

**DOES THE OKLAHOMA APPELLATE JUDICIARY
DECIDE CASES BASED ON ECONOMIC PHILOSOPHY?**

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In 1997 business groups evaluated Oklahoma's appellate judiciary on whether or not its decisions were pro- or anti-economy. The resulting scorecards were widely distributed by the Christian Coalition during the 1998 judicial retention elections and sparked a campaign against some judicial candidates. These judicial scores attracted considerable media attention both in Oklahoma and nationally. A careful analysis finds judges and justices are recorded as participating in cases before they joined their courts or after they left, among other errors. Judges with very different scores are found, often as not, to reach identical decisions when deciding the same cases. Overall, there is no evidence Oklahoma appellate judges and justices are imposing economic philosophies in decisions.

DOES THE OKLAHOMA APPELLATE JUDICIARY DECIDE CASES BASED ON ECONOMIC PHILOSOPHY?

State appellate judges increasingly face negative campaigns upon coming up for re-election or retention (Champaigne 2000; Dann and Hansen 2000). Groups in Tennessee, Georgia and California targeted state supreme court justices with concerns over abortion, the death penalty, the environment, and the economy (Broder 1998; Butler 1998; Lefler 1999; Fialka 1999). The U.S. Chamber of Commerce and the tobacco industry in 1997 announced a campaign against plaintiff friendly judges. According to the *Tulsa World*, "The millions of dollars the battle will need are to be raised from business interests who see growing legal costs as a burden to economic growth and competitiveness." (*Tulsa World* 1997:A-7). Groups evaluated judges in Ohio, Michigan, Alabama, and Florida on the economic impact of their decisions. These evaluations became the basis of campaigns to unseat certain judges. In Oklahoma, StateSource, a public relations firm with links to conservative and business groups, became "involved in creating Citizens for Judicial Review which undertook to provide Oklahomans with research on the economic performance of our state's appellate and supreme court judges." (StateSource N.D.a) The research was done by Sequoyah Information Systems in Norman and published as *The Economic Judicial Report: Oklahoma Supreme Court & Court of Civil Appeals Judicial Evaluation 1997 Update* (Sequoyah Information Systems 1997; hereafter: EJR). The EJR briefly summarized 186 Supreme Court and 225 Court of Civil Appeals cases. The report also included a chart for each case indicating whether each participant voted "+" (pro-economy), "-" (anti-economy), or "/" (neutral), in the opinions of the authors. These votes were totaled and presented in summary bar graphs. The EJR was the basis for preparing scorecards rating Oklahoma judges on job creation and economic development revealing "the general philosophy of each judge." (EJR pages not numbered.)

StateSource formed another group, Oklahomans for Judicial Excellence, in 1997 claiming support from fifty-two associations and corporations (StateSource NDb). These included the Oklahoma State Chamber of Commerce, the Tulsa Chamber of Commerce, and the Greater Oklahoma City Chamber of Commerce. Energy company, Koch Industries, provided approximately ten percent of the funding (Wright

1999). StateSource claims to have raised and spent \$250,000 and to have distributed 1.4 million of its scorecards through the Christian Coalition (Wright 1999) – all directed at the 1998 Oklahoma judicial elections (Ervin 1998b; Ervin 1998c; StateSource NDb). Members of a related group, Oklahomans for Jobs and Economic Growth, actively campaigned against the judges with low scores (Mitchell 1998). According to one appellate judge “they’ve stricken fear into the judiciary” (Ervin 1998a).

The question addressed here is the validity and accuracy of the EJR judicial ratings. Do Oklahoma’s civil appeals judges and supreme court justices decide cases based on their economic views? Do the EJR ratings accurately reflect those views?

EJR ACCURACY

We address data accuracy first. Obviously sloppy, careless, reckless, or inaccurate data transcribing makes any subsequent analysis of the contaminated data meaningless. Careless and inaccurate data transcribing reduces the value of the contaminated data. Checking was done against the Oklahoma State Courts Network (OSCN) case files, the Lexis-Nexis West case files and, ultimately, the *Oklahoma Bar Journal*.

The EJR grouped cases into eight areas. Cases placed in more than one area could thereby arbitrarily be given additional weight in computing overall judicial scores. Five cases, two decided by the Court of Civil Appeals and three decided by the Supreme Court, were counted twice (see Appendix A).

Eleven Court of Civil Appeals cases were transcribed with errors. Judges who had left the court or were not yet appointed were recorded as participating. Judges decisions were also recorded incorrectly. Ten Supreme Court cases were similarly transcribed incorrectly. We corrected these errors before performing our analysis (see Appendix B).

Tables 1 and 2 present the original EJR participation rates or case counts and overall job creation and economic development scores for each justice and judge and the corrected scores once duplicate cases were eliminated and miscoded cases corrected.

TABLE 1

**COURT OF CIVIL APPEALS JUDGES CORRECTED
AND UNCORRECTED JOB CREATION
AND ECONOMIC DEVELOPMENT SCORES**

Judge	Corrected Decision Counts					% (+)	EJR	Cases
	(+)	(-)	(/)	NP	Total		% (+)	
Adams	29	24	0	0	53	54.72	55%	55
Garrett	42	28	0	0	70	60.00	58%	74
Hansen	30	50	2	1	82	37.80	37%	80
Buettner	12	2	0	0	14	85.71	86%	14
Joplin	18	6	1	0	25	74.00	69%	27
Jones	25	24	0	0	49	51.02	57%	49
Boudreau	10	6	0	0	16	62.50	59%	18
Goodman	12	11	0	0	23	52.17	52%	23
Rapp	14	19	1	0	34	42.65	42%	33
Reif	24	24	1	0	49	50.00	51%	48
Stubblefield	14	22	1	0	37	39.19	42%	38
Taylor	9	10	0	0	19	47.37	50%	20

Source: Authors' calculations from data in EJR.

- (+) pro economic development
- (-) anti economic development
- (/) concur in part, dissent in part
- NP non-participant

While the corrected case information does not yield dramatically different summary scores from the original EJR summaries, five of the twelve Court of Civil Appeals judges had noticeably different corrected scores. Further, correcting the errors is essential when individual judge's decisions are compared with one another to establish the overall structure of judicial decision-making.

The next question concerns the selection of cases and the judgment made as to whether or not the decisions were favorable to job creation and economic development. This addresses whether the cases as selected and coded are in fact an accurate basis for the judges' scoring decisions.

