

RECENT MEETINGS AND EVENTS

On **January 12, 2011**, the JLS held a **CLE Luncheon Meeting** with **Lucia Waterman**, Central Region Assistant Director, Division of Youth Corrections, and **Jorge Aleman**, Transition Services Manager, Division of Youth Corrections, presenting on "Transition Services for Youth in DYC and During Mandatory Parole," at the **Colorado Bar Association Office**, 1900 Grant Street, 3rd Floor, Denver, CO 80203.

SCHEDULE OF FUTURE JLS EVENTS

Please put these dates on your calendar now and send in your RSVP when you get the meeting notice from Andrea Mueller.

March 9, 2011 - The JLS will hold a **CLE Luncheon Meeting** at the **University of Colorado Law School**, Room 300, Boulder, Colorado from noon to 2:00 p.m. **Timothy J. Foster, Psy. D.**, will present on "**Competency Evaluations**" for 1 hour CLE credit.

******PLEASE NOTE CHANGED DATE****April 1, 2011** - The CBA CLE and the JLS will present the annual full day **Juvenile Law Conference** at the **Colorado Bar Association Office**, 1900 Grant Street, 9th Floor, Denver, CO 80203.

May 11, 2011 - The JLS will hold a **CLE Luncheon and Annual Election Meeting** at the **Colorado Bar Association Office**, 1900 Grant Street, 3rd Floor, Denver, CO 80203. **Bonnie Saltzman**, JLS Legislative Liaison, will present on the **2011 Legislative changes for Juvenile Law practitioners** for 1 hour CLE credit.

All meetings held at the **Colorado Bar Association Office**, 1900 Grant Street, Denver, CO 80203, are available by **audio conference** for members who are unable to travel to Denver for the meetings. Please contact Andrea Mueller, our CBA Liaison, to arrange for audio conferencing at amueller@cobar.org.

OTHER EVENTS OF INTEREST – MANY OF THESE CONFERENCES OFFER SPECIAL DISCOUNTS FOR JUVENILE LAW SECTION MEMBERS – BE SURE TO ASK WHEN REGISTERING FOR AN EVENT

February 1, 2011 - **Terraine Bailey** will present on the "**Multi Ethnic Placement Act - It Ain't What You Think**" at noon at the Denver Juvenile Court, Cisneros

Jury Assembly Room in the Lindsey-Flanigan Courthouse. Contact Barbara Bosley at barbara.bosley@judicial.state.co.us.

March 10-11, 2011 - Juvenile Delinquency Practice: Translating Current Research Into Convincing Advocacy, Double Tree Hotel, 1775 East Cheyenne Mountain Blvd., Colorado Springs, CO. Contact Andrea Koo at andreakoo@coloradochildrep.org.

March 24, 2011 - Victor Devereaux, Richard Moore and Dani Diercks will present on "**Contempt**" at noon at the Denver Juvenile Court, Cisneros Jury Assembly Room in the Lindsey-Flanigan Courthouse. Contact Barbara Bosley at barbara.bosley@judicial.state.co.us.

August 30, 2011 - September 1, 2011 - 34th National Child Welfare, Juvenile, and Family Law Conference, Hotel del Coronado, San Diego, CA (Brochure available May 2011) www.NACCchildlaw.org or 1 888-888-NACC.

JUVENILE LAW SECTION EXECUTIVE COUNCIL REPORTS

The Executive Council has a conference call meeting at 7:30 a.m. on Wednesday, one week prior to each scheduled meeting of the section. If you have any interest in serving on any of the subcommittees, please contact one of the officers. The subcommittees are:

Legislative - Bonnie Saltzman, (303) 333-3554, Saltzmanlaw@aol.com

Membership - (Vacant)

Newsletter - Sue Thibault, (303) 679-2432, sthibault@co.clear-creek.co.us

Website - Lyn Stewart-Hunter (720) 862-7712, lynstewarhunter@gmail.com

Program - Pax Moultrie, (303) 271-8900 , pmoultri@co.jefferson.co.us

LEGISLATIVE SUBCOMMITTEE REPORT

The 2011 regular session of the General Assembly has started and **Bonnie Saltzman**, JLS Legislative Subcommittee Chair, has begun following the bills relative to our practices. Conference calls will take place every Tuesday at 7:30 a.m., beginning Tuesday, January 25th, 2011. These calls provide an opportunity for JLS members to learn from Bonnie about pending bills and to

weigh in on any potential JLS comments or positions the CBA may want to take on pending bills.

