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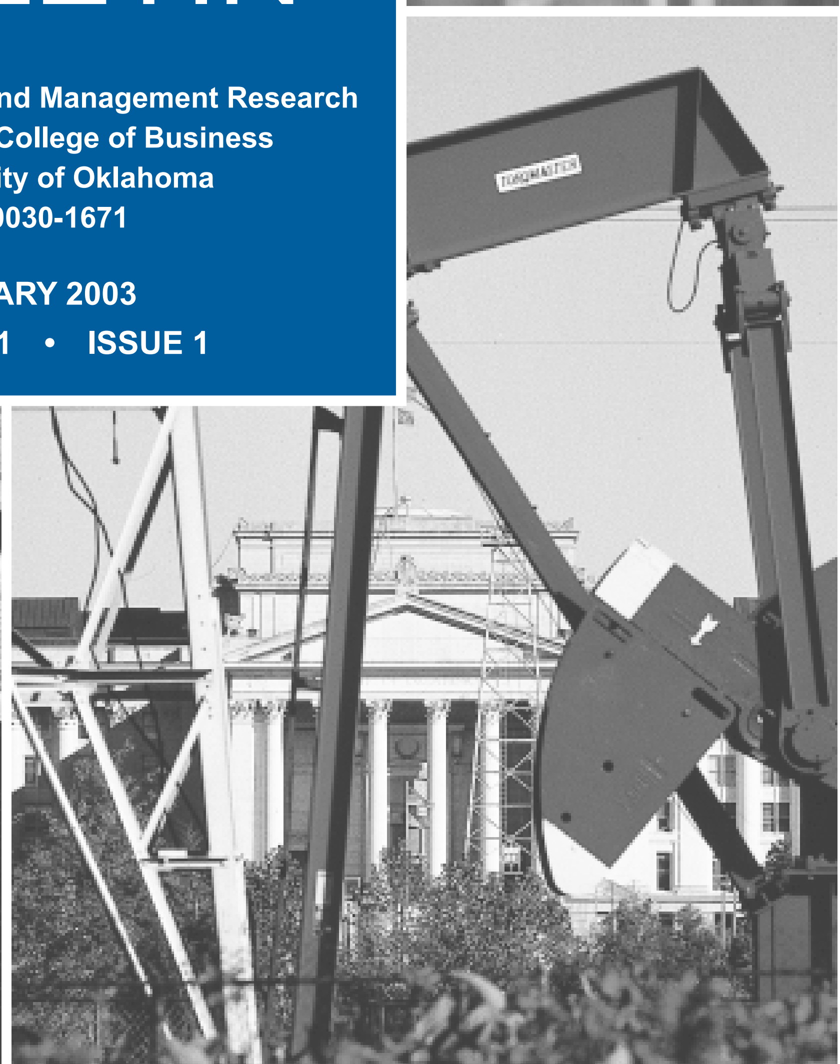

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OVERVIEW

The University of Oklahoma is a doctoral degree-granting research university serving the educational, cultural, economic and health care needs of the state, region and nation. Created by the Oklahoma Territorial Legislature in 1890, the university is composed of campuses in Norman and Oklahoma City as well as the Schusterman Center in Tulsa. The university's main campus and the offices of administration of the University of Oklahoma are located in Norman. The OU Health Sciences Center, which is located in Oklahoma City, is the headquarters for the seven professional colleges and offers programs at the University of Oklahoma - Tulsa. OU-Tulsa is composed of the Schusterman Center, where the majority of OU programs serving Tulsa are located; the OU/OSU Research and Graduate Education Center, a collaborative effort to provide graduate education and research programs to the Tulsa metropolitan area; and several clinics and hospitals. OU enrolls almost 29,000 students, has approximately 1,900 full-time faculty members, and has 19 colleges offering 154 majors at the baccalaureate level, 152 majors at the master's level, 74 majors at the doctoral level, eight majors at the first professional level, and five graduate certificates. The university's annual operating budget is more than $1 billion. The University of Oklahoma is an equal opportunity institution.

OKLAHOMA BUSINESS BULLETIN

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Articles

Tables

Quarterly

Business Highlights

by Robert C. Dauffenbach

State of the Economy

EVIDENCE ABOUNDS THAT THE US ECONOMY continues to grow at a mediocre, *muddle-through*, pace. The initial real GDP estimate for the fourth quarter was for only a 0.7 percent advance, measured at an annual average rate. This compares with an estimated 4.0 percent advance in the third quarter of 2002. The primary growth factor was government spending. Other signs of vitality are, however, present. Building permits for privately-owned housing remained strong, advancing in December by 8.2 percent above the revised November level. Housing starts were 15.9 percent above the December 2001 level.

Industrial production rose by 2.0 percent, year-over-year, in January, with much of the increase attributed to auto production. New orders for manufactured goods increased by 0.4 percent in December, but remained 0.8 percent below year ago levels. Shipments were also below year ago levels by 1.1 percent. Inventories also increased and the inventories-to-shipments ratio remained high at 1.34. The closely watched Institute for Supply Management (formerly the Purchasing Management Association) reported a PMI value of 53.9. Values greater than 50 signify an expanding manufacturing sector. This is the third consecutive month of greater than 50 readings.

Payroll employment rose by 143,000 in January, a hopeful sign particularly in comparison to a reported decline of 156,000 in December. In fact, this was the first month-to-month gain in excess of 0.1 percent since the recession began in March 2001. Seasonal adjustment factors may be responsible for the sizable drop in December and increase in January. Nevertheless, this is one of the first hopeful signs on the employment front in nearly two years. If gains in the 150,000 area continue, it is likely that the National Bureau of Economic Research will call the recession of 2001-2002 to an end.

In other economic news, retail sales were up year-over-year by 3.9 percent in January. This is a rate of advance well in excess of the rate of inflation. A focal point of public policy has been to keep the consumer in the game by keeping interest rates low and, thereby, providing significant rationale to refinance home mortgages. Billions of dollars have, through this refinancing, made their way into consumer's pockets. One problem is that many who could benefit from such refinancing have already done so. It is doubtful that much additional potential remains from this source.

The potential for war with Iraq has recently placed a damper upon consumer sentiment, which may further suppress any potential for a consumer-led rebound in the economy. The University of Michigan consumer sentiment index registered 82.4 in January, down from 86.7 in December and 93.0 in November. Chief among expressed concerns were diminished prospects for renewed growth in jobs and wages. More frequently mentioned was concern that the economy weakened at the end of 2002 and that growth prospects would remain low for many months to come.

Inflation is still not a concern, however, despite recent increases in energy prices. The consumer price index for all urban consumers was up 2.4 percent, year-over-year, in December. Excluding food and energy, the rate of advance in prices was only 1.5 percent at seasonally adjusted average annual rates. The employment cost index, which comes out only quarterly, is also a closely watched inflation gauge. This index was up only 0.8 percent for the September to December quarter. For the year, the index increased 3.4 percent, which is a modest increase in comparison to recent years. However, benefit costs, principally medical, continue to increase at a fairly substantial pace. For the three years beginning with 2000, these costs have increased by an average of 5.0 percent.

The US economy, then, remains stuck in the *muddle*. Muddle-through, that is. Economic conditions are not seen as dramatically improving, or dramatically declining. As mentioned frequently in this section, this has been a recession like none other that we have witnessed in modern times. This is not the economy gets too hot, the Fed cools it down with large doses of interest rate increases, and its off to the races again. This is an investment led recession. Excess capacity is rampant. Indeed, factories are operating near the 75 percent of capacity level. These are definitely recessionary levels.

