


*status is a question of fact when there are disputed facts. Here, the hospital produced affidavits in*  
*to establish that the supreme court distinguished previous law to hold that sum-*  
*stances of that case because there were no disputed facts and the question thu-*  
*the trial court was precluded from doing so. The court was not doing an*  
*had the burden of establishing that it was*



# Arkansas Association of Defense Counsel

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August 8, 2016

As this is my first weekly Newsletter as President of the AADC, I wanted to first thank each of our members for granting me the opportunity to serve in this capacity of such a prestigious group. I am truly honored and hope to serve you half as well as my predecessors. Please know my door is always open and I would be glad to sit down with anyone who has any suggestions, ideas or concerns regarding our association and how we can advance it in the future. As a group, we have proven we can accomplish much, as well as be of meaningful benefit to each other. This next year I plan to continue many of the programs and ideas implemented by past Presidents, as well as some new ones, for better communication and cooperation among our members. I am certainly open to your suggestions - it is your association; please let me know how it can best serve you.

Second, I wanted to extend a heartfelt thank you to our immediate past President, Scott Strauss, for the excellent job he did of putting together and pulling off last month's annual meeting, as well as serving as President this last year. For those unable to attend, the meeting was at a fabulous venue with fantastic speakers and a great time was had by all who attended. Some photographs are attached from the meeting for your viewing pleasure. (For those who were too far away to see it at the cocktail reception Friday night, or who were not present, yes, that is a picture of Scott in his Boy Scout uniform!) Some of you who attended the meeting may have met Debbie Weaver, the owner of Midwest Litigation, which recently purchased Flynn Legal Services, and her son, Adam, who was at the meeting assisting her. If you saw him, you would know it – he's about 7 feet tall with long hair and, per my son, Cole, looks like Thor. In fact, Cole thought he was Thor and insisted on getting a picture with him, which is also attached. Adam was a great sport and he and Debbie seem to be "good people." I encourage all to give them a shot at your business in the future.

Many of you have asked - no, I will not send out a tenth as many emails as Scott did. I have jokingly said if I

were running for election, my campaign slogan would be "NO MORE EMAILS!" All kidding aside though, as those who have served before as President of this, or other organizations, well know, it is sometimes a thankless job that interferes with your real job and makes you question why you took it on in the first place. Scott did a tremendous job as President and advanced the AADC far in the eyes of the Arkansas Bar Association, Arkansas judiciary and legal community. He left us in a much better position financially and with a better reputation than when he took over the reins. Scott, we are very grateful to you. Thank you for your dedication and excellent work on our behalf.

If you were present at the meeting last month, you know we will continue these weekly Newsletters this year. I already have received some and have commitments from others, but can always use more. If you are interested in contributing one, please contact me. There is no page length or topic requirement. There is no need to re-invent the wheel – simply edit a previous brief or research memo you think may be of use to the rest of us (it likely will be!). In addition to the Newsletters concerning aspects of areas of the law our members have addressed, in the weeks to come we will also use them to inform our members about upcoming DRI meetings/activities and general information concerning the AADC. Please do read them and let us hear from you about anything you feel strongly.

Additionally, the website revamp is underway. Chad Pekron is heading up that committee and has already had valuable assistance from Brad Runyan in doing so. The goal is to make the website both more informative and user friendly to our members in the near future. I am no "techie," so am of little use, but encourage any who have such technical know-how to speak to Chad and lend a hand, or idea. Thank you in advance.

As a part of the new website, there will be an expert database that will be more comprehensive and easily accessible to our members, only. Rebecca Hattabaugh

has been working on it for some time, but needs your assistance. Please forward to her the names, contact information and areas of specialty of those experts you have used in the past, or whom others have used and with whom you were impressed, and think would be of use to the rest of us. Thank you for your help on this project.

As most of you are aware, our counter-part, ATLA, has a Listserv its members use frequently to solicit advice and assistance, as well as spread the word about topics of interest to each other. I am hopeful our members will come to do the same, more often, with our Listserv. In that regard, as some know, you need only email our Executive Director, Tracey Cline-Pew with any question, comment, links, *etc.*, you want to share and she will get same out to the rest of the members for their response. To date, most questions I have seen pertain to experts. If you will include Rebecca on any such responses, she can add those experts to our database for future use by all members. In addition to experts though, this can be a way for us all to communicate concerning upcoming events, Legislative actions, bills in the works and changes in the law. If you have any questions concerning how the Listserv works, please email Tracey and she will be glad to assist you.

In that regard, your Executive Committee could not do the work we do, and the AADC simply could not exist as it does, without the invaluable work and dedication of Tracey. Those of you who have met her know of her kind nature and willingness of spirit. She will, and has, done all that we have ever asked of her, and more. She puts in more hours at and in preparation for our annual meeting than any of the rest of us and makes it run smoothly, which is no easy task. Thank you, Tracey, for all that you have done and will continue to do in the future for the AADC.

