

**Council of the Trust and Estate Section
of the Colorado Bar Association
Notice of and Agenda for the September 14, 2017 Meeting**

To: Council Members
Trust and Estate Section of the Colorado Bar Association

From: Josie M. Faix
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Notice of Meeting

The second meeting of the 2017-2018 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Thursday, September 14, 2017, 3:00 p.m.****
Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, Colorado 80203

* or as close as possible to 15 minutes after the end of the Statutory Revisions Committee meeting, if that meeting runs past 3:00 p.m.

Call-In Instructions

Call-in instructions are as follows: 1.855.392.2520
Access Code: 2627690#

Minutes of Previous Meeting, Financial Reports & Attachments

1. Minutes of the August 17, 2017 meeting of the Council
2. Trust and Estate Section Financial Reports as of August 2017

Matters Likely to be Voted Upon

Please review the Statutory Revisions Committee website at <http://www.cobar.org/For-Members/CBA-Sections/Trust-and-Estate/Statutory-Revisions-Subcommittee-Homepage> for proposals that may be brought the Statutory Revisions Committee and Council.

**Trust and Estate Section Council Agenda
September 14, 2017**

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise its prerogative to limit the time for any report or discussion on a topic to ten (10) minutes. This conforms to Robert's Rules of Order.

1. Review/approval of Minutes of the August 17, 2017 meeting of the Council
2. Chair's Report and Administrative Matters (Kelly Dickson Cooper)
3. Secretary/Treasurer's report (Josie M. Faix)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section Liaison (Patrick R. Thiessen)
6. Real Estate Section Liaison (David W. Kirch)
7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)
8. Legislative Liaison (Stephen M. Brainerd)
9. Council Notes (Julia G. McVey/Josie M. Faix)
10. CLE/Estate Planning Retreat (Leia G. Ursery)
11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)
12. Rules and Forms Committee (Casey L. Williams)
13. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
14. Diversity Committee (Melissa R. Schwartz)
15. Probate Trial and Procedure Committee (Aaron Evans)
16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)
17. Green Book (David K. Johns)
18. New T&E Lawyers Committee (Mark D. Masters/John M. Estes)
19. The Colorado Lawyer (David W. Kirch/Constance D. Smith)

20. Media Liaison (Mark D. Masters)

21. Board of Governors Representative (Melissa R. Schwartz)

22. GAL Subcommittee (David W. Kirch)

23. Miscellaneous/FYI

24. Adjournment

Council of the Trust and Estate Section of the Colorado Bar Association

Minutes of the August 2017 Meeting

Council met on Thursday, August 17, 2017, at the Colorado Bar Association offices, 1900 Grant Street, Denver, Colorado. The meeting was called to order at approximately 3:30 p.m.

The following members of Council were present or participated by phone and constituted a quorum:

Kelly Dickson Cooper, Chair
Leia G. Ursery, Vice Chair
Josie M. Faix, Secretary/Treasurer
Darla Daniel, Immediate Past Chair
Zachary D. Schlichting, Second Year Member
Nicole Brown, Second Year Member
Peter W. Bullard, First Year Member
Timothy Bounds, First Year Member

Also in attendance were: Georgine M. Kryda (Tax Section Liaison); Steve Brainerd (Legislative Liaison); Sandra Sigler (Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections, by phone); Herb Tucker; Kyle Brenton (phone); Jeremy Schupbach (CBA); and Elizabeth Akalin (CBA); Melissa Schwartz.

1. Approval of Minutes of Prior Meeting

The Minutes of the May 18, 2017 Council meeting were approved unanimously.

2. Chair's Report, Administrative Matters (Kelly Dickson Cooper)

Kelly welcomed Council to a new year, and welcomed First Year council members. Kelly also warned Council that the Colorado Trust Code is a big project and may take the majority of our attention this year and next.

There are ethical rules changes regarding CLE requirements for attorneys over the age of 65. Past rule was no requirement, but now they are required to be in compliance as well. There is also a live credit component as well. Asked for comments, but nothing directly impacts our section. Council members did not like the idea of publishing which CLEs an attorney attended, as it does not translate to any technical competence.

Kelly discussed the CBA's REFOCUS 20/20 Strategic Plan and the section best practices playbook. She asked that we all review it for the discussion in the September meeting. Kelly plans on focusing on the implementation of the Plan this year. There was a Section Summit and it was clear others saw T&E as a well run section. We are the third largest section. Kelly will present changes next month. Melissa Schwartz said that as part of the changes, T&E needs to

update its bylaw and change our election times to match the rest of the sections. Must be implemented by January.

