

**Meeting of Elder Law Section of the CBA
March 19, 2008**

Co-Chairs:	Susie Germany	Denver	303-454-3711
	Marco Chayet	Denver	303-355-8500
Secretary:	Tom Rodriguez	Louisville	303-604-6030
Treasurer:	Tammy Conover	Denver	303-757-4342
Council Members:	Shari Caton	Denver	303-832-1600
	Christina Brigham	Denver	303-877-1949
Liaison Coordinator:	John Campbell	Denver	303-290-7497
CBA Liaison:	Erica Driver	Denver	303-860-1115
Representative to CBA Board of Governors	John Campbell	Denver	303-290-7497
Uniform Trust Code Committee	Eric Solem	Englewood	303-761-4900
Medicaid Legislation Committee	John Campbell	Denver	303-290-7497

The Executive Council Meeting of the Colorado Bar Association Elder Law Section was called to order at 9:07 A.M. Miscellaneous matters were discussed.

Old Business

Elder Law Retreat. Dates have changed with notice. Scheduled for last weekend in September now, but those dates may not work. Keynote speaker secured: Charlie Sabitino, head of ABA Commission on Elder Law and Aging.

Memory Walk Committee. No one signed up. Will pass around new signup sheet today.

DBA Joint Program – Possibly coordinate with Senior Law Day programs.

Legislation update: Michael Valdez

Notaries Public Act – SB 09-111 – House State Affairs Committee – John DeBruyn did a lot of work on this. State Affairs was going to strike out the alternate record keeping – allows lawyers, real estate agencies and title companies not to keep a journal. State Affairs thought it was good for consumer safety. Our Section and T&E were most vocal in opposition. CBA TRICA decided to reserve the position. Want to keep status quo. Title companies will join us in

opposition. Plan to meet with Secretary of State and hope to convince there is no problem with the way the law is currently drafted.

Uniform Power of Attorney Act (“UPPOA”) – SB 09-1198 – John DeBruyn and Stan Kent spent hours “Coloradoizing” the UPPOA with possible amendments. Bill is through the legislature and on the way to Governor. Uniform Law Commissioners ran with this Bill. Stan and John went through existing statutes. Colorado already had adopted durability and other UPPOA default rules. We had tremendous support for drafting office for amendments.

Uniform Probate Code Updates – HB 09-1287 - Through the House. In the Senate now. Ready for committee. Later effective date – we can go through it now and possibly amend problems later in January of next year.

Uniform Parentage Act – HB 09-1286 - Has been withdrawn by sponsor. We will form study group that should be broad based. This Bill will come back on 2010.

Beneficiary Designation – HB 09-1260 - Sections loved the concept but had drafting issues with the bill. The proposed form creates a false sense of security for those who sign it. The Bill is through the House. There’s a warning on the Bill written into it. Controversial issues. Sponsors wrote something that was watered down. Now more of a symbolic bill. Could be worked through so it does not need the warning. Problem is that it’s called an “agreement.”

HB 09-1191 – Albourne – HCPF missed the mark on the goal of fixing this case. HCPF rejected Sections suggestions. HCPF took off some language but did not fix entirely. Section stood down because the issue does not really hurt elder law practitioners.

HB 09-1241 – Probate Omnibus bill. On the way to Governor.

HB 1248 – Business Entities. “Clean up” bill. Going through legislature.

SB 09-139 – Adoption of recent changes to the Uniform Principal and Income Act. Through Senate and passed committee.

New business

DORA cracking down on professional fiduciaries. Possible requirements of bonding, and perhaps charter. Carl Glatstein working on this. Several other states looking at this issue too. Concerns about increase costs of regulation. Some regulation might be good in theory but could put smaller professional fiduciaries out of business.

Young Lawyers Division – Open House tomorrow. Section is trying to recruit younger lawyers.

Meals of wheels is looking for a donation from Section. Suggested to something low and get CO-NAELA to match. Motion passed: Donation of \$250 contingent on CO-NAELA matching it.

US legislation proposed that would allow an account to be held in the name of an individual with a disability. Accounts would be able to have a limit of \$500,000 and not impact public benefits (rather than \$2,000 current limit).

Looking at POMS today. We should schedule a CLE in the future on how attorneys can use pooled trusts. Colorado Fund for People with Disabilities pooled trust now offering other services such as trustee, care management and guardianship, conservatorship.

Future Executive Council meetings will move back to 8:15 start time.

The Executive Council meeting ended at 8:50 A.M.

Call to Order and call for review and approval of the February 19, 2009 Minutes

The meeting was called to order by Susie Germany at 9:01 A.M.

Introductions followed, and the sign-in sheet was circulated. Those attending in person or by phone were:

Michael Valdez	Dennis Valentine
Christina Brigham	Tammy Conover
Marco Chayet	Frank Baysore
Chuck Connell	Crispin Sargent
Eric Solem	Dave Bernhart
Shari Caton	Tom Rodriguez
Susie Germany	Debbie Reinberg
Wayne Stewart	Rose Zapor
Elizabeth Tulloch	Clara Brown
Marcie	Rocky Williams
McMinimee	
W. Eric Kuhn	Anne Grasee
Sherene Stenger	Dirk Costin
Carl Glatstein	Harold Wright, Jr.
Rocky Williams	John Campbell
Brandon Fields	Erica Driver
Michelle Luwonn	Claire Dineen
Richard Mishkin	Martha Ridgway
Masayo Quick	Catherine Seal
Jeffrey Lamb	Elizabeth
	Mitchell
Roseann Murray	Stephen Orzynski

Don Alspaugh Sandie Franklin
Tamera Waltemath John DeBruyn

The minutes from the February 19, 2009 meeting were approved.

