serving on the Oklahoma Supreme Court for *40 years*. She was the first Oklahoma Supreme Court justice to lose a retention vote. Kauger had been appointed by Governor George Nigh in 1984. She was known for being a supporter of tribal sovereignty and abortion, and faced criticism from conservative groups for her progressive leanings.

On April 14, 2025, Governor Stitt appointed Travis Jett to replace Justice Kauger. Jett grew up on a ranch near Slapout, Oklahoma. Slapout (current population of 4) reportedly got its name because the one store on the land was often told by customers that it was "slap out" of whatever the customers wanted. Jett earned his law degree from Georgetown University before returning to Oklahoma for private practice. Jett is state's only current justice without prior judicial experience.

In his free time, Justice Jett chairs the discipleship ministry team at Woodward First United Methodist Church, which for the Firm's ministry/church clients may be viewed favorably. Justice Jett also brings the number of Republican-appointed justices on the Court to six, which the Firm's business clients may also view favorably.

Firm Welcomes New Attorney

The Firm is proud to announce the addition of a new litigation attorney to its team, Zander Chonka.

Attorney Chonka joined the firm in June 2025, and practices with the litigation team. He has previous professional experience in healthcare and political consulting. Mr. Chonka earned his bachelor's degree from the University of Oklahoma before attending the University of Texas School of Law. During law school, Attorney Chonka served as an editor on the Texas Environmental Law Journal and as a mentor in the IE Pre-Graduate School Internship Program. He and his wife, Erin, live in Tulsa and are active members of their church. If you have any legal questions, you can contact Mr. Chonka at zchonka@wintersking.com.

What Happens When Your Insurance Carrier Says, "No!"

By: Shareholder Spencer Pittman

You pay insurance premiums to protect you when something goes wrong, whether it is damage to your property, a lawsuit, or a costly accident. So what happens when you file a claim with your own insurance company and that insurer says "no"? What happens next? What are your options?

First, let's talk about the insurance claim process. The insurance claim process begins when you notify an insurer about a loss or incident. The insurance company assigns a claims adjuster to investigate, gather information, and determine whether the claim is covered under a policy. If approved, the insurer will offer payment or another form of resolution. If denied, the insurer will often send a written explanation and may indicate you have the right to appeal or challenge the decision. If the denial is based on a complex review of the policy or facts, the insurer may issue a coverage letter explaining in detail the bases for the denial.

Insurance companies deny claims for a variety of reasons. For instance, these denials can be based on the claim being made outside the policy period or based on an exclusion under the policy. But insurance company denials are not always correct. Sometimes, the denial is based on a misunderstanding or even a mistake in how they read their own policy. If the denial may have been incorrect, you should consult with an attorney. An attorney will ask you for a copy of your policy so he/she can review the exact language to determine if the insurance company is acting fairly. Sometimes, a simple rebuttal to the denial or an appeal can get a claim re-evaluated and approved. Other times, it might require litigation to get a court to determine your rights (called a declaratory action). If your *own* insurer denies an insurance claim without a good reason or unreasonably delays paying a claim, the insurer can be liable for breach of the insurance agreement and "bad faith," which may entitle you to money damages far in excess of the original claim.

If you think your insurance claim was wrongfully denied, contact the Firm at 918-494-6868 so we can help evaluate your claim and advise you on your rights under the policy.