TABLE 2
SUPREME COURT CORRECTED AND
UNCORRECTED JOB CREATION AND ECONOMIC
DEVELOPMENT SCORES

Judge	Corrected Decision Counts						EJR		
	(+)	(-)	(/)	NP	Total	%NP	%(+)	%(+)	%NP
Hargrave	119	53	5	6	183	3.28	68.64	69	3
Hodges	110	64	4	5	183	2.73	62.92	63	3
Kauger	70	88	23	2	183	1.09	45.03	44	1
Lavender	118	58	7	0	183	0.00	66.39	67	1
Opala	94	66	21	2	183	1.09	57.73	59	1
Simms	127	38	13	5	183	2.73	75.00	76	3
Summers	96	68	12	7	183	3.83	57.95	58	4
Watt	51	43	2	87	183	47.54	54.17	53	48
Wilson	61	101	17	4	183	2.19	38.83	39	2

Source: Authors' calculations from data in EJR.

- (+) pro economic development
- (-) anti economic development
- (/) concur in part, dissent in part
- NP non-participant

THE STRUCTURE OF DECISIONS: JOB CREATION AND ECONOMIC DEVELOPMENT

The EJR assert that the cases they selected had an impact on Oklahoma's economy. Decisions were subjectively determined to positively influence economic development or not. This model is a familiar description of political decisionmaking. The legislature, for example, can pass laws that, in someone's judgment, favor or restrict economic development and we would expect that if a legislator's voting record is examined over time a pattern would emerge. Some legislators would be found to be pro-business, others pro-labor; some might be pro-growth, while others are anti-growth, pro-consumer or pro-environment.

Politicians generally are expected to position themselves and their opponents on these matters. These familiar categories structure elections, public opinion, and legislative struggles. They are the cleavages that define much of Oklahoma politics today.

Applied to judicial decisions, this is the attitudinal model, in which court decisions are "based on the facts of the case in light of the ideological attitudes and values of the justices." (Segal and Spaeth 1993:32) The United States Supreme Court has a long, documented, history of political cleavages, economic as well as others (Schubert 1959; Spaeth 1963; Ulmer 1986).

A second, legal, model "postulates that the decisions of the Court are based on the facts of the case in light of the plain meaning of statutes and the Constitution, the intent of the framers, precedent, and a balancing of societal interests. . . judicial decisions merely apply the law objectively, dispassionately, and impartially"(Segal and Spaeth 1993:32-3). Differences among appellate judges, in this model, reflect the weights given case facts and conflicting precedents, statutes, and Constitutional provisions.

There is a third model developing among scholars suggesting that if there is ideological discretion among a state's appellate judiciary it will reflect the prevailing ideology in the state at the time of appointment. These ideological distances will be manifest in states with partisan elections of appellate judiciary; not, however, in states with retention systems or non-partisan elections (Hall 2001; Brace Langer, and Hall 2000). Oklahoma is interesting in this regard as justices Simms and Hargrave, with the highest corrected EJR scores, were appointed by Democratic governors (Hall and Boren) as were those with the lowest corrected EJR scores, Wilson and Kauger (appointed by Governor Nigh).

The assumption made by EJR is that Oklahoma appellate courts decisions comply with the attitudinal model. Why should they not? The answer is they might to the extent the Oklahoma courts approximate the conditions that characterize the United States Supreme Court. The U.S. Supreme Court is the court of last resort, it selects what cases it chooses to hear, typically the few of national import amongst the many that have conflicting precedents and statutes and in which Constitutional provisions are finely balanced. Its members lack political or electoral accountability and the Court need not respond to public opinion or other political actors (Segal and Spaeth 1993:xv-73 and *passim*). Oklahoma

appellate courts, in contrast, are subject to Federal courts and have only a limited ability to select cases. The appellate judiciary has six-year terms and must periodically face voters in retention elections. The conditions that enable the attitudinal model for U.S. Supreme Court justices are largely absent for the Oklahoma appellate judiciary.

Therefore, we cannot automatically assume Oklahoma's appellate judiciary follows the attitudinal model, as opposed to the legal, or some other model in its decisions. We cannot assume that even if the attitudinal model *does* apply that economic attitudes have any relevance. These assumptions need to be empirically tested. The EJR selected its cases from among many possible cases. Decisions were scored without any evident use of systematic sampling or objective, published, coding procedures. The EJR did not report validity checks on its coding and did not even check the accuracy of its data. Under these conditions one judge or justice could wind up with a high score and another with a low score as a product of arbitrary decisions rather than actual differences between the judges or justices.

Here we will test to determine if all cases selected in the EJR were seen by the judiciary as dealing with economic development and jobs and not other, unrelated, issues. Likewise, a test will ascertain if the judges were applying economic considerations in reaching their decision as opposed to, say, equal protection, statute, or precedent. Because the structure of the Court of Civil Appeals and the Supreme Court are different, those courts will be treated separately.

COURT OF CIVIL APPEALS

The Court of Civil Appeals has two groups of judges, one sitting in Tulsa the other sitting in Oklahoma City. Each group has two divisions of three judges. Judges in Oklahoma City are subject to pre-arranged rotation among the two Oklahoma City divisions as are Tulsa judges among Tulsa's two divisions. The rotation takes place every year, although procedures varied over the twelve years from which the cases were selected. The Supreme Court assigns cases randomly to Tulsa or Oklahoma City where they are again randomly assigned to a three judge division. In rare instances a case will not be assigned to a panel with a certain judge or a judge from another panel and occasionally a judge

from outside the Court of Civil Appeals will be assigned to fill a panel vacancy. This might occur, for example, if a judge had some prior connection with the case. We can assume, however, that certain kinds of cases are not assigned to designated judges or that panels specialize. Each case will be decided, subject to Oklahoma Supreme Court review, by only three of the sitting twelve judges. Further, the three judges will sit together on only a small number of the selected cases before being rotated into different configurations. Therefore, each Court of Civil Appeals judges' EJR economic scores will be based on a different set of cases.

Not only must we address the question of judges deciding the selected cases based on an hypothesized economic ideology, we must also address the concern that if judge A got judge B's cases and B got A's, their EJR Jobs and Economic Development scores would be exchanged; that is, the score reflects the cases assigned and not the judges economic views — even if economic views are playing a role in judicial decisions.

We can make predictions based on the assumptions. If the predictions are borne out the evidence favors the validity of the assumptions. On the other hand, if the predictions are not borne out the assumptions are called into question. The EJR assumes the judges vary in favorability toward the EJR conception of jobs and economic growth and this is measured by the EJR scores. The EJR assumes the selected cases are decided on these economic viewpoints. Finally, the EJR assumes they have coded decisions as favorable (+) or unfavorable (-) to job creation/economic growth in the same way as the judges view the case. If these assumptions are correct, judge A, more favorable to EJR's concept of job growth/economic development than judge B, will make the same or 'more favorable' decision on common cases than will judge B.