Numerous *tensions* are on the horizon:

- Terrorism and Possible (Probable?) War with Iraq;
- Post-bubble Stock Market Hangover;
- Accounting Reforms;
- Pension Costs;
- Health Care Costs;
- Diminished Returns to Consumer Refinance;
- Lackluster Rates of Investment Spending;
- State and Local Government Finances;
- Manufacturing in US;
- US as International Customer of Last Resort;
- Current Account Deficits;
- Value of Dollar in Foreign Exchange Markets

While the US is having difficulty with France and Germany in getting them behind the war effort, it still remains likely that the US will eventually invade Iraq. This causes uncertainty, and uncertainty is the thing that financial markets can least stand. It is clear, now, even to Chairman Greenspan, that the US stock market reached mania proportions. Now that nearly $7.0 trillion has gone to money-heaven, that there was a stock market bubble should not be lost on anyone. The question remains whether it is over or not and no one can know that for sure.

In consequence of the bubble and the stock market shenanigans by the likes of Enron and WorldCom, the Congress and the President instituted various reforms. Those reforms are only now being put into place. Combined with potential still-too-high price/earnings ratios for many US companies, it is too early to call the bubble at an end. There are unknown consequences of this still unfolding story of structural reform of accounting practices. It is unlikely, however, that the reforms will lead to higher reported earnings. Underfunded pension liabilities and soaring health care costs also pose problems for corporate profitability. While the bubble may not be at an end, we are a good deal closer to the end than to the beginning of this readjustment.

As mentioned above, we are near the end of the string on household mortgage refinancing. It is unlikely that we can have much hope of continuing high rates of new consumer spending from this source, although as a nation it is clear that we love to shop. If we are to get out of this economic malaise, it will be the result of a turnaround in what got us in it in the first place, namely, investment spending. But, with very low rates of utilization of the current capital stock, there is little hope of a quick rebound. The Fed is doing its part to help stimulate investment spending by keeping interest rates low. This is helpful, to be sure, but the chief stimulus to economic investment is expected future profitability from those new investments. That remains low and will likely remain low for the foreseeable future.

State and local government finances are deeply in the red. In the halcyon days of the stock market bubble, many states bet on a continuance of the high rates of revenue growth associated with those times. Many lowered taxes and politicians are quite wisely reluctant, given the recessionary times and anticipated voter disapproval, to raise them. This is definitely a time for retrenchment on the part of state and local governments. With that retrenchment, difficult questions as to the proper roles of state and local government will need to be asked and answered. A likely consequence of current difficulties is higher rates of tuition at the nation's colleges and universities. This strikes a blow at an important middle-class entitlement, but not much of a blow given the level of public support. College attendance will remain a great bargain even after necessary upward adjustments in tuition rates.

Beyond the typical consequences of a recession on manufacturing output, there is mounting concern that US manufacturing is in secular, as opposed to merely cyclical, decline. More and more of our manufactured goods are made outside this country. Clearly, this has been a trend that has been in place for over 40 years now. Since the mid 1960s, the share of manufacturing employment in total employment has fallen from 31 to 13 percent. The old explanation for the decline was differentials in income elasticities. As we grew richer we demanded more services in proportion to our real income growth. But, since the early 1990s the share of manufactured goods as a proportion of total consumption spending has been roughly constant at 42 percent. No longer can the continuing decay of US manufacturing be attributed to different income elasticities.

The bull in the china shop, in regard to manufacturing, is China. This nation, in its infancy in participation in world commerce, is beginning to dominate manufacturing. Indeed, much of the expressed concern that *deflation* may be taking hold of world markets lies at the entry of China into world commerce. That is not the only source of our nearly $400 billion annual trade deficit. But, it is a growing source. Many foreign countries have paid too much attention to producing for US markets and too little attention to their own domestic demand for output. There is hope that that will change. The current account deficit in the US is now approaching five percent of GDP, a range that is typically associated with potential international trade problems. Adjustments are now taking place, in the form of a decline in the value of the US dollar in international exchange. This time last year the US dollar exchanged for 1.15 euros; now it commands only 0.933 euros, a decline of 19 percent. The bonus is that now US goods and services are 19 percent cheaper than they were a year ago. That should help stimulate some US manufacturing demand.

So, where will these *tensions* take us in the near-term future? Never lacking in willingness to fearlessly forecast the future, the following prophecy is offered:

Interest rates will remain low, even potentially falling on the long-end of the interest rate spectrum. The Fed is signaling a continued willingness to do whatever it takes to keep rates of interest low. In a now famous speech by Fed member Ben Bernanke, "Deflation: Making Sure 'It' Doesn't Happen Here," the Fed is saying that it is not out of ammunition even as short-term rates approach the zero limit. Even if it becomes necessary to resort to the modern day equivalent of printing money, the Fed will do whatever it takes to keep deflation from taking hold of the economy. Financial markets believe them, and the every day citizen should too.

The US dollar will continue undergo downward revaluation. As noted, significant reductions in the value of the dollar have already occurred. It is unlikely that the end of that process is at hand, although a considerable amount of the readjustment, at least for the time being, may have taken place. US trade deficits are still way too high for the dollar to command its high valuation in foreign exchange markets. When the euro first arrived on the scene in January 2000, one euro exchanged for about 1.15 dollars, versus about 1.07 now. That should be the initial target.

Commodity prices will continue to rise. The Commodities Research Board index has climbed by 25 percent in the last year. Given the magnitude of the increases it is not clear why there has been so much expressed concern about the possibility of deflation. China and eastern European countries as well as Russia are developing, and with their growth comes increased demands. The world economy has enjoyed a decade of low prices for basic commodities such as metals, wood products, grains, livestock, and energy. That period may well be at an end.

Inflation will remain subdued, particularly for manufactured goods, but will tick higher. Part of the rationale for this forecast rests with the expected continuation of the positive trend in commodity prices. Run away health care costs is another rationale. Part of the reasoning also lies in the belief of economists in the old *equation of exchange*: the money stock (M) times velocity of circulation (V) equals the price level (P) times real output (Q). Simple algebraic manipulation yields M = (1/V) PQ; that is, with constant Q and V, the number of times the stock of money turns over in a year, growth of the money supply is proportional to growth in the price level. The Fed has been expanding the real money supply, after adjustment for inflation, at 7 to 9 percent rates in recent years. Eventually, these high rates of growth in the money supply will translate into higher rates of inflation. That is what the theory says anyway. Any significant uptick in inflation will likely be followed by a reversal of the low interest rates we are now enjoying.

The economy will continue on its muddle-through course. In the face of the many *slings and arrows* of this recession, the US economy, it must be admitted, has exhibited remarkable resilience. As noted, nearly seven trillion dollars has evaporated from US financial markets, roughly a 50 percent decline. Still, there are no bread lines and soup kitchens and the street corner vendors of apples have yet to appear. While some economists still think that significant problems lie ahead, these are few in number. Fewer still are venturing forecasts of a return to the 1930s even when they let their imaginations run wild. The likely course is a continued muddling-through, waiting for the day when demand catches up to the sizable investments already made in industrial capacity.