All JLS section members are invited to participate in these calls.

You can review Bonnie's updated Bill matrix at the following link:
<http://www.cobar.org/index.cfm/ID/21807/JUV/JLS-Legislative-Session-Conference-Calls/>.

COLORADO LAWYER – JUVENILE LAW ARTICLES AND OTHER ARTICLES OF INTEREST

No articles relative to Juvenile Law have appeared this period.

Barbara Shaklee and Linda Weirnerman, both past Chairs of the JLS are Co-editors of the Juvenile Law articles that appear in *The Colorado Lawyer*. For information about submitting articles please contact Barbara Shaklee at (720) 944-2965 or barbara.shaklee@denvergov.org or Linda Weirnerman at (303) 860-1517 or lindaweirnerman@coloradochildrep.org.

CASE LAW UPDATE

Please note, Colorado Court of Appeal Summaries and links to the full opinions for are also available online by going to <http://www.cobar.org/opinions/index.cfm?CourtID=1> and clicking the appropriate case date.

The Court of Appeals summaries are written for the Colorado Bar Association by licensed attorneys Teresa Wilkins (Denver) and Paul Sachs (Steamboat Springs). Please note that the summaries of Opinions of the Colorado Court of Appeals are provided as a service by the Colorado Bar Association and are not the official language of the Court. The Colorado Bar Association cannot guarantee the accuracy or completeness of the summaries.

No. 09SC1036. **People in Interest of A.J.L., and Concerning A.P.L.**
<http://www.cobar.org/opinions/opinion.cfm?opinionid=7876&courtid=2>

CRS § 19-3-604—Termination of the Parent–Child Legal Relationship—Appellate Review of Trial Court Factual Findings—Clearly Erroneous Standard.

In this action to terminate the parent–child legal relationship between mother and two of her children, son and daughter, the Supreme Court reversed the court of appeals' judgment that had set aside the trial court's order of termination. The

Court concluded that the court of appeals incorrectly substituted its judgment for that of the trial court concerning witness credibility, as well as the sufficiency, weight, and probative value of the evidence.

In 2007, son and daughter, who were under 6 years of age, were removed from mother's home and adjudicated dependent and neglected. In early 2009, the trial court held a three-day hearing to determine whether mother's parental rights to son and daughter should be terminated. Although the trial court found that mother successfully addressed her substance abuse issues, it found she still had major problems to address, including a pattern of deception, her inability to provide a safe environment for son and daughter because of her ongoing relationship with son's father C.W., and her unwillingness to address her mental health issues. It terminated mother's parental rights, concluding mother was an unfit parent and unlikely to change within a reasonable period of time. The court of appeals reversed, concluding that more recent evidence in the record cast doubt on the trial court's findings concerning mother's credibility and mental health, and whether C.W. posed a threat to the children.

The Court reversed the court of appeals' judgment, holding that it erred by not applying the clearly erroneous standard of review to the trial court's findings. It concluded that trial courts are not required to attribute more weight to more recent evidence and that ample evidence in the record supports the trial court's findings and conclusions. Accordingly, the trial court's order terminating the parent-child legal relationship between mother and her children son and daughter was reinstated.

No. 10SA146. **In re the Parental Responsibilities Concerning B.J. and K.J.: Glab v. Julian.**

<http://www.cobar.org/opinions/opinion.cfm?opinionid=7877&courtid=2>

CRS § 14-10-124—Parenting Time—Liberty Interest in Raising Children—Presumptions of Fit, Custodial Parent—Child and Family Investigator—No Investigatory Exception.