If these assumptions are not correct then the 'more favorable' judge A, as determined by EJR scores, could be less favorable on common cases toward EJR's concept of economic growth than judge B. If we cannot use EJR scores to predict how judges will react on cases they decided together, then the scores do not measure the judges' job creation, economic development views. Instead, the scores merely

TABLE 3

PAIRWISE COMPARISON OF CIVIL APPEALS JUDGES ON COMMON CASES

Judges (Corrected Score) <i>Oklahoma City</i>	(+)	(/)	(-)	Total	Supports Hypothesis	Judges (Corrected Score) <i>Tulsa</i>	(+)	(/)	(-)	Total	Supports Hypothesis
Garrett (60.0%)	20	0	13	33	No	Boudreau (62.5%)	2	0	2	4	No
Adams (54.7%)	20	0	13	33		Goodman (52.5%)	2	0	2	4	
Adams (54.7%)	7	0	10	17	Yes	Boudreau (62.5%)	7	0	2	9	Yes
Hansen (37.8%)	7	1	9	17		Rapp (42.6%)	5	1	3	9	
Buettner (85.7%)	2	0	0	2	No	Boudreau (62.5%)	7	0	3	10	No
Adams (54.7%)	2	0	0	2		Reif (50.0%)	7	0	3	10	
Joplin (74.0%)	1	0	0	1	No	Boudreau (62.5%)	3	0	3	6	No
Adams (54.7%)	1	0	0	1		Stubblefield (39.1%)	3	0	3	6	
Adams (54.7%)	11	0	10	21	Yes	Boudreau (62.5%)	1	0	2	3	No
Jones (51.0%)	9	0	12	21		Taylor (47.3%)	1	0	2	3	
Garrett (60.0%)	6	0	5	11	Yes	Goodman (52.5%)	1	0	1	2	No
Hansen (37.8%)	3	0	8	11		Rapp (42.6%)	1	0	1	2	

TABLE 3 (continued)

PAIRWISE COMPARISON OF CIVIL APPEALS JUDGES ON COMMON CASES

Judges (Corrected Score) <i>Oklahoma City</i>	(+)	(/)	(-)	Total	Supports Hypothesis	Judges (Corrected Score) <i>Tulsa</i>	(+)	(/)	(-)	Total	Supports Hypothesis
Buettner (85.7%)	0	0	0	0	-	Goodman (52.5%)	7	0	6	13	Yes
Garrett (60.0%)	0	0	0	0	-	Reif (50.0%)	6	1	6	13	
Joplin (74.0%)	2	0	4	6	No	Goodman (52.5%)	7	0	6	13	No
Garrett (60.0%)	6	0	0	6		Stubblefield (39.1%)	7	0	6	13	
Garrett (60.0%)	15	0	10	25	Yes	Goodman (52.5%)	8	0	5	13	No
Jones (51.0%)	12	0	13	25		Taylor (47.3%)	8	0	5	13	
Buettner (85.7%)	12	0	2	14	Yes	Reif (50.0%)	8	0	8	16	Yes
Hansen (37.8%)	3	1	10	14		Rapp (42.6%)	7	1	8	16	
Joplin (74.0%)	13	1	4	18	Yes	Rapp (42.6%)	4	0	5	9	Yes
Hansen (37.8%)	5	1	12	18		Stubblefield (39.1%)	3	1	5	9	
Jones (51.0%)	15	0	11	26	Yes	Taylor (47.3%)	0	0	2	2	No
Hansen (37.8%)	13	0	13	26		Rapp (42.6%)	0	0	2	2	

TABLE 3 (continued)

PAIRWISE COMPARISON OF CIVIL APPEALS JUDGES ON COMMON CASES

Judges (Corrected Score) <i>Oklahoma City</i>	(+)	(/)	(-)	Total	Supports Hypothesis	Judges (Corrected Score) <i>Tulsa</i>	(+)	(/)	(-)	Total	Supports Hypothesis
Buettner (85.7%)	10	0	2	12	No	Reif (50.0%)	7	0	8	15	No
Joplin (74.0%)	10	0	2	12		Stubblefield (39.1%)	7	0	8	15	
Buettner (85.7%)	0	0	0	0		Reif (50.0%)	5	1	8	14	No
Jones (51.0%)	0	0	0	0	-	Taylor (47.3%)	7	0	7	14	
Joplin (74.0%)	7	1	4	12	No	Taylor (47.3%)	2	0	3	5	No
Jones (51.0%)	8	0	4	12		Stubblefield (39.1%)	2	0	3	5	

Source: Authors' calculations from corrected EJR data.

(+) pro economic development

(-) anti economic development

(/) concur in part, dissent in part

reflect one of the following possible scenarios: 1) the judges decided on different sets of cases over the years; 2) the judges decided on their weighing of facts and the law, not economic ideology; 3) the coding of decisions was arbitrary; 4) the cases selected were not economic; or 5) all of these.

Generally, civil appeals judges with higher economic development scores decided common cases exactly the same as judges with lower scores. Differences in job creation and economic development scores are largely a product of different cases rather than different judicial philosophies. Judge Ronald Stubblefield has the lowest score amongst the Tulsa judges, 39.1 percent. Yet when he decided six cases with Judge Daniel Boudreau, the judge with the highest score, 62.5 percent, they decided identically. Likewise Judge Stubblefield decided common cases the same way as Judge Jerry Goodman, Judge John Reif, and Judge Joe Taylor, all with higher scores. The only difference amongst all his colleagues was one case in which Stubblefield concurred in part and dissented in part from an opinion by Judge Rapp. Most of the Tulsa comparisons showed identical decisions on common cases. In one comparison, Judge Reif with a score of 50.0 percent was less pro-economy on fourteen common cases than Judge Taylor, with a lower score of 47.3 percent. .

The Oklahoma City judges had some stronger differences among judges on common cases. Judge Carol Hansen, score 37.8 percent, was less supportive of the EJR concept of job growth and economic development than any of her colleagues in deciding common cases, although she differed from Judge Adams (54.7 percent) on only one of seventeen common cases. On the other hand, Judge Carl Jones, score 51.0 percent, and Judge James Garrett, score 60.0 percent, were more pro-economy than Judge Larry Joplin, score 74.0 percent, on common cases. Over the twenty-eight Tulsa and Oklahoma City comparisons, only eleven were as expected if we assume judges were deciding cases on the basis of job creation and economic growth and their EJR scores actually measured their economic viewpoints. Seventeen comparisons showed no differences or differences in the opposite direction expected.

The EJR scores do not measure Court of Civil Appeals judges' economic views nor is there evidence that the judges decided the selected cases based on any economic philosophy.