The nation's difficulties have taken their toll on the Oklahoma economy. WorldCom has a substantial base of operations in the Tulsa area. Tulsa has also been hit hard by the collapse in business prospects for Williams Companies. State revenues have been under duress in recent months and it appears that conditions have worsened. Despite these difficulties, employment statewide continues to hold up fairly well. Oklahoma still is 7,500 ahead of year ago levels. A year ago, however, Oklahoma was 13,000 ahead. Still, the employment situation in Oklahoma compares favorably with the nation. If Oklahoma had lost the same percentage of payroll jobs as the nation, we would be down 20,000 jobs. As it is, then, in net terms, we are 27,500 jobs ahead. Part of this gain is attributable to the fact that high technology employment has been hit so hard nationally. Oklahoma has benefited somewhat, then, from never having been invited to the party in the first place.

Price College Indicators

As readers of this quarterly report are aware, the Price College Indicators, developed at the University of Oklahoma Center for Economic and Management Research, are designed to provide leading indicators of economic activity for the nation, the state, and the two major metropolitan areas of Oklahoma. The indicators have been scaled so that a value of 50 signifies continuation of present trends while values greater or lower than 50 are associated with rising or falling trend rates of growth. The indicators also serve as instruments for producing forecasts. They have successfully foreshadowed every major national recession in the last 40 years. Many of the variables discussed above are examples of the types of variables that are included in the Price College Indicators.

Table I shows the PCI for national employment, the core rate of inflation, Oklahoma employment, and the two major Oklahoma Metropolitan Statistical Areas (MSAs) for the period 2000:1 – 2002:11. Perusal of this table shows that the economy is clearly on the upswing, despite all of the travails mentioned above.

The PCI for the national economy is now clearly above the 50 neutral reading, but seems to be stagnating at that level, rather than advancing, which is more typical of past recessionary periods. Fortunately, the PCI for Oklahoma is beginning to show signs of turning upward, nearing the 50 mark. The Oklahoma City and Tulsa Metropolitan Statistical Areas (MSAs) have now surpassed the midpoint. The metro area indicators now match the national reading, but were somewhat slow to catch up. Typically, the Oklahoma economy is somewhat of a laggard in relation to the national economy. That is, the Oklahoma economy tends to *heat-up* only after signs are prevalent that the national economy is in a strong expansionary period. In recession, the Oklahoma economy *cools-down* at a slower rate than the national economy.

Table I

Price College Indicators

Year:Month	Natl. Emp.	Inflation	OK Emp.	OKC Emp.	Tul Emp.
2000:01	52	53	55	56	60
2000:02	54	53	57	57	62
2000:03	52	55	56	57	61
2000:04	52	57	55	58	62
2000:05	52	56	55	59	62
2000:06	54	55	59	62	65
2000:07	51	53	57	58	62
2000:08	50	53	54	53	60
2000:09	49	52	49	50	57
2000:10	49	50	46	48	55
2000:11	49	46	44	48	54
2000:12	44	42	38	43	48
2001:01	39	41	32	39	44
2001:02	33	38	25	32	38
2001:03	31	34	21	29	34
2001:04	29	28	19	25	30
2001:05	28	28	19	23	29
2001:06	24	24	13	17	24
2001:07	25	20	12	16	23
2001:08	27	15	10	15	20
2001:09	28	12	8	14	19
2001:10	26	9	8	13	19
2001:11	26	3	7	11	16
2001:12	29	1	12	15	18
2002:01	36	1	17	18	20
2002:02	44	0	24	25	25
2002:03	47	1	29	29	31
2002:04	49	5	33	35	35
2002:05	50	7	35	37	37
2002:06	53	12	38	41	41
2002:07	54	14	40	43	45
2002:08	52	17	41	46	48
2002:09	52	20	45	48	51
2002:10	52	24	45	51	51
2002:11	53	31	46	54	53

Forecasts

The PCIs provide a mechanism for forecasts of the underlying variables. Table II provides some historical data and shows the forecasts for 2002 and 2003. The values are for the ending month, December, of each year. As noted in Table II, employment nationally is forecast to end the year only slightly down from December 2001 level. Essentially, at the national level, the forecasting model is predicting a no growth year in nonfarm payroll employment. A 1.1 percent growth rate is anticipated in 2003. Inflation, at the core level, which excludes energy and food, is expected to be mild in 2002, rising only 2.2 percent. Inflation is expected to rise at a somewhat higher rate in 2003, 2.6 percent.

Expectations for continuing employment growth in Oklahoma are encouraging, especially in relation to apparent problems nationally. Oklahoma employment is expected to rise by about 8,000 in 2002. Growth in jobs in 2003 should accelerate to a 16,000 gain, or 1.0 percent. The forecast for growth in Oklahoma City employment has improved to 1.0 percent 2002 and 1.2 percent rate for 2003. Tulsa continues to have some growth problems, but is expected to be growing at a 0.8 percent rate in 2003.

There still remains considerable risk to these forecasts for improvement in both the national and this state's economy. The tensions mentioned above provide ample reason to be cautious about the future. Still, the US is a very large and resilient economy that has humbled many economists in past years. Perhaps it will surprise us on the upside in the near future. Let us hope.

Table II
PCI Summary of Forecasts*

	Actual	Forecast		Growth Rate	
	Dec. 2001	Dec. 2002	Dec. 2003	2002/2001	2003/2002
Natl. Emp.	130,890	130,861	132,253	0.0%	1.1%
Inflation	188	192	197	2.1%	2.6%
OK Emp.	1,513	1,521	1,537	0.6%	1.0%
OKC Emp.	541	547	553	1.0%	1.2%
Tul Emp.	407	408	412	0.3%	0.8%

*Employment in thousands

Robert C. Dauffenbach is Director of the Center for Economic and Management Research and Associate Dean for Graduate Programs.

What Every Small Business Needs To Know! – Recent Decisions Narrowing the Scope of the Americans With Disabilities Act

by Vonda Laughlin

THE AMERICANS WITH DISABILITIES ACT OF 1990 ("ADA") is a federal law providing protection to the disabled. Under the Act, private employers, including educational institutions, must provide reasonable accommodation to physically or mentally challenged job applicants or employees unless the employer can demonstrate that a requested accommodation would impose an undue hardship.[1] The term "disability" is defined by the Act as:

"(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment."[2]

Not surprisingly, issues involving the definition of "reasonable accommodation," "undue hardship," and "disability" have spawned litigation and difficult questions for judges. Considering the number of disabled individuals in this country, the manner in which courts construe those terms is of vital importance to employers. Because of the high cost of employment-related suits, restricting the ability of plaintiffs to sue could save millions in legal costs. Recent U.S. Supreme Court decisions have limited the scope of the ADA by (1) upholding the right of an employer to rely on seniority policies rather than giving preference to the disabled, (2) limiting the definition of "disability," and (3) approving the right of employers to refuse to place a disabled person in a job presenting a health threat. These decisions have significantly reduced the ability of plaintiffs to win ADA cases.

One example is *U.S. Airways, Inc. v. Burnett*[3], decided in April 2002. In that case the Supreme Court addressed the issue of the rights of a disabled employee versus the rights of more senior employees. Barnett, the plaintiff, injured his back while working as a cargo handler for U.S. Airways. He then transferred to a less physically demanding position in the mailroom. There was no dispute of the fact that Barnett was able to perform the functions of the mailroom position. The problem arose when under the seniority policy of U.S. Airways a more senior employee later bid on Barnett's position in the mailroom, and Barnett lost his job. Barnett sued claiming that under the ADA he was disabled; that the job in the mailroom amounted to a "reasonable accommodation" of his disability; and that U.S. Airways, in allowing the more senior employee to take his job, discriminated against him.[4] The Supreme Court was called upon to address the important issue of whether the interests of a disabled worker, such as Burnett, trump the interests of other workers with more seniority.

