

**Meeting of Elder Law Section of the CBA
November 15, 2007**

Co-Chairs:	John Campbell	Denver	303-290-7497
	Nancy Germany	Denver	303-454-3711
Secretary:	Frank Slaninger	Denver	303-758-5200
Treasurer:	Marco Chayet	Denver	303-355-8500
Council Members:	Bert Myrin	Aspen	970-925-8645
	Elizabeth Tulloch	Denver	303-388-3500
	K. Gabriel Heiser	Boulder	303-447-6855
Liaison Coordinator:	John Campbell	Denver	303-290-7497
CBA Liaison:	Gretchen Eoff	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

The Executive Council Meeting of the Colorado Bar Association Elder Law Section was called to order at 8:12 A.M. Judge Stewart is preparing a Best Practices Manual which will be available soon. Discussion of Non-appearance hearings with 10-3 day probate rules time limits versus longer time limits in C.R.C.P. Rule 6 followed. There is a new notice of hearing form to be used for non-contested matters. If a form is on the Colorado Supreme Court website, use it and/or incorporate changes. Agenda items were previewed. Attendees by telephone can press #6 Mute to Mute their phones, and they can press #7 to de-Mute them.

Call to Order and call for review and approval of October 18, 2007 Minutes --- The meeting was called to order by John Campbell at 9:04 a.m.

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

Ellen Alires-Trujillo	Stanley Kent
Lincoln Anderson	Michael Kirtland
Sally Anderson	Michele Lawonn
John Berman	Thomas Linn
David Bernhart, Jr.	Marcie McMininee
John Campbell	Eileen Muench
Marie Chayet	Bert Myrin
Charles Connell	Thomas Rodriguez

W. Dirk Costin	Mike Rowe
Bobbie Collins	Catherine Seal
Gretchen Eoff	Catherine Silburn
Jay Fox	Frank Slaninger
Nancy Germany	John Stewart
M. Carl Glatstein	Rosa May Taylor
Jennifer Gormley	Michael Valdez
K. Gabriel Heiser	Tamra Waltemath

The minutes from the October 18, 2007 meeting were approved later in the meeting. (Thank you, Bert Myrin.)

2. **Treasurer's Report**– Marco Chayet reported the balance is \$10,975.21 with \$2,000 yet to be paid out for Senior Law Day.
3. **Old Business**
 - a. Committee Reports (Chairperson of the committee may report any current matters). Our current committees are:
 - i. Civic and Community Affairs Committee: Carl Glatstein – Michele Lawonn reported that John Fielder is allowing us to use one of his pictures on the cover of the 2008 Elder Law Handbook.
 - ii. Guardianship Standards: Marco Chayet – passed. Nothing new happened. They will work on release of a booklet.
 - iii. Guardianship Jurisdiction Act Committee: Kate Seal-- a final version is on the recusal website. John Campbell said it was taken to Statutory Revisions Committee (SRC), and a joint committee was set up.
 - iv. CLE and Publications Committee: Jennifer Gormley – one article is being finalized on dementia, how to recognize it and techniques for dealing with it. (A second article on attorney's fees in protected proceedings and decedents' estates is being worked.) If you have ideas, contact John or Jennifer. She's designing a CLE with Medicaid in mind.

- v. Advance Directives Task Force - Michael Kirtland – Legislative sponsors are now being sought.
 - vi. Public Guardianship – Val Corzine – passed. Marco Chayet said this committee may be at a temporary standstill. Val Corzine is switching positions in her office and will be replaced by Jan Meyers (she was one of the initial co-chairs with Martha Ridgway when our Section was a committee).
 - vii. Fiduciary Misconduct: Marcie McMinimee – the proposed 15-10-501 et. seq. does not confer jurisdiction on all trusts. C.R.S. 15-12-600 et. seq. covers removal and restraints on fiduciaries. The time and notices were clarified. The proposed part 5 will be subject to C.R.S. 15-12-401 et. seq. (protection of property of protected person). It clarified trust registration and includes decedents’ estates.
 - viii. Joint Tenant – Carl Stevens –passed. We may speak on this subject at future meetings.
 - ix. Rule 6 – Marco Chayet – Rules and Forms will discuss this today. The goal is to reconcile the 10 day and 3 day probate rules’ time periods with C.R.C.P. Rule 6, to assure there is no default if there is no response, and so uncontested motions and notices can be placed on the non-appearance docket. Judge Stewart will put out a manual.
 - x. ADR (joint with the Family Law and ADR Sections to work with the Colorado Council of Mediators to develop ADR programs related to issues in Elder Law and elder care) – Michele Lawonn and Paul Mitchell will head up this committee. Other members are invited to sign up.
- b. Liaison Reports –
- i. Trust and Estate Council Liaison: Billie Castle – passed.
 - ii. AARP Liaison: Elizabeth Tulloch – passed.
 - iii. Department of Health Care Policy and Financing Liaison: John Campbell – there was a meeting in August, 2007, and they may meet again. Please submit questions to John so they can be presented to HCPF in one document. These will be reviewed at our 12/13/07 meeting. Jennifer Gormley will assist us. The meeting with HCPF may come in January or February of 2008.
 - iv. CBA Legislative Policy Committee Liaison: Michele Lawonn – a legislator, Alice B. Borodkin, may set hearings on Medicaid red tape.

