

**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**

February 15, 2018 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. Updates/Reports
 - a. Probate Bench Book & coordination with Retired Judge Kuenhold on electronic benchbook - Jamie Roth
 - b. Colorado Transfer or Deposit of Estate Planning Documents Act (if needed)
 - c. Elder Law Section update (if needed) - Tom Rodriguez, Liaison
 - d. ABA a new book on "Foundations of Digital Evidence".
 - e. 723 Over haul - Zach and Jody
4. Future Sub-committee projects
 - a. Compensation Act - Marcie
 - b. CBA Ethics Opinions 131 and 132 and potential ethical traps for elder law and estate planning attorneys.
 - c. Colorado Uniform Trust Code and revisions to the probate Code.
5. 2018 Legislation
 - a. Remote notarization bill.
6. Future speakers
 - a. Bill Fender in March. Note meeting will be in large conference room.
7. Adjournment

NEXT MEETING: March 15, 2018 at 10:00 a.m.

REMINDER: Join the Committee through CBA Membership Department; E-mail 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**

JANUARY 18, 2018 MINUTES

1. Opening and Introductions

Chairman Aaron Evans called the meeting to order at 10:00 a.m. Present at the meeting were: Aaron Evans, Lindsey Andrew, Pete Ballard, Brooke Brestel, William Carew, Gary Clexton, Tammy Conover, Todd, Kastetter, Dave Kirch, Marcie McMinimee, Patricia Mellen, Jody Pilmer, Tom Rodriguez, Zachary Schlicting, Cate Seal, Sandra Sigler, Ernest Staggs, Douglas Traeger, Herb Tucker, Justin Vasquez, Morgan Wiener, Allison Zinn. The following were on the phone: Lynne Bruzzese and Letty Maxfield.

2. Minutes of the August Meeting

The minutes from the December 21, 2017 meeting of the Committee were approved unanimously.

3. Chair's Report and Updates

Aaron Evans spoke on any additional topics that the Committee wanted to tackle in 2018 and/or ideas to make sure we can use all of our time the best way possible.

4. Updates from Sections and Reports

Bench Book -Brief discussion about how the updated topics went out to potential authors. If anyone else is interested in helping out, please contact Gary Claxton, Jamie Roth or Tom Rodriguez, their hope is to have another version done this spring.

Deposit of Digital Estate Planning Documents subcommittee – Pete Bullard gave an update and explained they are now at a stopping point as the Secretary of State now has told the subcommittee that they won't destroy any original documents, which was the original idea. They are now trying to come up with other options, such as attorneys destroy, probably a non-starter. The subcommittee would need to get approval of SRC before they made any decision on who destroys any documents. Judge on subcommittee has discussed idea of Courts destroying originals, ethical issues, would need ethics rule change.

Elder Law – Tammy Conover spoke on GAL subcommittee still working out issue with Family Law. They are developing a summary letter to distribute. No update on remote notarization, it is coming, but no one has seen actual bill. There has been

push back from title companies, so now they are in a wait and see after an actual version of the bill comes out. They think they will need more legal reasons as to why this bill is bad, most likely will be at least another year.

LPC - No report, Tammy Conover no longer on LPC.

723 Subcommittee - Zach had no report, more next month.

Cost Compensation - Marcie McMinimee spoke that they are waiting until UGCOPAA is resolved. She did update on the Supreme Court Rules meeting, overhaul on Rule 8.8, our part is done. They are still thinking of ways to revise the rule on Amending Financial Plan, to allow it within the form. She is looking into options, so that the amendment could be done within the annual report vs the initial report, as makes more sense. No idea that you will need to amend the report when the initial report is filed, makes more sense to amend in the annual report.

Ethics Opinion 130 - David Kirch brought up this opinion and some concerns he had regarding the confidentiality issues and will lodged as matters of public record. Attorneys previously were allowed to disclose wills if they were lodged, as they were a public record. New ethics opinion conflicts with that.

Further discussion on Ethics opinion 131 & 132, drafting around it, so you can amend your fee agreement and actual EP documents to allow for options for next generation to help, plus waiving attorney client privilege after death. There was some discussion on how the Ethics Committee works and options for them to get further direction on the ethics opinions that are issued. If there is a specific issue and/or question, then you can ask the Ethics Committee to clarify on that point or question. Aaron will look into this option and see if worthwhile or will do more damage than good.

5. **Bench Reports**

GAL subcommittee potentially working with Judges to educate judiciary at their annual conference on GAL role and use in non-probate matters. May discuss with Judge Leith as she normally is the primary Judge who speaks on probate issues at the conference.

6. **New Business**

Reminder that there will be a speaker, Bill Fender, at the March meeting. He will discuss the Prudent Investor Act and will be in the large conference room along with the Elder law group. This will take place of our normal meeting. There was no new business introduced at the meeting.

7. **Adjournment**

Aaron Evans adjourned the meeting at 10:58 a.m.

Respectfully submitted,
Tim Bounds, Secretary