U.S. Airways claimed that violation of their seniority policy would grant preferences to disabled employees and should therefore be disallowed without further inquiry because the purpose of the ADA is to promote equality in the workplace. The Court, however, refused to take such a sweeping view and pointed out that any accommodation made for a disabled employee would result in some different or preferential treatment. For example, strict enforcement of totally neutral policies would prevent accommodation of someone who needed additional breaks from work for medical visits or accommodation of an employee who needed to work on the ground floor.[5] A rule that all employees be treated exactly the same would prove unworkable. Nevertheless, the Court recognized the importance of seniority systems in the workplace pointing out that the typical seniority system provides a needed employee benefit by giving employees fair and uniform treatment.[6] Additionally, one would have to wonder about the backlash against the disabled if other employees saw their disability as a threat to benefits. After reviewing the positions of the parties, the facts, and the history of the ADA, the Court ruled that it was not reasonable to rule that a disabled employee must be given a position ahead of a more senior employee. According to the Court, "the seniority system will prevail in the run of cases," and if a requested assignment conflicts with seniority rules, it would generally be deemed unreasonable.[7]

The Court recognized, however that an employee is free to present evidence of special circumstances resulting in an exception to the general rule. For example, a plaintiff might show that his employer frequently changed the seniority system reducing employee expectations that the system would be followed or that a seniority system was filled with so many exceptions that another would not matter.[8] Nevertheless, under the Court's decision, it will be more difficult for a disabled employee to overturn a seniority system.

It should be noted that the decision in *Barnett* was not unanimous. Two of the nine justices, while officially agreeing with the main opinion, filed concurring opinions setting forth somewhat different reasoning. Additionally, four of the justices dissented from the opinion believing that the case was improperly decided. Justices Scalia and Thomas dissented because they believe that the ADA addresses the removal of workplace barriers directly affecting a disabled employee. For example, an employer would likely need to provide a work station that would accept an employee's wheelchair. They were not of the opinion, however, that seniority policies are disability-related obstacles. Criticizing the main opinion, they claimed that it created uncertainty in the area of seniority policies by allowing exceptions to the general rule that seniority policies may be enforced.[9] Justices Souter and Ginsburg, on the other hand, believed that Barnett should have remained in the position. They would have placed the burden of showing otherwise on U.S. Airways.[10]

The law would be clearer for employers and lower court judges if the Supreme Court justices had been more in agreement. Nevertheless, lower court judges will follow the main opinion. Employers who wish to have enforceable seniority systems should avoid exceptions and frequent changes to the rules. As recognized by lawyer Kirk Peterson, "[b]y leaving the door open for disabled employees to show that there are 'special circumstances' that might justify an exception to a seniority system as a reasonable accommodation, the majority's test in *Barnett* undoubtedly will result in extensive litigation."[11] Obviously, it would have been better for employers if the Supreme Court had ruled that seniority policies always supersede requests for accommodation, but the Court thought otherwise.

Another opinion involving the ADA decided by the U.S. Supreme Court in 2002 that has a significant impact on employers is *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams,*[12] a case in which the Court addressed the actual meaning of the term "disabled." Unlike the *Barnett* decision, the opinion of the Court in *Williams* was unanimous. While working on an assembly line at Toyota, Williams developed carpal tunnel syndrome with tendonitis in both arms. She was placed on significant permanent work restrictions precluding numerous job duties such as lifting or repetitive flexion of her wrists. After her diagnosis, Williams continued working at Toyota and was transferred to quality control. Later, however, she developed other work-related problems including inflammation of the muscles and tendons around her shoulder blades. She asked management to allow her to do only those jobs that would not worsen her condition. Williams claimed that Toyota refused her request and forced her to continue working at jobs that caused her physical injury, but Toyota said she simply began missing work. Eventually Toyota terminated her employment referencing her poor attendance record.[13]

Williams sued claiming that Toyota violated the ADA by failing to reasonably accommodate her disability and by terminating her employment. The Court of Appeals determined that because of her carpal tunnel and related problems Williams had established that she was substantially limited in the major life activity of performing manual tasks and should be considered disabled.[14] Performing manual tasks, along with activities such as walking, seeing, and hearing, are included in pertinent regulations addressing the ADA and setting forth examples of "major life activities", the limitation of which may result in a finding of disability.[15]

The Supreme Court reviewed the *Williams* case in order to determine the proper standard to be used for determining when a medical condition indeed constitutes a "substantial limitation" in regard to the ability to perform manual tasks. The Court strictly construed the ADA ruling that anything less than a major problem would be insufficient to establish the requisite limitation. According to the Court, the terms of the Act "need to be interpreted strictly to create a demanding standard for qualifying as disabled."[16]

When the ADA was enacted in 1990 Congress found that 43 million Americans had physical or mental disabilities.[17] Noting that more than 100 million people need corrective lenses in order to see properly, the Supreme Court was of the opinion that "[i]f Congress intended everyone with a physical impairment that precluded the performance of some isolated, unimportant, or particularly difficult manual task to qualify as disabled, the number of disabled Americans would surely have been much higher."[18] The Supreme Court proceeded to announce the following rule: "To be substantially limited in performing manual tasks, an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives," and "the impairment's impact must also be permanent or long-term."[19] Therefore, according to the Supreme Court, the Court of Appeals erred in focusing on Williams' inability to perform manual tasks associated only with her job. Instead, the proper inquiry is "whether the claimant is unable to perform the variety of tasks central to most people's daily lives..."[20] Daily activities such as household chores, bathing, and brushing one's teeth should be part of the assessment. On those issues, there was evidence that Williams could engage in some tasks such as mild housework and caring for personal hygiene. Even though her medical condition caused some restrictions, the Supreme Court was of the opinion that "those changes in her life did not amount to such severe restrictions in the activities that are of central importance to most people's daily lives that they establish a manual-task disability as a matter of law." [21]

Because the Court of Appeals decision was based on the issue of whether Williams was substantially limited in performing manual tasks, the Supreme Court opinion was limited to that issue.[22] The Supreme Court expressed no opinion on whether the plaintiff could prove disability status by another means. Nevertheless, in *Williams* the Supreme Court took a very restrictive view of the Act and sent a strong message that it should be narrowly construed. The unanimous Court went so far as to specifically say that terms in the Act must be "interpreted strictly" to create a "demanding standard for qualifying as disabled."[23] Lower court judges will most certainly take such statements to heart and limit the ability of plaintiffs to proceed.

Another very recent unanimous decision of the Supreme Court upholding the rights of employers is *Chevron U.S.A. Inc., v. Echazabal,*[24] decided in June of 2002. Echazabal had been working for an independent contractor at one of Chevron's oil refineries. Chevron, however, refused to hire Echazabal on its own payroll because of his health problems resulting from Hepatitis C and also caused Echazabal to lose the job he had working for the independent contractor. Based upon the advice of doctors, Chevron was of the opinion that exposure to toxins at its refinery would be harmful to his health. Chevron relied on an Equal Employment Opportunity Commission ("EEOC") regulation providing that an employer may screen out a potential employee when placing the individual in the job at issue would pose a health risk to the applicant or others.[25] Echazabal argued that the Act did not authorize Chevron to exclude him from employment based upon a danger to his own health.