- v. Statutory Review Committee – Marcie McMinimee – trust and estate calculations and other matters were discussed.
- c. Audit on oversight of probate cases - Carl Glatstein - There is a problem with Medicaid applications being filed, but then they are not being processed. Suggestions for relief included filing for a hearing or making a call to the supervisor.

4. New Business and Announcements

- a. The Alzheimer’s Association is seeking some Spanish speaking elder law attorneys. Interested attorneys can contact the Association directly – Alida M. Loinaz, OTR, CI, Special Programs Coordinator, Alzheimer’s Association, Colorado Chapter, Inc., 455 Sherman Street, Suite 500, Denver, CO 80203-4405, 303-813-1669 ext 254, <http://www.alz.org/co> .
- b. Hot Topics Discussion – John K. Andrews is back and pushing in different way legislation to create term limits for judges, this time as a scheduled phase-in maneuver. See Proposed Initiative 2007-2008 #43 attached to the October, 2007 Minutes. Discussion by members followed. Colorado judicial performance review is poor. Do we want any changes to come by way of a constitutional amendment? After a motion was made and seconded, we voted unanimously to reject this proposal. Concern remains, what is to be done about judges who are deemed ineffective?
- c. Colorado Lawyer articles are needed.
- d. TOPICS AND SPEAKERS: Please continue to let the Co-Chairs know your ideas for possible speakers and topics. The names and email addresses for the Co- Chairs are: John Campbell (jcampbell@jccelderlaw.com). and Nancy Susan “Susie” Germany susie@coelderlaw.net.
- e. CLEs and PROGRAMS
 - December 6, 2007 – “Medicaid: From Qualifying Clients to Applying for Benefits” (NBI)
 - December 11, 2007 – “Resolving Legal and Financial Issues in Elder Care” (NBI)
 - December 17, 2007 Colorado Springs, December 20, 2007 Denver – “Find It Free and Fast on the Net: Strategies for Legal Research on the Web” (NBI)
 - “The Probate Process from Start to Finish” – Ft. Collins 12/17/07; Denver 12/18/07; Colorado Springs 12/19/07 (NBI)

- January 30, 2008 – “Medical Record Evaluation for Paralegals” (Denver) (IPE)
- January 17, 2008 CLE topic- Coordinating home care
- February 14-15, 2008 – “Estate Planning Basic Skills” Live in Denver, Video replays March 12-13, 2008 in Denver, Colorado Springs, and Grand Junction- 6th Biennial Program

d. **Hot Topics Discussion**

- i. Michele Lawonn reported a “scam” is resurfacing involving rental properties. The perpetrators send seniors an unsolicited and unwarranted certified check. Then, the bad guys say the check was for too much money and request repayment of the excess. The seniors repay, and then the bad guys stop payment on the initial certified check. This works because the bank has two weeks or more to clear such a check, and if the check fails, the bank can reclaim the seniors’ money.
- ii. Colorado Lawyer Articles – let us know your ideas and willingness to write.
- iii. CLEs and Programs – see above.

The Minutes of the September 20, 2007 meeting were approved with two amendments.

The business meeting ended at 10:07 AM on November 15, 2007.

SPEAKERS

Our speaker today was Pam Ware. She is the President and CEO of Front Range Hospice. The topic was “Advance Directives for Attorneys.”

She discussed what really happens with Advance Directives documents. People must accept the fact they are going to die. The question is, how they die.

85% want to die at home. 25% die at home. 25% die in a nursing home.

Set out the client’s thought processes in the advance directives, so the health care professional can read it and know exactly what the person wants. If there is too much legal language, it goes to the staff attorneys, and the document may be ignored. Facilities are aware there can be a following battery charge if the advance directives aren’t followed.

Reveal the person’s intent, description of what he/she considers living and worthwhile, and changing positions. No one dies from a brain stem stroke, but life support may need to be withdrawn at some point. The example was given of a Jewish spouse who wanted her husband to die at dawn and be seen first by relatives. Risk managers consider “who will be harmed” if the death occurs earlier.

The meeting ended at 10:55 P.M.

NOTES

Colorado adopts the Revised Uniform Anatomical Gift Act. *2007 Colo. Legis. Serv. 207.*

IMMIGRATION – Holland & Hart’s Immigration practice group has launched an Immigration Law blog to help employers understand and comply with the frequently changing area of immigration law. On <http://immigrationlaw.typepad.com/> Holland & Hart immigration attorneys contribute information covering new regulations and policy changes that may affect employers’ ability to transfer, hire, and retain workers as well as recent developments in employment eligibility and verification programs.

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