As I mentioned during the business meeting at the close of the annual meeting last month, we are considering a "new travel and other expense reimbursement policy" similar to that used by DRI and other state defense associations. A complete copy of it is attached hereto. Please give it your consideration and contact me with any thoughts or concerns you have about it. We will be calling for a vote by our members on it the beginning of September. The attached policy is not set in stone and can certainly be changed to better address our needs, as needed.

While I recognize it is a year away, as we all know time passes quickly (more so every year it seems) and next

year's meeting will be here before we know it. It will be held at the Winthrop Rockefeller Institute atop Petit Jean Mountain, where it has never been before. If you have never been there, it is absolutely stunning with breathtaking views. For those of you who are "outdoorsy," it has miles of trails for walking and hiking, with wildlife galore. The waterfalls alone are worth the trip! For those of you who are more of the indoor persuasion, there are culinary classes to partake of and impressive artwork to behold. Further, the Arkansas Museum of Automobiles is nearby and very cool. (A further bonus is Scott's in-laws own it and I think are going to make us a deal on admission.) There are lots of activities for the kids as well. We have a block of rooms reserved at the Rockefeller Institute. They are very nice, but are first come first serve. When they run out, we also have a block of rooms reserved at the Mather Lodge, which is not technically a part of the Rockefeller Institute, but rather a part of the Arkansas State Parks system and is very nearby. It is also very nice, but, similarly, its rooms are first come first serve. If all of those rooms are used, the next nearest lodging is in Morrilton, some 25 minutes away, or camping. (In that regard, there are some nice campsites for those so inclined.) Between the Rockefeller Institute and Mather Lodge, we have enough rooms to cover more than attended this year's meeting, though not as many as attended last year's meeting. Hopefully, that is a problem we will have to deal with – with more members attending than did this year. So, register soon to attend the meeting and reserve your room! Petit Jean is centrally located, so hopefully will be accommodating to all. We've already got a great line up of speakers on a variety of topics I believe will be of benefit to us all. Both the Rockefeller Institute and the Mather Lodge staff are anxiously awaiting us and have already been very accommodating in the planning stages for the meeting. The food the Rockefeller Institute will be serving sounds incredible.

Thank you to those who attended this year's meeting and interacted with the vendors who were present. I've had positive feedback from them and am already discussing with them sponsoring the meeting next year, as well to help offset some of its expense. That said, as the meeting will be in Arkansas, and we were able to get a great deal from the Rockefeller Institute, it will not be near as expensive as it has been in years' past, regardless. As a result, I am happy to report the AADC will be providing something new to its members at next year's meeting - lunch on Friday and dinner on Friday night. As those who have attended past meetings know, typically the AADC has only provided breakfast

on Friday and Saturday, as well as a cocktail reception (with heavy appetizers) on Friday night, but no true dinner, or lunch. Rather, members have been on their own for it. Given the somewhat remote location of Petit Jean, coupled with the astounding menu the Rockefeller Institute has to offer, I felt something different was in order next year. As a result, you will get more for your money at next year's meeting at the same price as in years' past!

I have moved the meeting back a weekend. Instead of the last weekend of July, it will be the first weekend in August, specifically August 4-5. I have done so for a couple of reasons, including the fact the Wright, Lindsey & Jennings firm has an every other year firm retreat that in years' past has conflicted with the AADC annual meeting every other year, and would next year. Hopefully, many of our members with that firm will now be able to attend next year's meeting. Additionally, the Rockefeller Institute and Mather Lodge were both available the first weekend in August, though not the last weekend in July, despite the fact I first contacted them about having our meeting with them last June (2015). That's how in demand they are and how far out they book-up! Hopefully, this weekend works for all.

The annual meeting is the one time the majority of the AADC membership is together in one place and, as those who were present this year observed, is a time when we can conduct the business of the association, in addition to enjoy each other's company and learn from each other. It promotes a comradery of spirit not otherwise present by allowing some of us to put faces to names, meet in an informal setting to discuss litigation we may have together, as well as plan for the AADC's future. As such, it is not just another CLE opportunity, though there is certainly quality CLE to be had. We had a good cross-section of the membership at this year's meeting – some older and some younger members, some male and some female members, some larger firm, smaller firm and corporate attorney members – and it was nice to see all interacting. Thank you to all who attended this year's meeting. I hope to see you at next year's meeting on Petit Jean as well, plus those of you unable to attend this year, and further look forward to serving as your President this year. Thank you again for the opportunity to serve you.

## **The AADC welcomes Michael McCarty Harrison as its 2016-2017 President!**



**We welcome your articles and thoughts for future editions.**

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