The Supreme Court, however, sided with Chevron because they said Chevron had valid concerns regarding time lost due to sickness, excessive turnover from retirement or death, litigation based upon further disability, and possible violation of the Occupational Safety and Health Act

("OSHA").[26] The Court referenced provisions of OSHA stating that the purpose of OSHA is "to assure so far as possible every working man and woman in the nation safe and healthful working conditions,"[27] and that each employer should "furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."[28] While the Court recognized that there is an open question as to whether an employer could actually be held liable for hiring an employee who *knowingly* consented to danger, the Court believed that an employer under those circumstances would be "asking for trouble."[29]

The Court ruled that if there is a direct threat of harm to a disabled employee's health, an employer's decision in such cases must be "based on a reasonable medical judgment that relies on the most current medical knowledge and/or the best available objective evidence," and upon an expressly "individualized assessment of the individual's present ability to safely perform the essential functions of the job."[30] That requirement will help prevent employers from screening out applicants based upon stereotypes or prejudice. An employer's decision may be challenged in such cases by claiming, for example, that the employer did not rely upon the most current medical evidence. It is apparent, however, that as long as the employer backs up the decision with appropriate medical evidence, the Supreme Court has made it very difficult for a plaintiff to successfully challenge an employer's decision that a job presents a danger to a disabled individual or others.

Sutton v. United Air Lines, Inc.[31] is another fairly recent decision illustrating that the Supreme Court has narrowed the circumstances under which plaintiffs may proceed under the ADA . In that case the petitioners, twin sisters, were both extremely nearsighted with at least 20/200 uncorrected vision but, with the use of corrective lenses, each plaintiff had 20/20 vision or better. The sisters applied to United for jobs as global airline pilots but were not hired because they did not meet the airline's minimum vision requirement, uncorrected vision of 20/100 or better. The sisters sued claiming that that they had a substantially limiting impairment under the ADA or, alternatively, that they were protected under the Act because they were regarded as being impaired. The sisters took the position that disability status should be determined without regard to corrective measures.

The Supreme Court concluded, however, that the effect of any corrective measures must be taken into consideration under the ADA. According to the Court, "if the impairment is corrected it does not substantially limit a major life activity."[32] For example, a diabetic whose illness does not impair the carrying out of daily activities would not be considered disabled simply because of the existence of the disease.[33]

The sisters also argued that they should come under the protection of the Act because regardless of whether they were actually disabled, United regarded them as being limited in the major life activity of working.[34] As set forth above, being regarded as having an impairment that substantially limits a major life activity qualifies a person for protection under the Act even if a plaintiff is not in fact disabled.[35] According to the Court, when the major life activity at issue is working, the statutory phrase "substantially limits" requires that at least plaintiffs allege that they are unable to work in a broad class of jobs. Allegations of being restricted from performing one type of job or a specialized job are insufficient to state a claim under the Act. The Court said it was only alleged that the airline regarded their poor vision as precluding them from holding a position as a "global airline pilot." Noting that a number of other positions such as regional pilot or pilot instructor were available, the Court determined that "[b]ecause the position of global airline pilot is a single job, this allegation does not support the claim that respondent regards petitioners as having a *substantially limiting* impairment."[36]

Sutton was a significant decision limiting the ability of plaintiffs to proceed under the ADA. Under the Court's holding in *Sutton*, a plaintiff who has a correctible disability may not sue. Additionally, the case establishes that a person is not "regarded" as impaired under the Act unless a broad class of jobs is involved. As recently recognized by Justin S. Gilbert, Esquire, in his article "Prior History, Present Discrimination, and the ADA's 'Record of' Disability," decisions such as *Sutton* "restricted the population of individuals with actual disabilities as well as those who may be regarded as disabled by their employers,"[37]

In conclusion, the Supreme Court has significantly limited the availability of the ADA as a basis upon which to base lawsuits. ADA plaintiffs face a significant risk of having cases dismissed prior to trial. Furthermore, even if a motion to dismiss prior to trial is avoided, there is no guarantee that the trial itself will produce a favorable outcome for the plaintiff. Douglas L. Leslie, Professor of Law at the University of Virginia, recently reviewed a number of ADA cases and concluded that "[t]he statistics from past cases suggest that the ADA plaintiff has a very poor chance of success."[38] Nevertheless, employers must be mindful of the ADA and its requirements. Even if an employer wins, which is certainly not guaranteed, the expense of litigation and negative publicity should be considered.

Endnotes

[1]42 U.S.C. ß 12101 *et seq.* (1994 and Supp. V).

[2]42 U.S.C. ß 12102(2) (1994).

[3]122 S.Ct. 1516 (2002).

[4]*Id.* at 1519.

[5]*Id.* at 1522.

[6]*Id.* at 1524.

[7]*Id.* at 1519.

[8]*Id.* at 1525.

[9]*Id.* at 1528-1532.

[10]*Id.* at 1532-1534.

[11]Peterson, Kirk S., "Does Seniority Trump Accommodation Request? Issue Divides Supreme Court", Vol. X *Employment Law Strategist*, Number 1, p. 1.

[12]122 S.Ct. 681 (2002).

[13]*Id.* at 686-687.

[14]*Williams*, 534 U.S. at 688-689.

[15]45 C.F.R. ß 84.3(j)(2)(ii)(2001).

[16]*Williams*, 534 U.S. at 691.

[17]*Williams*, 534 U.S. at 691, *citing*, 42 U.S.C. 121012(a)(1) (1994).

[18]*Williams*, 534 U.S. at 691.

[19]*Williams*, 534 U.S. at 691, *citing*, 29 C.F.R. ßß 1630.2(j)(2)(ii)-(iii) (2001).

[20]*Williams*, 534 U.S. at 693.

[21]*Id.* at 694.

[22]*Id.* At 688.

[23]*Id.* at 691.

[24]122 S.Ct. 2045 (2002).

[25]29 C.F.R. 1630.15(b)(2) (2001).

[26]*Echazabal*, 122 S.Ct. at 2052.

[27]29 U.SC. ß 651(b) (2000).

[28]29 U.S.C. ß 654(a)(1) (2000).

[29]*Echazabal*, 122 S.Ct. at 2052.

[30]*Echazabal*, 122 S.Ct. at 2053, *quoting*, 29 C.F.R. ß 1630.2(r) (2001).

[31]527 U.S. 471 (1999).

[32]*Sutton*, 527 U.S. at 483.

[33]*Id.*

[34]Because the parties accepted it as such, the Court did not determine the validity of the EEOC regulation including working in the category of "major life activities." *Id.* at 492.

[35]42 U.S.C.ß 12102(2) (C) (1994).

[36]*Sutton*, 527 U.S. at 492, *citing*, 29 C.F.R. ß 1630, App. ß 1630.2 (1998) (emphasis in original).

[37]Justin Gilbert, "Prior History, Present Discrimination, and the ADA's 'Record of" Disability," 31 U.Memp.L.Rev. 659, 660 (2001).

[38]Douglas L. Leslie, "Accommodating the Employment Disabled," 17 *The Labor Lawyer* 143, 150 (2001).

Vonda Laughlin is an assistant professor of business at Carson-Newman College in Jefferson City, Tennessee teaching business law and related subjects. She received her Doctor of Jurisprudence Degree from the University of Tennessee where she graduated summa cum laude and received the Michie Company Outstanding Graduate award along with several American Jurisprudence awards. She previously served as a law clerk for federal judge Thomas G. Hull who was chief judge for the Eastern District of Tennessee. She worked as an associate attorney with Milberg, Weiss, Bershad, Hynes and Lerach of New York. She also served as staff attorney for Permanent General Insurance Company in Nashville, Tennessee. In addition to her responsibilities with Carson-Newman College, Ms. Laughlin presently provides consulting services to the law firm of Butler, Vines and Babb, PLLC in Knoxville, Tennessee and is also a mediator.

