

**NOTICE OF MEETING FOR THE PROBATE TRIAL AND PROCEDURE COMMITTEE  
OF THE TRUST AND ESTATE SECTION AND ELDER LAW SECTION OF THE  
COLORADO BAR ASSOCIATION**

**November 16, 2017 at 10:00 a.m.**

**Location:  
COLORADO BAR ASSOCIATION  
9th Floor, Terrace Conference Room (Please check the board)  
1900 Grant Street  
Denver, Colorado 80203-4309  
(303) 860-1112**

**If you would like to call in to the meeting, please dial 1-855-392-2520 and put in Access Code  
5052474# - please mute your phone using \*6**

**AGENDA**

1. Welcome - Introductions
2. Review of Minutes from last meeting/Approval
3. Chair's Report
4. Updates/Reports
  - a. Probate Bench Book – Jamie Roth  
If you want to participate in reviewing or editing the probate bench:
    1. Login to your gmail account or create one.
    2. Email [liticomm@gmail.com](mailto:liticomm@gmail.com) from your gmail account.
    3. Jarod will give you access to the probate bench book folder.
    4. If you need help using Google Docs, google "google docs help."
  - b. Colorado Transfer or Deposit of Estate Planning Documents Act (if needed)
  - c. Elder Law Section update (if needed) – Tom Rodriguez, Liaison
  - d. LPC questions and procedures (if needed) - Tammy Conover
5. Reports from the Bench
  - a. Reports and updates from Committee Members on recent hearings, court orders and procedural issues.
6. Matters for Discussion
  - a. Brookoff Case, before Colorado Supreme Court (Herb Tucker to lead discussion)
  - b. Remote Notarization and Electronic Wills subcommittee (Herb Tucker and Letty Maxfield) to present updates
  - c. UTC – Alternative Dispute Resolution §15-15-113, C.R.S.
  - d. Collection of Estate Assets if not turned over (723 vs. Replevin Action)
  - e. Inclusion of trust settlements under sections 1101 and 1102
7. Adjournment

**NEXT MEETING: December 21, 2017 at 10:00 a.m.**

**REMINDER:** Join the Committee through CBA Membership Department; E-mail [membership@cobar.org](mailto:membership@cobar.org) All notices and updates are sent through the CBA

**PROBATE TRIAL AND PROCEDURE COMMITTEE MEETING  
TRUST AND ESTATE SECTION AND ELDER LAW SECTION  
COLORADO BAR ASSOCIATION**

**OCTOBER 19, 2017 MINUTES**

**1. Opening and Introductions**

Aaron Evans called the meeting to order at 10 a.m.

**2. Minutes of the August Meeting**

The minutes from the September meeting were unanimously approved.

**3. Chair's Report and Updates**

Aaron Evans gave the Chair's report. The upcoming holiday party will again be held at the University Club on Wednesday, December 6<sup>th</sup> from 4:00-6:30 p.m. Attendees will receive 1 hour of CLE credit. The topic will address issues in elder law and divorce.

**4. Updates from Sections and Reports**

Jamie Roth reported that Tom Rodriguez has sent a summary on updates regarding the bench books. Jamie said that she and Tom are continuing to develop a list of topics for the bench books. Jamie and Tom will forward the list of topics to anyone interested in working on the bench books. Currently, Jamie and Tom are focused on editing existing chapters for consistency. Jamie will report to the subcommittee next month on how the edits are progressing. Jamie and Tom have reached out to CBA CLE publishing for assistance with editing current bench book topics.

Marco Chayet gave an update from the Elder Law Section meeting. The Section is working with the Board of Governors on updates to existing bylaws to reflect best practices. Marco has been appointed as a commissioner by Governor Hickenlooper. Marco will report on progress as things move forward.

**5. Bench Reports**

There were no reports from the bench this month.

**6. New Business**

- Tim Swanson of Moye White LLP spoke to the subcommittee about issues in bankruptcy as it relates to probate litigation and estate planning. Tim gave an overview on bankruptcy law and issues in general. Tim also discussed the

different types of bankruptcy – Chapters 7, 11, and 13. Tim also discussed issues that arise when a devisee or beneficiary faces bankruptcy. Generally, the provisions of the document (i.e. a will or trust), state law, and applicable spendthrift provisions will determine whether or not the devisee/beneficiary's inheritance is included in the bankruptcy estate. There is a 180-day "dragnet" provision in the bankruptcy code that can bring bequests, inheritances, and devises back into the bankruptcy estate. There are certain exceptions – i.e. POD designations. Tim also discussed pre-bankruptcy amendments to estate planning documents and disclaimers. These methods are not without risk, and disclaimers tend to be lower risk than amending estate planning documents.

7. **Adjournment**

Aaron Evans adjourned the meeting at 11:01 a.m.

Respectfully submitted,  
Tim Bounds, Secretary