SUPREME COURT

We begin with the 186 EJR Supreme Court cases. Three duplicate cases were eliminated. Completely unanimous decisions do not differentiate justices. Forty-six such cases were eliminated. Cases in which one or more justices failed to participate posed another problem. Sixty-seven of the remaining cases were decided before Justice Watt joined the court in 1992 and seventy after. Cases in which a justice did not participate do not add to our ability to evaluate either the justice's viewpoints or the nature of the case itself. Therefore two analyses were done, one for cases before Justice Watt joined the court and one for cases after Justice Watt joined. Other justices, for one reason or another, were absent from decisions. Ten of the cases decided before Justice Watt joined the court had absent justices as did twelve decided after Justice Watt joined. Once these were eliminated, fifty-seven cases decided without Justice Watt and fifty-eight decided with him remained.

The EJR assumes that the Supreme Court cases selected represent job development and economic growth, that the coding correctly documented the decision's impact, and that the justices approached their decisions from an economic perspective, implementing their various philosophies. If these assumptions are valid, then the EJR scores for the justices represent their attitudes towards economic development. Some of the selected cases saw large majorities on one side, some with large majorities on the other, and yet more cases revealed a sharply divided court. If the EJR assumptions are correct, then the cases themselves range on the scale from "easy" to "difficult." Easy cases are those that favor the job creation/economic growth position and are decided by a unanimous and favorable court, while difficult cases are those against the job creation/economic growth position, and are decided by a court that is unanimously unfavorable.

These assumptions can be tested by arranging cases and justices into a Guttman scale (Darcy and Rohrs 1995:233-250). These Guttman scales have been used to analyze Supreme Court decisions for decades (Ulmer 1960). In the present situation we have each justice coded for each case in one of three ways: "+" indicating those who were pro-job creation/economic development, "/" concur in part, dissent in part, considered by the EJR to be neutral, and "-" those who were anti-job creation/economic development. These form an order, suggested by

the EJR, with "neutral" being between "pro" and "anti" job creation/economic development. For the moment, we accept this coding as actually corresponding to a decision's impact on economic development. If the cases have been consistently coded and if the justices are indeed voting their "general philosophy," (EJR pages not numbered) on these cases, as it applies to economic matters, and if the judges are in fact positioned at different points along a continuum of pro, neutral, and anti-economic development, a pattern should emerge. If cases are arranged from left to right in decreasing order by the number of "+" and then "/" votes and the justices from top to bottom by the number of "+" and then "/" votes, the actual table should be reproducible from the case or justice scores.

The cases were arranged in this manner twice, creating two Guttman scales, one representing those cases before Justice Watt joined the court (see Table 4), and those after Justice Watt joined the court (see Table 5). The next step was to evaluate the reproducibility of the scales from the number of "+," "/", and "-" each case or justice had. For example, if a case had four "+," two "/", and three "-", then the top four justices would assumed to have "+," the next two "/", and the bottom three "-." Likewise a justice with thirty "+," five "/", and twenty-two "-" would be assumed to have "+" on the first thirty cases, "/" for the next five, and "-" for the final twenty-two. Discrepancies with these reproduced patterns are errors.

The final step in creating a Guttman scale is to shift cases and justices while changing scores so as to minimize errors. Consider case 7 in Table 4, *Burk v. K-Mart Corp.* There are five "+," two "/", and one "-." If the first five justices were assigned "+," Justices Simms and Lavender would have errors. Likewise, if the next two justices were assigned "/", Justice Kauger would have an error. Finally, if the last justice, Wilson, were assigned "-", that would be an error as well for a total of four errors. Shifting the case and changing its score to eight "+," zero "/", and zero "-" eliminates the errors associated with Justices Kauger and Wilson, while making Justice Opala's "/" a new error. Overall the errors are reduced from four to three, however. Once this is done with all cases and justices a Coefficient of Reproducibility (C.R.) can be calculated.

The C.R. is the number of decisions that can be reproduced from revised scores divided by the total number of cases. In Table 4 the total number of cases are eight justices multiplied by the fifty-seven cases.

TABLE 4

OKLAHOMA SUPREME COURT WITHOUT JUSTICE WATT FINAL GUTTMAN SCALE
OF ECONOMIC DECISIONS

Justice	Case Number																				
	7	38	56	79	80	89	90	111	123	140	146	148	34	35	125	151	153	37	67	17	36
Simms	-	-	+	-	+	+	+	+	+	-	+	-	+	+	-	+	+	+	+	+	+
Hargrave	+	-	+	+	+	+	-	+	-	/	+	+	+	+	+	+	+	+	+	+	-
Lavender	/	+	+	+	+	+	+	+	-	+	+	+	+	+	+	+	+	/	+	+	+
Hodges	+	+	+	-	+	-	-	+	+	+	+	+	+	-	-	+	+	+	+	+	-
Summers	+	+	+	+	+	+	+	+	+	+	-	+	+	+	+	/	+	+	+	/	+
Opala	/	/	+	/	/	+	+	+	+	/	+	+	+	+	+	+	+	+	+	+	+
Kauger	+	+	/	+	+	+	+	-	/	+	+	+	+	+	+	+	+	/	/	-	-
Wilson	+	+	+	+	+	+	+	+	+	+	+	+	-	-	-	-	-	-	/	-	-
count(+)	8	8	8	8	8	8	8	8	8	8	8	6	7	7	7	7	7	6	6	6	6
count(/)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0
count(-)	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	2	2
errors	3	3	1	3	1	1	2	1	3	3	1	1	0	1	2	1	0	1	1	1	2

TABLE 4 (continued)

**OKLAHOMA SUPREME COURT WITHOUT JUSTICE WATT FINAL GUTTMAN SCALE
OF ECONOMIC DECISIONS**

Justice	55	65	83	142	150	154	8	113	5	60	156	112	126	25	54	63	81	141	143	138	139	
Simms	+	+	+	+	+	+	+	-	+	/	+	+	+	+	-	+	+	+	+	+	+	+
Hargrave	-	+	+	+	+	+	+	+	-	+	+	+	+	+	+	+	+	+	+	+	+	+
Lavender	+	+	-	+	+	+	+	-	-	+	+	+	+	+	+	+	-	+	+	+	+	+
Hodges	+	+	-	+	+	+	+	+	+	/	-	+	+	-	+	+	+	+	+	+	+	+
Summers	-	+	+	-	-	-	+	+	+	+	+	+	/	+	+	+	+	+	+	/	-	-
Opala	+	+	+	+	+	+	/	/	/	/	/	/	/	-	-	-	-	-	-	+	+	+
Kauger	-	-	-	-	-	-	/	/	-	/	/	/	/	-	-	-	-	-	-	/	-	-
Wilson	-	-	-	-	-	-	+	+	-	+	-	-	/	-	-	-	-	-	-	/	-	-
count(+)	6	0	6	6	6	6	5	5	5	5	5	5	5	5	5	5	5	5	5	4	4	4
count(/)	0	0	0	0	0	0	1	1	1	1	1	1	1	0	0	0	0	0	1	0	0	0
count(-)	2	0	2	2	2	2	2	2	2	2	2	2	2	3	3	3	3	3	3	3	4	4
errors	2	0	2	1	1	1	2	4	2	4	2	1	3	1	1	0	1	0	3	1	1	1