SELECTED INDICATORS FOR OKLAHOMA

	3rd Qtr '02	2nd Qtr '02	3rd Qtr '01	Percentage Change '02/'01 3rd Qtr	Percentage Change 3rd Qtr '02 2nd Qtr '02
Crude Oil Production (000 bbl)[a]	16,724	17,721	17,751	-5.8	-5.6
Natural Gas Production (000 mcf)[a]	386,219	384,707	420,978	-8.3	0.4
Rig Count	102	93	145	-29.7	9.7
Intial Unemployment Claims	23,666	24,168	20,970	12.9	-2.1
Permit-Authorized Construction					
Residential Single Family					
Dollar Value ($000)	378,992	349,323	283,143	33.9	8.5
Number of Units	2,743	2,627	2,109	30.1	4.4
Residential-Multi Family					
Dollar Value ($000)	24,129	15,738	25,159	-4.1	53.3
Number of Units	418	248	499	-16.2	68.5
Total Construction ($000)	403,121	265,061	308,302	30.8	52.1
Employment					
Total Labor Force (000)[b]	1,699.3	1,708.4	1,671.7	1.7	-0.5
Total Employment (000)	1,629.0	1,633.7	1,618.2	0.7	-0.3
Unemployment Rate (%)	4.1	4.4	3.2	--	--
Wage and Salary Employment (000)	1,515.7	1,525.0	1,507.2	0.6	-0.6
Manufacturing	175,367	175,033	178,433	-1.7	0.2
Mining	32,933	32,367	32,000	2.9	1.7
Government	289,367	303,233	284,933	1.6	-4.6
Contract Construction	67,267	65,733	65,167	3.2	2.3
Services	445,900	443,967	442,700	0.7	0.4
Retail Trade	278,933	278,833	277,000	0.7	0.0
Average Weekly Hours (Per Worker)					
Manufacturing	39.1	38.2	38.5	1.6	2.4
Average Weekly Earnings ($ Per Worker)					
Manufacturing	545.12	532.60	497.16	9.6	2.4
Contract Construction	631.92	612.54	665.48	-5.0	3.2

Note: Includes revisions in some previous months.
[a]Figures are for 2nd Qtr 2002. Crude oil includes condensate. Natural gas includes casinghead gas.
[b]Labor Force refer to place of residence, non-agricultural wage and salary employment refers to place of work.

OKLAHOMA GENERAL BUSINESS INDEX

	Sept. '02	Preliminary Forcecast Sept. '01	Sept. '00	Percentage Change '02/'01 Sept.	Percentage Change '02/'00 Sept.
State	135.5	132.6	133.7	2.2	1.3
Oklahoma City MSA	133.8	130.9	133.8	2.2	0.0
Tulsa MSA	138.0	136.2	138.1	1.3	-0.1

ADJUSTED RETAIL TRADE FOR METRO AREAS AND STATE ($ Seasonally Adjusted)

				Percentage Change	
	3rd Qtr '02	2nd Qtr '02	3rd Qtr '01	'02/'01 3rd Qtr	3rd Qtr '02 2nd Qtr '02
OKLAHOMA CITY MSA					
Durable Goods	591,881,389	595,165,603	576,460,449	2.7	-0.6
Lumber, Building Materials and Hardware	188,997,679	191,422,033	177,570,952	6.4	-1.3
Auto Accessories and Repair	88,968,020	90,644,540	94,784,080	-6.1	-1.8
Furniture	76,970,854	76,651,303	74,610,899	3.2	0.4
Computer, Electronics and Music Stores	96,127,518	95,672,289	90,040,306	6.8	0.5
Miscellaneous Durables	124,389,885	123,638,318	122,573,420	1.5	0.6
Used Merchandise	16,427,434	17,137,120	16,880,792	-2.7	-4.1
Nondurable Goods	1,611,347,193	1,607,524,256	1,583,725,738	1.7	0.2
General Merchandise	574,604,452	574,774,342	538,393,527	6.7	0.0
Food Stores	273,922,375	277,455,349	299,543,197	-8.6	-1.3
Apparel	105,733,755	106,249,397	103,816,400	1.8	-0.5
Eating and Drinking Places	327,093,319	322,615,260	315,848,173	3.6	1.4
Drug Stores	37,507,962	37,703,533	36,878,871	1.7	-0.5
Liquor Stores	20,362,556	20,366,392	19,541,656	4.2	0.0
Miscellaneous Nondurables	89,526,102	86,693,866	87,985,871	1.8	3.3
Gasoline	182,596,673	181,666,118	181,718,043	0.5	0.5
Total Retail Trade	2,203,228,582	2,202,689,859	2,160,186,187	2.0	0.0
TULSA MSA					
Durable Goods	430,436,810	444,440,624	447,252,762	-3.8	-3.2
Lumber, Building Materials and Hardware	130,083,323	129,848,440	125,065,955	4.0	0.2
Auto Accessories and Repair	56,292,879	59,277,968	62,058,279	-9.3	-5.0
Furniture	54,230,980	53,295,518	52,139,139	4.0	1.8
Computer, Electronics and Music Stores	87,941,751	95,970,525	102,242,262	-14.0	-8.4
Miscellaneous Durables	88,771,078	92,486,715	92,838,379	-4.4	-4.0
Used Merchandise	13,116,799	13,561,457	12,908,748	1.6	-3.3
Nondurable Goods	1,187,191,127	1,181,992,712	1,176,299,954	0.9	0.4
General Merchandise	413,524,961	400,269,812	393,017,766	5.2	3.3
Food Stores	233,687,527	239,188,971	255,095,497	-8.4	-2.3
Apparel	74,105,611	74,946,186	72,561,097	2.1	-1.1
Eating and Drinking Places	218,212,176	223,852,257	213,158,501	2.4	-2.5
Drug Stores	29,442,192	29,504,596	28,981,548	1.6	-0.2
Liquor Stores	16,888,692	16,935,780	16,127,502	4.7	-0.3
Miscellaneous Nondurables	66,334,594	62,989,303	63,012,338	5.3	5.3
Gasoline	134,995,374	134,305,806	134,345,705	0.5	0.5
Total Retail Trade	1,617,627,938	1,626,433,335	1,623,552,716	-0.4	-0.5
ENID MSA					
Durable Goods	23,942,120	24,484,243	24,172,474	-1.0	-2.2
Lumber, Building Materials and Hardware	8,878,760	8,795,167	8,545,902	3.9	1.0
Auto Accessories and Repair	5,095,048	5,574,185	5,582,979	-8.7	-8.6
Furniture	1,882,648	1,721,264	1,593,278	18.2	9.4
Computer, Electronics and Music Stores	2,184,363	2,044,511	2,268,220	-3.7	6.8
Miscellaneous Durables	5,263,528	5,657,070	5,540,115	-5.0	-7.0
Used Merchandise	637,774	692,045	641,981	-0.7	-7.8

ADJUSTED RETAIL TRADE FOR METRO AREAS AND STATE ($ Seasonally Adjusted)

