

CERTIORARI

Journal of Consumer Advocacy

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● **CASE FILE**

City Settles Case Accusing Police Officer of Assault

By Frank Frasier

The woman was intoxicated and pulled to the side of the road in Rogers County. She fell asleep and woke up disoriented. She called 911 for assistance.

Inola Police Officer Joe Beers answered the call.

Beers shined his flashlight at the woman through her window and asked her where she worked.

“You have a lot to lose, don’t you?” Beers asked, before moving her to his patrol car.

After some small talk, Beers offered to let the woman call a relative for a ride if he could fondle her. The woman was assaulted.

Later, Beers contacted the woman by text message and social media.

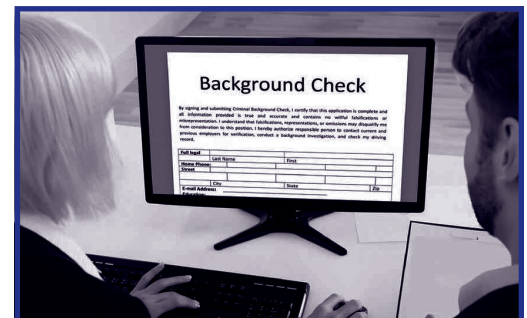
The woman called Frasier, Frasier & Hickman, LLP for help.

An investigation found Beers had worked for several law enforcement agencies without any training by CLEET – the Council on Law Enforcement Education & Training – the training standard for police officers in Oklahoma.

Beers was an Inola officer for about six months before beginning CLEET training – the week after the assault.

The firm’s probe revealed that the town of Inola had not conducted any meaningful background investigation before hiring Beers and putting a badge on him. In fact, various civil proceedings that were uncovered revealed Beers had a checkered background.

A lawsuit was filed on behalf of the woman against the town of Inola in Rogers County District Court.



An investigation found Beers had worked for several law enforcement agencies without any training by CLEET.

While the case was pending, Beers shot a suspect during a pursuit. He then left the Inola Police Department and joined the Muscogee (Creek) Nation Lighthouse Police Department.

This summer, as trial approached, the woman’s civil case was settled out of court. However, no criminal charges had been pursued by local or state officials. Federal officials were made aware of the matter.

“This fellow testified he had been around law enforcement for more than a decade before receiving any training. Yet he was able to move from place to place as an armed police officer. Although our investigation revealed other complaints by women against this so-called officer, he has never been criminally prosecuted. Now that may change,” said Frank Frasier.

● WORKER

Can Covid Vaccine Be Mandated?

There has been much in the press lately about employers attempting to force employees to be vaccinated for COVID-19. Recently, the federal government indicated that OSHA was going to have a mandate for employers with more than 100 employees.

The proposed OSHA mandate is a “soft” mandate – either get vaccinated or get tested every week. The time off work to get vaccinated would be regular work time.

The law allows, however, employers to implement a “hard” mandate – get vaccinated or get fired. Since Oklahoma is an employment-at-will state, employers have this right.

There are, however, three caveats to the above.

First, if it is a union shop and there is a Collective Bargaining Agreement in place, the union has the right to negotiate over the terms and effect of any mandate. However, if the parties cannot agree, then the employer can simply implement what it was planning to do.

Second, if there is a medical reason for a particular person not



to receive a shot, then the Americans with Disabilities Act *might* protect the employee. The question is whether the employer can accommodate the employee without undue hardship and without the employee being a direct threat to the health and safety of others. This is a complicated and very nuanced area, but at least the possibility to get around a vaccination requirement is present, if there is good medical evidence that the vaccination is contraindicated.

Third, there is the potential for a religious exception to vaccination. However, the reasonable accommodation and undue hardship tests with regard to religious considerations are much more employer-friendly. Under current law (which

several members of the U.S. Supreme Court have been trying unsuccessfully to get overturned), an employer need accommodate a religious objection only if it would place the lightest of burdens on the employer.

The flip side of the employer mandate question is whether a susceptible employee can refuse to work because co-workers are not vaccinated. Again, this falls within the complicated and nuanced considerations of the Americans with Disabilities Act.

A final factor is that many employers are having a hard time finding workers. Implementing a hard vaccination requirement may make a company have even more trouble finding workers. But this is a business decision, not a legal issue.

The bottom line is that in most cases the employer is in the driver's seat as to what it can require of its employees regarding vaccination.

Anyone facing one of these issues is encouraged to call Frasier, Frasier & Hickman, LLP, for consideration of the particular facts and circumstances.

● LEGAL SERVICES

Union Advantage Offers Free and Reduced Fee Services

Frasier, Frasier & Hickman, LLP offers its exclusive Union Advantage program to local unions affiliated with the Firm. With this program, union members and their families can be assured they will receive quality treatment and the possibility of resolving legal questions at a reduced cost.