TABLE 4 (continued)

OKLAHOMA SUPREME COURT WITHOUT JUSTICE WATT FINAL GUTTMAN SCALE OF ECONOMIC DECISIONS

Justice																Revised score					
	10	32	57	136	144	2	58	68	84	87	127	145	135	62	64	+	/	-	sum	errors	
Simms	+	-	+	+	+	+	+	+	+	+	+	+	/	-	-	54	1	2	57	10	
Hargrave	+	+	+	+	+	-	-	-	-	-	-	-	/	-	-	47	0	10	57	8	
Lavender	+	/	-	-	-	-	+	-	+	-	-	-	/	-	+	43	1	13	57	11	
Hodges	-	-	-	-	-	+	-	+	-	-	-	-	-	+	-	42	0	15	57	13	
Summers	-	-	-	-	-	-	-	+	-	-	-	-	-	-	-	39	1	17	57	9	
Opala	-	/	-	-	+	-	-	-	-	-	-	-	/	/	-	27	7	23	57	12	
Kauger	-	-	-	-	-	-	-	-	-	-	+	-	-	/	-	17	2	38	57	12	
Wilson	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	12	0	45	57	6	
count(+)	3	2	2	2	2	1	1	1	1	1	1	1	0	0	0					sum	81
count(/)	0	1	0	0	0	0	0	0	0	0	0	0	1	0	0						
count(-)	5	5	6	6	6	7	7	7	7	7	7	7	7	8	8	sum					
errors	0	2	0	0	1	1	1	2	1	0	1	0	3	3	1	81					

Source: Authors' calculations from EJR data. Cases are identified in Appendix 3.

Shading indicates errors C.R. = .8223

(+) pro economic development (-) anti economic development (/) concur in part, dissent in part

TABLE 5

**OKLAHOMA SUPREME COURT WITH JUSTICE WATT ADDED FINAL GUTTMAN SCALE
OF ECONOMIC DECISIONS**

Justice	Case Number																					
	15	91	94	102	117	118	130	189	19	28	51	52	96	114	163	164	180	184	73	98	27	
Simms	/	+	+	+	+	/	+	+	+	+	+	+	/	+	+	+	+	+	+	+	+	+
Hargrave	+	+	-	-	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+
Lavender	+	+	+	+	+	+	+	+	+	+	+	+	-	+	+	+	+	+	+	+	+	+
Hodges	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	/	+	/	+
Summers	+	+	+	+	+	+	-	+	+	+	+	+	-	+	+	+	+	+	+	-	/	+
Opala	+	+	+	+	/	+	+	-	-	+	+	+	+	+	+	+	+	+	+	+	+	+
Watt	+	-	+	+	+	+	+	-	+	+	+	+	+	+	+	-	+	+	+	+	+	/
Kauger	+	+	/	+	/	+	-	+	+	+	+	+	+	+	+	+	+	+	/	/	/	/
Wilson	+	+	+	+	+	+	+	+	/	-	/	/	-	/	-	/	/	/	/	/	/	/
count(+)	9	9	9	9	9	9	9	9	8	8	8	8	8	8	8	8	8	8	7	7	6	
count(/)	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	1	2	2	3	
count(-)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
errors	1	1	2	1	2	1	2	2	1	1	0	0	4	0	1	1	0	1	1	2	0	

TABLE 5 (continued)

OKLAHOMA SUPREME COURT WITH JUSTICE WATT ADDED FINAL GUTTMAN SCALE
OF ECONOMIC DECISIONS

Justice	14	99	166	13	30	43	47	116	160	103	106	49	41	70	74	101	120	159	170	174	176	
Simms	-	+	+	+	+	+	+	+	+	+	+	-	+	+	+	+	+	+	+	+	+	+
Hargrave	+	+	+	+	-	+	+	+	+	-	-	+	+	+	+	+	+	+	+	+	+	+
Lavender	+	+	+	+	-	+	+	+	+	-	+	+	+	+	+	+	+	-	-	-	-	-
Hodges	+	+	+	-	+	+	-	+	+	+	-	+	-	-	-	-	-	-	-	-	-	-
Summers	+	+	+	+	+	+	+	+	+	/	/	-	-	-	+	-	-	-	-	-	-	-
Opala	+	+	+	-	-	-	-	-	-	-	-	-	-	/	-	+	+	-	-	-	-	-
Watt	-	-	-	-	-	+	-	+	-	-	-	-	-	-	+	-	-	+	-	-	-	-
Kauger	-	/	+	-	-	-	-	-	/	-	-	-	-	-	-	-	-	-	-	-	-	-
Wilson	-	-	-	-	/	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
count(+)	6	6	6	5	5	5	5	5	5	4	4	4	3	3	3	3	3	2	2	2	2	
count(/)	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	
count(-)	3	3	3	4	4	4	4	4	4	4	4	5	6	6	6	6	6	7	7	7	7	
errors	1	1	1	1	3	1	1	1	1	2	2	1	0	1	2	1	1	1	0	0	0	

TABLE 5 (continued)

**OKLAHOMA SUPREME COURT WITH JUSTICE WATT ADDED FINAL GUTTMAN SCALE
OF ECONOMIC DECISIONS**

Justice																Revised Score						
	186	22	104	11	69	76	95	115	29	45	97	108	167	172	175	181	+	/	-	sum	errors	
Simms	-	+	+	/	/	/	/	/	-	-	-	-	-	-	-	-	45	5	8	58	8	
Hargrave	+	-	-	-	-	-	-	/	-	-	-	-	-	/	-	/	43	0	15	58	8	
Lavender	-	-	-	-	-	-	-	/	-	+	-	-	-	-	-	-	38	0	20	58	5	
Hodges	-	-	+	+	-	+	+	-	-	+	/	+	-	-	+	-	33	0	25	58	13	
Summers	-	-	-	-	-	-	-	-	-	-	/	-	-	-	+	-	30	2	26	58	7	
Opala	-	-	-	/	-	-	-	-	+	+	-	-	+	-	-	-	24	0	34	58	10	
Watt	-	+	+	-	-	+	-	-	-	-	-	+	-	-	+	-	20	1	37	58	12	
Kauger	-	-	-	-	/	-	-	-	-	-	-	-	-	-	+	-	18	3	37	58	8	
Wilson	-	-	-	/	+	-	-	-	+	-	-	-	-	-	-	-	8	13	37	58	7	
count(+)	2	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0						
count(/)	0	0	0	1	1	1	1	1	0	0	0	0	0	0	0	0						
count(-)	7	8	8	8	8	8	8	8	9	9	9	9	9	9	9	9	sum					
errors	1	1	2	3	2	2	1	2	2	3	2	2	1	1	4	1	76					

Source: Authors' calculations from EJR data. Cases are identified in Appendix 3.