	3rd Qtr '02	2nd Qtr '02	3rd Qtr '01	Percentage Change '02/'01 3rd Qtr	Percentage Change 3rd Qtr '02 2nd Qtr '02
ENID MSA					
Nondurable Goods	78,330,588	82,497,669	84,636,307	-7.5	-5.1
General Merchandise	26,863,188	27,868,237	27,830,848	-3.5	-3.6
Food Stores	20,917,765	21,610,734	21,772,710	-3.9	-3.2
Apparel	3,706,335	3,955,880	3,777,626	-1.9	-6.3
Eating and Drinking Places	13,111,918	13,964,351	13,155,360	-0.3	-6.1
Drug Stores	2,619,150	2,833,647	2,767,309	-5.4	-7.6
Liquor Stores	742,862	763,050	744,395	-0.2	-2.6
Miscellaneous Nondurables	4,142,783	4,339,886	4,627,090	-10.5	-4.5
Gasoline	6,226,586	7,161,886	9,960,967	-37.5	-13.1
Total Retail Trade	102,272,708	106,981,912	108,808,781	-6.0	-4.4
LAWTON MSA					
Durable Goods	29,974,800	29,988,364	30,635,022	-2.2	0.0
Lumber, Building Materials and Hardware	7,606,855	7,877,225	8,450,487	-10.0	-3.4
Auto Accessories and Repair	6,465,422	6,458,329	6,540,048	-1.1	0.1
Furniture	3,372,330	3,132,971	3,284,498	2.7	7.6
Computer, Electronics and Music Stores	3,388,974	3,408,712	3,392,532	-0.1	-0.6
Miscellaneous Durables	8,082,606	8,171,445	8,009,888	0.9	-1.1
Used Merchandise	1,058,613	939,683	957,569	10.6	12.7
Nondurable Goods	132,220,212	129,956,539	128,977,302	2.5	1.7
General Merchandise	60,459,887	60,239,510	58,047,829	4.2	0.4
Food Stores	19,632,458	19,459,657	19,907,604	-1.4	0.9
Apparel	6,386,367	5,712,359	6,356,073	0.5	11.8
Eating and Drinking Places	23,819,953	23,494,123	23,844,602	-0.1	1.4
Drug Stores	2,400,776	2,390,812	2,223,872	8.0	0.4
Liquor Stores	837,996	798,475	778,622	7.6	4.9
Miscellaneous Nondurables	5,961,992	5,205,505	5,159,127	15.6	14.5
Gasoline	12,720,783	12,656,098	12,659,573	0.5	0.5
Total Retail Trade	162,195,012	159,944,904	159,612,324	1.6	1.4
OKLAHOMA					
Durable Goods	1,508,786,932	1,538,742,142	1,520,439,243	-0.8	-1.9
Lumber, Building Materials and Hardware	486,376,747	532,482,219	497,471,533	-2.2	-8.7
Auto Accessories and Repair	266,990,785	273,742,585	265,818,105	0.4	-2.5
Furniture	173,463,095	175,338,880	167,739,966	3.4	-1.1
Computer, Electronics and Music Stores	239,096,221	215,375,667	244,893,681	-2.4	11.0
Miscellaneous Durables	299,411,067	304,429,461	298,167,700	0.4	-1.6
Used Merchandise	43,449,016	37,373,330	46,348,257	-6.3	16.3
Nondurable Goods	4,551,352,942	4,728,539,523	4,523,848,998	0.6	-3.7
General Merchandise	1,563,256,560	1,601,558,009	1,520,812,920	2.8	-2.4
Food Stores	978,401,967	1,018,692,427	1,015,181,681	-3.6	-4.0
Apparel	235,101,312	244,854,250	236,981,358	-0.8	-4.0
Eating and Drinking Places	805,319,826	834,579,261	783,085,954	2.8	-3.5
Drug Stores	94,836,951	93,159,135	93,364,638	1.6	1.8
Liquor Stores	52,218,132	52,578,558	50,383,339	3.6	-0.7
Miscellaneous Nondurables	238,201,352	259,599,564	242,675,511	-1.8	-8.2
Gasoline	584,016,843	623,518,320	581,363,597	0.5	-6.3
Total Retail Trade	6,060,139,874	6,267,281,665	6,044,288,242	0.3	-3.3

ADJUSTED RETAIL TRADE FOR SELECTED CITIES ($ Seasonally Adjusted)

	3rd Qtr '02	2nd Qtr '02	3rd Qtr '01	Percentage Change '02/'01 3rd Qtr	Percentage Change 3rd Qtr '02 2nd Qtr '02
Ada	54,557,931	53,964,074	53,182,427	2.6	1.1
Altus	42,293,812	41,973,483	41,033,411	3.1	0.8
Alva	13,225,679	12,989,996	13,277,078	-0.4	1.8
Anadarko	14,350,445	14,424,138	13,968,415	2.7	-0.5
Ardmore	81,316,480	77,974,959	77,857,770	4.4	4.3
Bartlesville	91,592,503	91,247,944	91,094,908	0.5	0.4
Blackwell	11,892,106	11,738,326	10,510,621	13.1	1.3
Broken Arrow	126,167,225	124,461,491	118,039,451	6.9	1.4
Chickasha	34,862,012	35,658,223	35,202,803	-1.0	-2.2
Clinton	19,079,091	18,251,583	19,988,620	-4.6	4.5
Cushing	15,048,002	15,074,599	14,639,886	2.8	-0.2
Del City	27,397,517	27,703,821	28,952,750	-5.4	-1.1
Duncan	48,629,249	48,436,324	48,632,633	0.0	0.4
Durant	39,825,407	36,547,907	34,578,717	15.2	9.0
Edmond	165,851,863	167,039,705	150,129,660	10.5	-0.7
El Reno	27,427,574	27,242,146	27,763,232	-1.2	0.7
Elk City	32,287,263	31,956,604	32,512,165	-0.7	1.0
Enid	100,573,833	104,140,894	103,721,928	-3.0	-3.4
Guthrie	19,372,072	19,071,926	18,895,204	2.5	1.6
Guymon	22,394,720	22,786,818	23,355,225	-4.1	-1.7
Henryetta	11,983,258	11,941,064	11,964,964	0.2	0.4
Hobart	5,952,036	6,075,199	5,942,781	0.2	-2.0
Holdenville	7,873,796	7,790,691	8,040,647	-2.1	1.1
Hugo	16,915,758	17,167,168	16,717,035	1.2	-1.5
Idabel	15,759,758	16,175,956	16,161,813	-2.5	-2.6
Lawton	175,371,906	170,748,567	169,497,483	3.5	2.7
McAlester	63,298,913	63,566,775	62,329,379	1.6	-0.4
Miami	29,528,225	29,438,074	29,266,513	0.9	0.3
Midwest City	130,230,172	133,567,036	130,612,557	-0.3	-2.5
Moore	72,064,588	69,666,170	67,170,031	7.3	3.4
Muskogee	109,869,187	108,509,397	107,896,731	1.8	1.3
Norman	227,967,239	225,627,819	219,842,399	3.7	1.0
Oklahoma City	1,218,199,220	1,213,444,958	1,198,422,244	1.7	0.4
Okmulgee	36,231,396	36,520,819	35,204,625	2.9	-0.8
Pauls Valley	19,797,819	19,730,398	20,057,875	-1.3	0.3
Pawhuska	5,148,490	5,316,929	5,217,090	-1.3	-3.2
Ponca City	67,365,725	67,401,585	67,859,417	-0.7	-0.1
Poteau	31,060,884	31,478,049	30,587,608	1.5	-1.3
Sand Springs	44,132,670	43,988,406	45,973,572	-4.0	0.3
Sapulpa	48,007,760	48,621,972	48,295,341	-0.6	-1.3
Seminole	18,678,883	18,764,282	19,317,739	-3.3	-0.5
Shawnee	87,560,707	84,717,576	83,624,423	4.7	3.4
Stillwater	102,333,060	100,686,657	100,984,415	1.3	1.6
Tahlequah	59,602,332	59,050,429	46,013,022	29.5	0.9
Tulsa	1,118,936,264	1,137,453,409	1,147,185,059	-2.5	-1.6
Watonga	4,615,980	5,355,393	5,052,892	-8.6	-13.8
Weatherford	24,626,591	24,095,249	24,388,414	1.0	2.2
Wewoka	2,989,940	3,090,367	3,012,275	-0.7	-3.2
Woodward	40,635,081	40,250,854	41,806,381	-2.8	1.0
Total Selected Cities	4,784,882,421	4,782,926,210	4,725,781,631	1.3	0.0