In the investigatory stage of this proceeding involving the allocation of parental responsibilities, the trial court issued an order for parenting time to a non-parent over the objection of a fit, custodial parent. The trial court did not accord to the parent the presumption that his wishes concerning parenting time were in the best interests of his children.

The Supreme Court held that a parent's fundamental right to make decisions concerning the care, custody, and control of his or her child endures through all stages of an allocation of parental responsibilities proceeding. A trial court may not interfere with this right without complying with the standards issued in *Troxel v. Granville*, 530 U.S. 57 (2000), and *In re the Adoption of C.A.*, 137 P.3d 318 (Colo. 2006). To rebut the presumption that the parent's decision is in the child's

best interests, the non-parent must show otherwise through clear and convincing evidence.

The trial court erred in not applying this standard when ordering parenting time to the non-parent. The Court made the rule absolute, setting aside the trial court's order for parenting time, and returned the case for proceedings consistent with this opinion.

No. 10CA0522. **People in the Interest of A.M., and Concerning A.C.**

<http://www.cobar.org/opinions/opinion.cfm?opinionid=7907&courtid=1>

Dependency and Neglect—Termination—Parental Rights—Foster Parents—Intervenors—Evidence.

In this dependency and neglect proceeding, mother and father appealed the judgment terminating their parental rights with respect to their child, A.M. The Montezuma County Department of Social Services (MCDSS) separately appealed the judgment terminating mother's parental rights, but it supported the judgment terminating father's parental rights. The child's guardian ad litem (GAL) and the child's foster parents, who were permitted to intervene in the termination hearing, supported the judgment with respect to both parents. On appeal, both parents and MCDSS challenged the right of the foster parents to fully participate as parties in the hearing. The judgment was affirmed in part and reversed in part, and the case was remanded with directions.

MCDSS, mother, and father contended that the trial court committed reversible error by allowing the foster parents to become "full participant intervenors" at the termination hearing. Foster parents may participate fully in a dispositional hearing, but have only a limited right to provide information at a termination hearing. Therefore, the trial court erred by allowing the foster parents to fully participate at the termination hearing. Further, a foster parent's relationship with a child does not give rise to a constitutionally protected liberty interest. Therefore, the trial court also violated the constitutionally protected liberty interest of mother and father in the parent-child legal relationship by allowing the foster parents to fully participate in the termination hearing as intervenors. The Court determined that both of these errors were harmless beyond a reasonable doubt as to father, but not harmless beyond a reasonable doubt with respect to mother. Accordingly, the termination judgment was reversed and the case was remanded with respect to mother.

Mother and MCDSS also contended that in terminating mother's parental rights, the trial court erred in failing to consider the totality of the evidence. The trial court focused on evidence of mother's progress during the child's first year and did not give more weight to evidence of her progress during the seven and a half months preceding the termination hearing. If another motion to terminate parental

rights is filed on remand as to mother, the trial court may, but need not, attribute more weight to the most recent reports and evaluations.

Father contended that his parental rights also were erroneously terminated as a result of the court's focus on the child's first year and the parents' compliance with their treatment plans during that period. Unlike mother, father's compliance with his treatment plan deteriorated after the parents separated in June 2009. Neither the caseworker nor any of father's treatment providers recommended reunification of father and child. Because the more recent evidence, as well as the earlier evidence, supports the trial court's findings that father failed to comply with his treatment plan, that he is unfit, and that his conduct or condition is unlikely to change within a reasonable time, the trial court properly terminated father's parental rights.

WINTER NEWSLETTER

The Spring 2011 Newsletter is scheduled to go out by March 21, 2010. The deadline for submitting cases, articles and events is March 14, 2011. Please send any submission requests to sthibault@co.clear-creek.co.us, or call (303) 679-2432 (phone) or by fax at (303) 679-2444.