Shading indicates errors C.R. = .8544

(+) pro economic development (-) anti economic development (/) concur in part, dissent in part

The 'errors' are indicated by shading. These total to eighty-one. $C.R. = [(8 \times 57) - 81] / (8 \times 57) = .822$. A C.R. of .90 or more is considered necessary to form a scale meeting the EJR assumptions. This criterion was proposed by Guttman (Guttman 1950), "a suggestion that has generally been followed" (Mokken 1971:51; Darcy and Rohrs 1995:241). Neither set of decisions meet this criterion.

Consider Table 5. Among the nine justices, Simms is most favorable to EJR's concept of job creation and economic development. Yet in *City of Oklahoma City v. State ex rel. Department of Labor* (#15) and *Tansey v. Dacommed Corp.* (#118) he is the only justice not recording a "+" opinion. Likewise Justice Wilson is least favorable to EJR's concept of job creation and economic development and yet she cast the only "+" vote in *Graham v. Keuchel* (#69) while six, more "favorable" justices, voted "-." Some discrepancies like these are expected but they should not exceed ten percent of all decisions. Here, they do. We must reject the assumption that the cases suggest economic decision-making on the part of the justices, and that they provide a measure of judicial economic philosophy. More likely, the cases represent a different balance of fact and law amongst the justices. The cases were carefully selected and coded by EJR to demonstrate just such economic patterns. The EJR's failure to form a consistent scale is therefore evidence that Oklahoma Supreme Court justices are not proceeding on economic philosophy in deciding their cases. Further, the argument, implicit in the election day scorecards that changing justices will somehow affect Oklahoma's economy is not supported.

CONCLUSION

Henry N. Butler, the Fred and Mary Koch Distinguished Professor at the University of Kansas and Director of their Law and Organizational Economics Center, wrote a *Daily Oklahoman* opinion article defending the Oklahomans for Judicial Excellence judicial scores, just prior to the 1998 judicial elections.

Oklahomans for Judicial Excellence produced a report card grading judges on economic impact. Judges, lawyers, newspaper

editors and others may quibble with the methodology of those report cards. They may disagree with methods used to publicize results. However, it is difficult to argue with the proposition that citizens and the electoral process benefit from more information. (Butler 1998)

Instead, we find voters are not being informed by the economic judicial scorecards. Recording cases was inaccurate and cases were duplicated, distorting scores. More fundamental, however, were internal inconsistencies between judicial scores and the judge and justice's participation in particular cases. A number of Court of Civil Appeals judges with very different scores behaved virtually identically when viewing common cases. Supreme Court justice decisions could not accurately or reliably be predicted from the EJR scores. This failure is particularly damaging because cases were carefully selected for their bearing on Oklahoma's economy and decisions were evaluated by the score-makers themselves.

There is no evidence that judges and justices, in making their decisions, are not doing what they are supposed to be doing. They are supposed to weigh the conflicting facts, and competing precedents, statutory, and constitutional provisions. In doing so, they sometimes reach different conclusions. Why? The cases accepted by the Supreme Court or Court of Civil Appeals are the tough ones where statute, Constitutional provisions and precedent conflict. We have eliminated unanimous cases. Those left will show disagreement and conflict. But these conflicts cannot be interpreted as economic. There is no support for the assertion "the general philosophy of each judge" (EJR, pages not numbered) was quantified. Henry Butler argues:

Judges should not abandon the letter of the law for the gross domestic product; judges must follow the law. Few judges deliberately injure their state's economy. However, to avoid doing harm, judges must possess the basic tools of economic analysis to adequately understand the impact of their decisions. (Butler 1998)

No attempt was made in the EJR to demonstrate or explain the economic impact of any decision. We have only "the opinion of EJR [that] the decision will have an impact on economic growth" (EJR pages

not numbered). Nothing is presented to explain for any particular case or for the set of cases as a whole how the economy is affected, if at all. Melinda Gann Hall, in a recent *American Political Science Review* article on state appellate judiciaries reinforces this point in the strongest terms when she stated that "... judges have no direct responsibility for economic conditions" (Hall 2001:322).

But the cases do tell their own stories. We cannot summarize all 411 cases. Those interested can look up any with the references provided in the appendices. Let us look at one, *Smith v. Westinghouse* (732 P.2d 466) decided in 1987 – a case in which each participating supreme court justice (Simms and Watt did not participate) was scored with an anti-economic development score. In Tulsa there is the Beacon Building. Under the sidewalk in front of the building Public Service Company of Oklahoma (PSO) constructed a vault in their eminent domain and put an electric transformer there. It was manufactured in 1937. Sometime in the 1980s it exploded spewing PCB chemicals all over people and otherwise harming them. A replacement transformer installed by PSO, also built in 1937, exploded a few weeks later with the same results. The victims sued PSO, Westinghouse, which manufactured the transformer, and Monsanto, which made the PCB chemicals. The defendants claimed protection under an Oklahoma law protecting designers and contractors of improvements to real property after their work has stood for ten years – a statute of repose. The Court found that the transformer was not part of the Beacon Building, not owned by the Beacon Building, nor was it taxed as part of the Beacon Building. It was simply connected to the Beacon Building by a wire or a pipe – just like the Grand Coulee Dam or the Sewer Treatment Plant. The court, if it was to follow the law, had to rule for the victims. At least that was what Justice Opala's opinion said.

This is not the place to develop a philosophy of job creation and economic development but some comments are in order. One element in attracting high-paying jobs is the environment and general quality-of-life. Air, ground, and water pollution do not attract quality jobs. But a strong education system, elementary, secondary, vocational and university, is vital for economic growth and job creation (Dauffenbach et al. 1999). Oklahoma Governor Frank Keating used his second inaugural address to stress social factors such as "high divorce rates, out-of-wedlock births, drug abuse, and child abuse and neglect as

issues retarding economic progress" (Warner 1999:128). The EJR cases have no obvious connection to a cleaner environment and improved quality of life, a strong education system, high divorce rates, increased drug use, out-of-wedlock births, child neglect and abuse. Some of the cases, to the contrary, seem to support the opposite, particularly in the area of corporate environmental responsibility. A right-to-work law and worker's compensation reform are more controversial economic development remedies (Warner 1998:73). Reform advocated by Governor Frank Keating and others involve changing either state statutes or the state Constitution, however. For them, the problem is the law, not with the judges and justices who carry it out.