SELECTED INDICATORS FOR THE TULSA MSA

	3rd Qtr '02	2nd Qtr '02	3rd Qtr '01	Percentage Change '02/'01 3rd Qtr	Percentage Change 3rd Qtr '02 2nd Qtr '02
Employment (Number)					
Labor Force[a]	432,313	431,383	425,893	1.5	0.2
Total Employment	412,260	411,257	413,953	-0.4	0.2
Unemployment Rate (%)	4.6	4.7	2.8	--	--
Wage and Salary Employment	407,767	409,033	407,767	0.0	-0.3
Manufacturing	56,867	56,733	56,567	0.5	0.2
Mining	5,700	5,667	6,133	-7.1	0.6
Government	42,700	4,500	42,200	1.2	848.9
Wholesale and Retail Trade	89,467	89,667	91,667	-2.4	-0.2
Average Weekly Earnings					
Manufacturing ($ Per Worker)	609.66	597.66	645.90	-5.6	2.0
Air Transportation					
Passengers Enplaning (Number)	373,470	392,020	413,384	-9.7	-4.7
Passengers Deplaning (Number)	374,887	384,616	415,922	-9.9	-2.5
Freight (Tons)	12,077	11,780	11,665	3.5	2.5
Water Transportation					
Tulsa Port of Catoosa					
Tons In	212,883	222,131	248,946	-14.5	-4.2
Tons Out	347,751	295,322	314,528	10.6	17.8
Permit-Authorized Construction					
Residential-Single Family					
Dollar Value ($000)	143,366	137,382	108,445	32.2	4.4
Number of Units	1,025	991	813	26.1	3.4
Residential-Multi Family					
Dollar Value ($000)	10,934	3,832	15,549	-29.7	185.3
Number of Units	173	39	263	-34.2	343.6
Total Construction	154,300	141,214	123,994	24.4	9.3

Note: Includes revisions.
[a]Civilian Labor Force.
E = Exceeds 600 percent.

SELECTED INDICATORS FOR THE ENID AND LAWTON MSA'S AND MUSKOGEE MA

	3rd Qtr '02	2nd Qtr '02	3rd Qtr '01	Percentage Change '02/'01 3rd Qtr	Percentage Change 3rd Qtr '02 2nd Qtr '02
ENID MSA					
Employment (Number)					
Labor Force[a]	26,433	26,313	26,153	1.1	0.5
Total Employment	25,727	25,587	25,583	0.6	0.5
Unemployment Rate (%)	2.7	2.8	2.2	--	--
Wage and Salary Employment	23,567	23,667	23,600	-0.1	-0.4
Wholesale and Retail Trade	6,300	6,267	6,167	2.2	0.5
Manufacturing	2,500	2,467	2,567	-2.6	1.3
Permit-Authorized Construction					
Residential-Single Family					
Dollar Value ($000)	8,233	1,621	1,435	473.7	407.9
Number of Units	38	11	9	322.2	245.5
Residential-Multi Family					
Dollar Value ($000)	110	120	4,098	-97.3	-8.3
Number of Units	3	2	102	-97.1	50.0
Total Construction ($000)	8,343	1,741	5,533	50.8	379.2
LAWTON MSA					
Employment (Number)					
Labor Force[a]	41,667	41,767	40,907	1.9	-0.2
Total Employment	40,397	40,360	39,830	1.4	0.1
Unemployment Rate (%)	3.0	3.3	2.6	--	--
Wage and Salary Employment	39,600	39,600	38,933	1.7	0.0
Wholesale and Retail Trade	8,500	8,533	8,633	-1.5	-0.4
Manufacturing	3,767	3,800	3,800	-0.9	-0.9
Permit-Authorized Construction					
Residential-Single Family					
Dollar Value ($000)	5,763	4,624	3,096	86.1	24.6
Number of Units	47	38	26	80.8	23.7
Residential-Multi Family					
Dollar Value ($000)	0	50	25	--	--
Number of Units	0	10	5	--	--
Total Construction ($000)	5,763	4,674	3,121	84.7	23.3
MUSKOGEE MA					
Employment (Number)					
Labor Force[a]	31,153	32,007	31,353	-0.6	-2.7
Total Employment	30,147	30,597	30,290	-0.5	-1.5
Unemployment Rate (%)	4.4	4.4	3.4	--	--
Water Transportation					
Port of Muskogee					
Tons In	125,279	104,013	123,971	1.1	20.4
Tons Out	25,866	27,377	18,236	41.8	-5.5

Note: Includes revisions.
[a]Civilian Labor Force.
E = Exceeds 600 percent.

SELECTED INDICATORS FOR OKLAHOMA CITY MSA

	3rd Qtr '02	2nd Qtr '02	3rd Qtr '01	Percentage Change '02/'01 3rd Qtr	Percentage Change 3rd Qtr '02 2nd Qtr '02
Employment (Number)					
Labor Force[a]	562,423	565,603	561,647	0.1	-0.6
Total Employment	541,000	542,190	542,460	-0.3	-0.2
Unemployment Rate (%)	3.8	4.1	3.4	--	--
Wage and Salary Employment	543,867	548,067	540,033	0.7	-0.8
Manufacturing	48,200	48,100	51,033	-5.6	0.2
Mining	7,667	7,633	7,500	2.2	0.4
Government	100,267	106,600	100,233	0.0	-5.9
Wholesale and Retail Trade	23,800	23,900	24,767	-3.9	-0.4
Average Weekly Earnings					
Manufacturing ($ Per Worker)	601.98	587.58	552.02	9.1	2.5
Air Transportation					
Passengers Enplaning (Number)	411,052	426,724	425,503	-3.4	-3.7
Passengers Deplaning (Number)	421,968	421,733	430,808	-2.1	0.1
Freight Enplaned (Tons)	3,683	4,350	3,062	20.3	-15.3
Freight Deplaned (Tons)	4,595	4,991	3,836	19.8	-7.9
Permit-Authorized Construction					
Residential-Single Family					
Dollar Value ($000)	193,939	184,200	152,931	26.8	5.3
Number of Units	1,382	1,396	1,121	23.3	-1.0
Residential-Multi Family					
Dollar Value ($000)	9,922	1,080	887	E	E
Number of Units	166	12	14	E	E
Total Construction ($000)	203,861	185,280	153,818	32.5	10.0

Note: Includes revisions.
[a]Civilian Labor Force.