Union Advantage includes the meat of the former Union Privilege Legal Services program discontinued by the AFL-CIO.

The FF&H Union Advantage program continues to



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offer an array of consumer benefits including free initial consultations and document review, follow-up services and 30 percent discount on non-contingent fee matters.

We also will continue to offer representation in Workers' Compensation, personal injury, Social Security, and other contingent fee matters. All as we have done in the past.

Our firm has been honored to represent union workers and their unions for almost 70 years and plans to continue that tradition unchanged.

Oklahoma Gov. Kevin Stitt wants to privatize Oklahoma's Medicaid system by outsourcing care of hundreds of thousands of recipients, including pregnant women, low-income parents and children and low income individuals expected to be added under program expansion.

Never mind that managed care has been tried before in Oklahoma and was abandoned because of price increases the state could not afford. The attempt was a total mess.

Never mind that the state medical association opposes the move. Oklahoma's doctors participating in Medicaid already accept abnormally low reimbursement rates to take care of the children and poor who rely on the program for health care.

The professionals in state employment who have been handling Medicaid have been doing a good



"The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

—Franklin D. Roosevelt, January 20, 1937

job, so why tamper with success?

The public Oklahoma Health Care Authority took bids for private companies to provide managed care to the state's Medicaid recipients. Managed care seeks to maximize their own profits by cutting costs. Managed care companies are essentially middlemen profiting on what they can save on care.

Two members of the Authority – both doctors – voted to delay implementation of the managed care program and Stitt removed them, leaving no medical professionals

on the board overseeing Medicaid. How does that make sense?

In fact, one of Stitt's appointed replacements was the man he dubbed Oklahoma's "PPE Czar" in charge of purchasing millions in protective masks and other gear after the COVID outbreak. Much of the equipment never materialized.

So what's going on? Something smells here.

Could we be dealing with a case of cronyism? Does someone have a friend who needs the business?

—Jim Frasier

● WORKER

Insurers' Neglect and Indifference Cost Injured Workers Financially

And the New Workers' Compensation System is OK With That.

By Kathryn Black

Our client was injured on the job in the early days of January 2020. The Workers' Compensation insurance carrier initially paid her TTD (Temporary Total Disability) benefits and provided medical treatment.

In-mid February, the client called FF&H very upset because her TTD checks were coming sporadically and, at the time, they were around three weeks behind.

Because she is a single mother of three, she was rather desperate. She had no choice but to accept a loan in order to keep the lights on and feed her family.

The employer's insurer did start paying her benefits again and they remained timely for about three months. In the middle of May, she called again, reporting that, her payments were again three weeks behind. This caused her to take an additional loan.

By the middle of June, the employer's insurer had still not paid and she had to take out another loan. In the meantime our office had filed with the Workers'



Comp Commission to address the problem.

Now she needs a surgery on her shoulder. In mid-May 2021, she was placed on restrictions that her employer would not accommodate, so she was back to relying on comp benefits.

In June, she called again. The employer's insurer again was three weeks behind on their payments and she needed another loan.

Because loans charge interest, they can be very expensive. Many times a worker will end up owing more than two times what was borrowed.

The employer and insurance company who do not pay timely suffer no consequences for their failure to do that which the law requires them to do. It is the injured worker who suffers for the insurer's neglect and indifference.

Thanks to the "reforms" to Oklahoma's Workers' Compensation system, workers here are subject to the abusive whims of business.

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certiorari, (ser-she-eh-ra-re) noun [Latin, to be informed]; to be informed as a means of gaining appellate review; a common writ. When at least four of the nine U.S. Supreme Court justices vote to hear a case, the court issues a writ of certiorari.

● STAFF HIGHLIGHT

Project Sends Thousands of Books to Africa

Approximately nine years ago John Flippo's family delivered thousands of books to a school in Uganda. This summer, the Flippo family went back to Uganda with 12 tons of books for two schools - one an elementary school and a high school.

Neither of these schools had any books. No reading books and no textbooks. The Flippo family delivered both.

Nine years ago, two of John Flippo's daughters, Nicole and Jordan, organized the trip to Africa and named their project Reading with Africa.

After returning from the Uganda trip, the name was changed to Open the World With a Book because books were being shipped to places all over.

The most recent trip was organized by Christopher Flippo, a student at Union High School. He arranged all details - from required shots to shipping requirements, securing visas, arranging for transportation while in Uganda, and arranging for places to stay while in Uganda.

"It goes without saying, I'm very proud of my children for taking on these complicated projects. They have not only helped others but had experiences in which they have assumed a lot of responsibility and learned a lot," Flippo said.