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APPENDIX A

Court of Civil Appeals

Harrison v. St. Joseph's Regional Medical Center of Northern Oklahoma, Inc. 4/18/95 (EJR CCA4-3, CCA5-6)

Patton v. Memorial Hospital of Southern Oklahoma, Inc. 1/10/95 (EJR CCA4-2, CCA5-5)

Supreme Court

Ohio Casualty Insurance Co. v. Todd 06/11/91 (EJR SC3-2, SC5-3)

Dykes v. St. Francis Hospital, Inc 9/22/93 (EJR SC4-8, SC8-9)

Wilson v. Harlow 7/13/93 (SC5-5, SC7-4)

APPENDIX B

Court of Civil Appeals

Grover v. Superior Welding, Inc. (EJR CCA1-6) Transcribing Errors: Garrett concurs; Jones dissents. Correction: Garrett did not participate, Hansen concurs; Jones did not dissent, Jones concurs. (893 P.2d 500).

Farm Fresh Dairy v. Blackburn (EJR CCA1-4) Transcribing Error: MacGuigan concur; Correction: McGuigan did not participate, Adams concurs. The case was decided July 18, 1991 and MacGuigan had been replaced on the court by Jones May 21, 1991. (841 P.2d 1150).

West v. Oklahoma Water Resources Board (EJR CCA2-2) Transcribing Error: Bailey concurs, Garrett concurs; Correction: Hunter concurs, Jones concurs (820 P.2d 454).

Starrett v. Okla. Farmers Union Mut. Ins. Co. (EJR CCA3-3) Transcribing Error: Hunter concurs; decided 5/2/91; Correction: Bailey concurs; decided 5/7/91 (849 P.2d 397).

Townsend v. State Farm Mutual Automobile Ins. (EJR CCA3-5) Transcribing Errors: Adams wrote opinion, Garrett and Jones concur, case decided 9/28/93; Correction: Reif wrote opinion, Stubblefield and Means concur, case decided by Supreme Court 9/28/93, case decided by Court of Civil Appeals 7/25/89 (860 P.2d 236).

White v. Wynn. (CCA5-1) Transcribing Errors: Garrett wrote opinion, Adams concurs; Correction: Charles Wilson wrote opinion, Howard concurs; the case was decided 1/22/85; Garrett did not join court until November, 1986; Adams did not join court until March 1990. (Oklahoma Bar Journal 56 #5 page 306).

Cruse v. Atoka County Board of County Commissioners (EJR CCA5-4) Transcribing Error: Jones concurs; Correction: Bailey concurs. (910 P.2d 998).

Duane v. Oklahoma Gas & Electric (EJR CCA6-1) Transcribing Error: Boudreau wrote opinion; Correction: Bacon wrote opinion, case was decided 10/16/90, Boudreau joined the court March 1992 (833 P.2d 284).

In the Matter of the Franchise Tax Protest of Farmers Cooperative Association of Clinton, Oklahoma (EJR CCA7-6) Transcribing Error: Garrett concurs; Correction: Hansen concurs (933 P.2d 935).

B.F. Goodrich v. Easley (EJR CCA8-2) Transcribing Error: Stubblefield concurs; Correction: Brightmire concurs (806 P.2d 646).

Collins v. Halliburton Services (EJR CCA8-4) Transcribing Error: Bailey dissents, Hunter concurs, date decided 10/30/90; Correction: Garrett dissents, MacGuigan concurs, date decided 5/9/89 (804 P.2d 440).

Supreme Court

City of Oklahoma City v. State ex rel. Oklahoma Department of Labor (EJR SC1-5) Transcribing Error: Simms concurs, Summers concurs in part, dissents in part; Correction: Simms concurs in part, dissents in part, Summers concurs (918 P.2d 26).

Mustain v. U.S. Fidelity and Guar. Co. (EJR SC3-5) Transcribing Error: Simms concurs; Correction: Simms dissents (925 P.2d 533).

Jackson v. Mercy Health Center, Inc. (EJR SC4-8) Transcribing Error: Kauger dissents; Correction: Kauger concurs in part, dissents in part (864 P.2d 839).

Ingram v. ONEOK, Inc. (EJR SC5-1) Transcribing Error: Simms concurs, Wilson dissents; Correction: Simms dissents, Wilson concurs (775 P.2d 810).

Wright v. Grove Sun Newspaper (EJR SC5-6) Transcribing Error: Lavender concurs in part, dissents in part, Summers concurs in part, dissents in part; Correction: Lavender dissents, Summers dissents (873 P.2d 983).

Christopher v. Circle K Convenience Stores, Inc. (EJR SC5-10) Transcribing Error: Wilson concurs; Correction: Wilson not participating (937 P.2d 77)

Vinson Supply Co. v. State ex rel. Oklahoma Tax Commission (EJR SC7-1) Transcribing Error: Wilson concurs; Correction: Wilson not participating (767 P.2d 406).

Strelecki v. Oklahoma Tax Commission (EJR SC7-4) Transcribing Error: Kauger concurs in part, dissents in part, Lavender concurs in part, dissents in part, Summers concurs in part, dissents in part, Watt concurs in part, dissents

in part; Correction: Kauger concurs, Lavender concurs, Summers concurs, Watt concurs (872 P.2d 910).

A.T. & T. v. Land (EJR SC8-5) Transcribing Error: Simms concurs; Correction: Simms dissents (819 P.2d 716).

Wilson v. Harlow (EJR SC5-5; SC7-4) Transcribing Error on page SC7-4 Watt not participating; Correction Watt wrote opinion. Version on page SC7-4 with error eliminated as duplicate (860 P.2d 793).

APPENDIX C

(Number, Case, Date Decided)

2. *Elzey v. Forrest* 6/30/87
5. *Buckner v. General Motors Corp.* 7/5/88
7. *Burk v. K-Mart Corp.* 2/7/89
8. *Pearson v. Hope Lumber & Supply Co., Inc.* 11/5/91
10. *Tate v. Browning-Ferris, Inc.* 5/19/92
11. *Mosley v. Truckstops Corp. of America* 6/2/93
13. *Groce v. Foster* 7/12/94
14. *Brown v. Ford* 10/03/95
15. *City of Oklahoma City v. State ex rel. Oklahoma Department of Labor*
10/10/95
17. *Hayes v. Eateries, Inc.* 10/17/95
19. *Jordan v. Cates* 2/11/97
22. *Russall v. Board of County Commissioners of Carter County* 6/24/97
25. *Stewart v. Rood* 7/17/90
26. *Pack v. Santa Fe Minerals* 2/22/94
27. *Toxic Waste Impact Group, Inc. v. Leavitt* 12/20/94
29. *Kerr-McGee Corp. v. Admiral Insurance Co.* 10/03/95
30. *Nichols v. Mid-Continent Pipe Line Company* 10/15/96
32. *State Farm Mutual Automobile Insurance Co. v. Wendt* 10/22/85
34. *Moser v. Liberty Mutual Insurance Co.* 12/09/86
35. *Silver v. Slusher* 5/3/88
36. *Moon v. Guarantee Insurance Co.* 7/12/88
37. *Ohio Casualty Insurance Co. v. Todd* 6/11/91
38. *Dodson v. St. Paul Insurance Co.* 3/05/91

