

# CERTIORARI

## Journal of Consumer Advocacy

CONSUMER INFORMATION FOR THE CLIENTS AND FRIENDS OF FRASIER, FRASIER & HICKMAN, LLP

Page 2:  
xxxxxxx

Page 3:  
xxxxxxx

**Frasier, Frasier  
& Hickman, LLP**  
*Attorneys at Law*

1700 Southwest Boulevard  
Tulsa, Oklahoma 74107  
918-584-4724 or  
1-800-522-4049

Internet site:  
<http://www.frasierlaw.com>

E-mail Address:  
[frasier@tulsa.com](mailto:frasier@tulsa.com)

*Thomas Dee Frasier*  
1924-2001

*James E. Frasier*

*Steven R. Hickman*

*John W. Flippo*

*Frank W Frasier*

*George M. Miles*

*Kathryn H. Black*

*Maureen M. Johnson*

*Adam R. Burnett*



● **CASE FILE**

## Settlement Reached in ATV Crash

In September 2020, a young boy accompanied his father to a fish fry at some friends' property. These friends had three four-wheelers at the property along with another all-terrain vehicle called a Razor.

This adult ATV displayed warnings that it was not to be operated by persons under 16-years-old. Additionally, it had been modified with oversize tires that changed the vehicle's center of gravity.

The federal Consumer Product Safety Commission warns that young children lack the skills to maneuver the faster, more powerful adult ATVs.

The eight-year-old was allowed to drive the Razor ATV without a helmet or adult supervision. The boy crashed and was thrown into a barbed wire fence and suffered severe lacerations. He also suffered a fractured skull and brain bleed. Surgery was required to reconstruct the boy's fractured skull with titanium plates and screws.

Afterwards, the boy's mother, who shares custody with his father, was alarmed that he had been allowed to drive the ATV. She contacted Frasier, Frasier & Hickman, LLP, for help.

An investigation showed that the boy's father's friends – who owned the ATVs – had let young children operate the equipment before, although warning labels



against the practice were clearly in place. They also admitted they had modified the vehicle in a way that made it even more dangerous for youngsters to operate.

A lawsuit was filed against the ATV owners in Creek County to recover extensive medical expenses, and to compensate the boy for future unanticipated medical costs associated with traumatic brain injury.

After a pre-trial mediation conference a settlement was made.

"The mother was unhappy her son operated equipment he had no business being on," said Jim Frasier. "But we were able to show negligence and effect a settlement that will assist the youngster medically and emotionally as he grows to adulthood."

## ● CASE FILE

# Negligence Case Involving Assisted Living and Hospice Care Resolved

An elderly woman was a resident of an assisted living center in Oklahoma County. She was in hospice care.

In February 2020, employees of the Teal Creek Assisted Living Center and the Healing Hearts Hospice were moving the elderly woman and dropped her. As a result, the woman received severe, painful injuries.

The woman's condition worsened and she languished in the assisted living center until she died in October.

The woman's daughter and administrator of her estate sought help from Frasier, Frasier & Hickman, LLP to determine if there was a cause of action. An investigation revealed the personnel of the assisted living center and the hospice were negligent. A lawsuit was filed against the center and the hospice workers on behalf of the woman's estate.

The hospice took bankruptcy. The court entered judgement for \$1 million against the center.



**They had a duty to provide a standard of care that was absent in this case.**

"This was a tragic affair," said Jim Frasier. "Even though our client's mother was nearing the end of life, she deserved to be treated with care. Furthermore, the assisted living center and the hospice had a duty under their contracts with the state and federal governments to provide a standard of care that was absent in this case."

## ● 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 con-



**Frasier, Frasier & Hickman, LLP**  
918-584-4724  
1700 Southwest Blvd.  
Tulsa, OK 74107

tinues to 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, 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 plan to continue that tradition unchanged.



*“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**

With little fanfare, Oklahoma Republicans led by the state chamber of commerce and Gov. Kevin Stitt attempted to dismantle the tried-and-true method for selecting judges that has been used – without hint of scandal – for decades. The only reason to give the governor the ability to make political appointments, instead on an independent nominating process.

Near the end of the legislative Session, The Oklahoma State Senate passed Senate Joint Resolution 43 and sent it to the Oklahoma House of Representatives for consideration. The bill would have placed on the ballot a state question which, if passed, would abolish every Court in Oklahoma and the bipartisan system by which independent judges are selected in Oklahoma, the Judicial



Nominating Commission.

The Judicial Nominating Commission was established in 1967 after Oklahomans learned that three of Oklahoma's Supreme Court justices were accepting bribes to influence their decisions.

Now Governor Stitt and legislative Republicans want to take Oklahoma's court back in time making all judges appointed by the Governor who naturally will

appoint allies rather than the best candidate.

Oklahoma's Judicial Nominating Commission has been a role model used by other states and countries in setting up a fair and impartial third branch of government that will protect citizens and not be influenced by bribes and political pressure.

Only last-minute opposition at a Senate committee hearing kept the court-dismantling effort from moving forward this year. But the issue is not dead.

Look for the bill to be revived in the next Legislature and a full-court press to push it through!

The law firm of Frasier, Frasier & Hickman, LLP flatly opposes this tyrannical attempt to overthrow Oklahoma's independent judicial branch.

*–Jim Frasier*

## ● CONSUMER

# Estate Planning Update: Change in Power of Attorney Laws

Recently the state legislature amended the laws that relate to powers of attorney.

These laws allow you to designate a person to manage your business or property for you in the event you become disabled or incapacitated.

You can determine when the powers become effective and name alternate persons to serve if the primary designee is not available. These can be very useful documents to avoid the expensive and time-consuming process of guardianship in the event of your disability or incapacity.

By a different document you can provide for



someone to make health care decisions for you, as well. Through an advanced directive for health care you can choose what type of care you want to receive if you have an incurable or irreversible or end stage condition. These assist your loved ones and medical professionals in making important decisions

about your healthcare and finances.

Then a will (or some alternatives) directs your property after death.

Feel free to contact our office to discuss whether or not these matters may benefit your estate planning needs.

# CERTIORARI

Journal of Consumer Advocacy

PRSR-STD  
U.S. Postage  
PAID  
Tulsa, OK  
Permit #2146

## ● SUMMER 2022

### **Frasier, Frasier & Hickman, LLP**

1700 Southwest Blvd.  
Tulsa, Oklahoma  
74107

## **RETURN SERVICE REQUESTED**

### ● CONSUMER

## Landlord-Tenant Security Deposits

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.

Tenants are often required to make a security deposit in connection with renting residential real estate. The landlord is required to put the money in an account separate from the landlord's money, so that it will be protected.

When the tenant moves out, they ask in writing for the security deposit back. The landlord then has 45 days to itemize anything that it proposes to keep and to return the rest. If the landlord does not itemize, they can be sued in small claims court and it will not get to keep any of the security deposit.

If the landlord claims that there are damages and proposes to hold some of the security deposit, then they must not only estimate the amount of damage done, but it must actually do the repairs and have itemized billing for the cost of repairs in order keep the security deposit or seek amounts over and above the deposit.

The Residential Landlord Tenant Act is highly technical. However, it is available online by going to [www.oscn.net](http://www.oscn.net), clicking on Legal Research, then Oklahoma Statutes Annotated, then Title 41, and the law is sections 101-136.