2. **Treasurer's Report** – Tammy Conover – The Section has \$8,261. Memory walk paid. \$2,500 for Senior Law Day owed. Meals on Wheels payment - \$250 grant.
3. **Old Business**
 - a. Committee Reports (Chairperson of the committee may report any current matters.) Our current committees are:
 - i. Civic and Community Affairs: Carl Glatstein – Senior Law Day Scheduled for June 27th at the Marriott Renaissance in Stapleton. Getting speakers finalized. Looking for topics. 40-50 speakers. Assistant AG Jan Stinson hopefully will be the plenary speaker. Let Carl know if you are interested in presenting or helping. Sponsorships available for firms and tables. April 1 deadline for sponsorships for the Senior Law Book.
 - ii. CLE and Publications Committee: Jennifer Gormley – Send any ideas. There are elder law articles in pipeline for Colorado Lawyer.
 - iii. ADR: Rose Zapor – Upcoming radio presentation on elder mediation. Rose and John Rymers doing presentation on March 30th at the Denver Probate Court Nationwide organization to discuss standards and training for elder mediators since it differs from typical mediation. New brochure passed around. Did not put a list of recommended mediators on the new brochure; rather will give resources to find mediators. Still considering the standards for an elder mediator.
 - iv. Medicaid Legislation: John Campbell – Renewed interest in expanding estate recovery again. Nothing concrete yet. Preliminary meeting with Senator Akree to discuss. May be reactivation of committee.
 - v. Probate Compensation and Expense Recovery Committee: Marco Chayet – Latest draft setting out procedures. Goal is to force the objector to be specific in fee disputes.

- vi. Winter Retreat: Susie Germany – New date proposed by CBA that doesn't work for Section because of scheduling issues. Will discuss at 11:00 meeting.
 - vii. Creditors Claims in Conservatorships: Marcie McMinimee – Meeting scheduled
 - viii. Powers of Attorney Abuse: Tom Rodriguez – First meeting last month. Good discussion. Brainstorming at this point. Law enforcement in support. Need to balance ease of use of powers of attorney with preventing abuse.
- b. Liaison Reports –
- i. Trust and Estate Council/Statutory Revisions Committee Liaison: Marcie McMinimee – Joint task force on advance directives – Concerns it has not gone out to appropriate stakeholders.
 - ii. AARP Liaison: Elizabeth Tulloch and Dennis Valentine – HB 1293 – Healthcare Affordability Act. Accessing fees on hospitals to help pay for Medicaid care. Hospitals are getting squeezed for providing lots of free care. SB 228 – Repealing Arveschoug-Bird Amendment. Political issue. Passed on party vote. For Seniors, it provides more flexibility for using excess. Federal stimulus package for Seniors has \$1.2 Million for nutrition services.
 - iii. Department of Health Care Policy and Finance Liaison: John Campbell – See above.
 - iv. CBA Legislative Policy Committee Liaison: John Campbell – Nothing new since last month.
 - v. NAELA Colorado – John Campbell – Will email Marcie O'Brien to see if we can authorize \$250 donation.
 - vi. Denver TRIAD – Rocky Williams – Donating to Senior Law Day.
- c. Other old business
- i. Databank ready to receive orders. Four submitted so far. Page is under construction. Email to.
 - ii. Joint program with DBA – No update.

iii. New legislation. (See EC Notes).

4. **New Business and Announcements**

a. Hot Topics Discussion –

- i. **At the December 2008 Section meeting, it was agreed that the Section would take an active role in supporting the Alzheimer's Association Memory Walk. The 2009 walk is to be held September 19th. Packets, including information templates for you to send to your clients, referral sources, associates and friends, were provided at the December meeting. If you would like to participate in this initiative and request a Packet or you would like further information on Memory Walk, please contact DeAnn Garrison, Alzheimer's Association, 303-813-1669,**
- ii. DORA regulating professional fiduciaries. In the planning stages. AG involved – stemming from last fall's summit. Need to be proactive. Avoid trust company type of regulation because of cost. Would increase cost for many professional fiduciaries and make them out of reach for many clients. May form a committee to look into this (tabled for April meeting.). Need to get DORA to be willing to talk. Carl Glatstein will be a liaison. Section needs to be in the loop about this. Perhaps Section should look at what six other states are doing with this issue. Can get Marco to email voluntarily guidelines.
- iii. Congresswoman Ann McKean leaving the House to go back into private practice.
- iv. CBA Young Lawyers Division - open house tomorrow.
- v. Volunteers of America for Meals on Wheels. Funding issue. 400 people on the wait list. Contact Michelle Luwoon if want to make a donation. Please post this on the Section website.
- vi. Nominations for next year's Executive Council. Catherine Seal nominated for co-chair. Tom Rodriguez nominated for co-chair. Tamera Waltermath nominated for member at large. Tammy Conover nominated treasurer. Tom Rodriguez nominated for secretary.

- vii. If prior co-chairs want to be a voting member next year. Need to email co-chairs by May 1, 2009.
- b. Colorado Lawyer articles - keep them coming. Contact John Campbell, Jennifer Gormley, or the Co-Chairs with any ideas.
- c. CLEs and Programs
Topics and Speakers: Please continue to let the Co-Chairs know your ideas for possible speakers and topics.

Upcoming programs include: (Forward any to Tom, Marco or Susie)

- April 23 Guardianships and Conservatorships: The Basics – Denver (or live webcast)
- May 14 Guardianship and Conservatorships: The Basics – Video replay – Colorado Springs, Grand Junction, Denver
- April 30 CFPD program (contact Eric Solem for details)

The Section Meeting ended at 10:00.

The CLE portion of the meeting began shortly thereafter. The speaker was Bradley J. Frigon, JD, LLM, CELA and the topic was POMS 2009, Updates to SI 01120.20. Materials are available on the Section's website.