41. *Townsend v. State Farm Mutual Auto Ins. Co.* 9/28/93
43. *Walton v. Colonial Penn Insurance Co.* 9/28/93
45. *Kratz v. Kratz* 6/20/95
47. *Mustain v. U.S. Fidelity and Guar. Co.* 9/17/96
49. *Kincade v. Group Health Services of Oklahoma, Inc.* 7/1/97
51. *Boerstler v. Hoover* 7/15/97
52. *Kinder v. Oklahoma Farmers Union Mutual Ins. Co.* 7/15/97
54. *Roberts v. South Oklahoma City Hospital Trust* 7/22/86
55. *Weldon v. Seminole Municipal Hospital* 11/25/85
56. *Neese v. Shawnee Medical Center Hospital, Inc.* 9/23/86
57. *McKellips v. St. Francis Hospital, Inc.* 7/21/87
58. *Studebaker v. Cohen, M.D.* 10/20/87
60. *Morris v. Sanchez* 11/10/87
62. *Goforth v. Porter Medical Associates, Inc.* 5/31/88
63. *Wofford v. Davis* 10/18/88
64. *Hendren v. Mercy Hospital Center Inc.* 12/20/88
65. *Boyanton v. Reif* 7/24/90
67. *Sisson v. Elkins* 11/20/90
68. *Eversole v. Oklahoma Hospital Founders Association* 7/30/91
69. *Graham v. Keuchel* 1/26/93
70. *Kluver v. Weatherford Hospital Authority* 6/22/93
73. *Jackson v. Mercy Health Center, Inc.* 11/30/93
74. *Clark v. Bearden* 6/27/95
76. *Nelson v. Pollay* 2/20/96
79. *Fretwell v. Protection Alarm Co.* 07/12/88
80. *Brigance v. Velvet Dove Restaurant* 06/14/88
81. *Ingram v. ONEOK, Inc.* 5/30/89
83. *Williams v. Hook* 12/26/90
84. *Bradley v. Clark* 07/17/90
87. *McVay v. Rollings Construction, Inc.* 10/8/91
89. *Beard v. Viene* 02/25/92
90. *Norman v. Trison Development Corp.* 05/12/92
91. *Charles Machine Works, Inc. v. Quick* 4/27/93
94. *Wilson v. Harlow* 7/13/93
95. *Qualls v. United States Elevator Corp.* 10/26/93
96. *Wright v. Grove Sun Newspaper* 04/12/94
97. *Busby v. Quail Creek Golf & Country Club* 6/7/94
98. *Juvenal v. Okeene Public Schools* 7/12/94
99. *Avard v. Leming* 11/01/94
101. *Cruse v. Board of County Commissioners of Atoka County* 12/19/95
102. *McGehee v. State Insurance Fund* 07/18/95
103. *Roach v. Jimmy D. Enterprises, Ltd.* 2/27/96

104. *Phelps v. Hotel Management, Inc.* 10/8/96
106. *Professional Collections Inc. v. Smith* 3/4/97
108. *Zagal v. Truckstops Corporation of America* 6/17/97
111. *Clark v. Continental Tank Co.* 10/3/87
112. *Waggoner v. Town and Country Mobile Homes, Inc.* 12/27/90
113. *In re 1973 John Deere 4030 Tractor* 7/30/91
115. *Dutsch v. Sea Ray Boats, Inc.* 11/24/92
114. *Duane v. Oklahoma Gas & Electric Co.* 7/07/92
116. *Oklahoma Gas & Electric v. McGraw-Edison Co.* 7/14/92
117. *Ball v. Harnischfeger Corp.* 6/14/94
118. *Tansy v. Dacomed Corp.* 12/20/94
120. *Cary v. ONEOK, Inc.* 5/6/97
123. *Beacon Realty Investments Co. v. Cantrell* 3/21/89
125. *Rockwell International Corp. v. Clay* 7/11/89
126. *Kay Electric Cooperative v. State ex rel. Oklahoma Tax Commission*
7/09/91
127. *Lincoln Bank & Trust Company v. Oklahoma Tax Commission*
2/11/92
130. *Globe Life Ins. Co. v. Oklahoma Tax Commission* 3/19/96
135. *Fox v. National Carrier* 11/12/85
136. *In re Death of Walker: Nickell Trucking Co. v. Smith* 10/6/87
138. *Robins v. C-E Natco* 7/18/89
139. *McDonald v. Time-DC, Inc.* 5/16/89
140. *Gaines v. Sun Refinery and Marketing* 04/03/90
141. *Fenwick v. Oklahoma State Penitentiary* 5/15/90
142. *White v. Weyerhaeuser Co.* 10/02/90
143. *Collins v. Halliburton Services* 10/30/90
144. *Anglen v. E.L. Powell & Sons* 6/11/91
145. *Bransteter v. TRW/REDA Pump* 4/23/91
146. *In re Death of Hendricks v. Methvin Oil Co.* 6/11/91
148. *A.T. & T. v. Land* 10/29/91
150. *Williams Co. v. Lawrence* 1/21/92
151. *Thompson v. Nelson Electric* 2/11/92
153. *Kropp v. B.F. Goodrich* 3/24/92
154. *Seaton v. Plasti-Mat, Inc.* 4/28/92
156. *Prettyman v. Halliburton Co.* 5/05/92
159. *Ramsey v. Weyerhaeuser* 5/11/93
160. *Teel v. Tulsa Municipal Employees* 5/25/93
163. *Swafford v. Sherwin Williams* 11/02/93
164. *Batt v. Special Indemnity Fund* 12/21/93
166. *Bodine v. L.A. King Corporation* 2/22/94
167. *Haynes v. Tulsa Public Schools* 7/12/94

169. *Ponca City Welfare Association v. Ludwigsen* 10/11/94
170. *Benning v. Pennwell Publishing Co.* 10/18/94
172. *Camps v. Taylor* 3/21/95
174. *Superior Stucco & State Insurance Fund v. Daniels* 11/07/95
175. *Darco Transportation v. Dulen* 4/2/96
176. *City of Edmond v. Monday* 11/28/95
180. *Stoner v. City of Lawton* 3/11/97
181. *Baptist Medical Center of Oklahoma v. Aguirre* 12/24/96
184. *Harris v. La Quinta* 4/15/97
186. *Special Indemnity Fund v. Estill* 7/8/97

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