Jeremy was asked if there are other issues coming up that are not on the ULC agenda. Jeremy thinks issues related to oil/gas and natural resource issues will be dominant in the state legislature this year. Right now, our issues are not on anyone's radar. He discussed the long-time issue of not including the names of a real estate purchaser that has been the victim of domestic abuse and fears being found. Darla Daniel spoke about the long and difficult process of trying to find solutions. Using a nominee as an option was initially discarded, but has been revived. Darla asked for any support she could get, as she's invested a great deal of time and effort into this issue. Kelly asked Leia for SRC to create a subcommittee to work on this issue, or ask ALERT committee members to step up as well.

Kelly also reported problems with the list serv, and she reached out to Joe and Gene regarding fixing the problems.

At this point in the meeting, Council diverged from the agenda, and heard from Herb Tucker and Kyle Brenton with a description of a case for which they were seeking Council's approval to move their request to the Amicus Committee of the Bar. Briefs are due 9/19, but Herb was hopeful for an extension. The case boiled down to use the of the dead man's statute in a medical malpractice case in which the doctor in question is dead. Herb and Kyle argued that the case has significant ramification for our section, as the appeals court seemed to rely on the fact that the doctor had malpractice insurance as a reason to allow testimony that might otherwise be blocked by the dead man statute. Seems to create an insurance exception to the statute, which is what the revised statute was trying to eliminate. Herb talked about the dead man statute history, and how it might impact our section. There were many questions from Council members regarding the case and its impact. Kelly asked if they have approached other sections, and they had not, and didn't plan to. They were not aware of any opposition.

Council discussed the issue at length, and voted to not issue a recommendation to the amicus committee.

3. Secretary/Treasurer's Report (Josie M. Faix)

There was discussion about the fact that the section is in the red, and how do we pay for all the items Council wants to pay for, but cannot. There was a lively discussion about the list serv, and Josie was asked to reach out to Letty to ask about perhaps sharing the cost of the separate list serv with Elder Law. There was also discussion about T&E's contribution to the Senior Law Handbook, and how the Section dinner is paid for. Josie was asked to consider how the Council Dinner could be modified to not consume such a large part of the over all budget. There was a bit of discussion of the appropriateness of using so many funds for one dinner, in which very few section members are invited to attend. All agreed the budget will be an ongoing issue this year, and there are many options in solving the issue.

4. Tax Section Liaison (Georgine M. Kryda)

The tax section will meet next month. Georgine will circulate the CTC to the tax section.

5. Elder Law Section Liaison (Patrick R. Thiessen)

The Elder Law Retreat is next week, and Patrick encouraged all to attend. Patrick indicated the new “Uniform Guardianship and Protective Proceeding Act” was on their agenda as well, and hopes to work with T&E to review the proposed legislation.

6. Real Estate Section Liaison (David W. Kirch)

The Supplemental Affidavit form was sent to the Real Estate Section for review but no report.

7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)

Leia was happy to report the passing of the CTC, unanimously. She said there is discussion on how to present the CTC - through the ULC or the CBA. She said the new Uniform Guardianship Act will be rough. A group will start meeting weekly, but worried there will not be enough time to work it through a committee. Leia believes SRC needs to be ready to deal with changes on a very short time frame. We need a T&E person as part of that review. Steve Brainerd said the section needs to be ready to give direction to Jeremy on how to run bills with ULC. Steve said it's very important to the commissioners that comments be included, which we do not want. Steve wanted to defer to Jeremy, and Kelly wondered if Council should give authority to Steve and Jeremy to make quick decisions on how to best run the bill. Leia said she had the same concern, and agreed to Jeremy and Steve should be able to react quickly. Jeremy said the ULC has six items, but only two of which are viable, and that it part of why he thinks the Guardianship bill will be pushed.

8. Legislative Liaison (Stephen M. Brainerd/Jeremy Schupbach - CBA)

This was covered during Leia's SRC update.

9. Council Notes (Julia G. McVey/Josie M. Faix)

Josie reported that they are working on the September 2017 edition. They are always looking for good articles, and plan to ask presenters from the T&E and Elder Law Retreat to consider writing something based on their presentation.

10. CLE/Estate Planning Retreat (Leia G. Ursery/Vincent O'Brien)

Leia reported that she has been very busy planning CLEs. Kevin Millard's recent talk went very well. The lunches are planned through November, with September focusing on LGBTQ issues. She is considering going a CLE in May regarding UTC, but that will depend on how this year progresses.

11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)

Elizabeth reported to Kelly that the Committee is continuing its work on the Pre-Marital/Marital Agreement form. The beneficiary deed to transfer real estate to a trust is coming up for vote.

12. Rules & Forms Committee (Casey L. Williams)

Casey reported the Supplementary Affidavit was approved last month, and is now being reviewed by the Real Estate section. We also discussed the new probate rules, and how the section should approach the open public comment period. Council agreed that since the work product came from our section, Casey was authorized by Council make a bland public statement of support. Mike Holder was worried but Council agreed to support the changes.

13. Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections (Sandra Sigler)

Senior Law Days have been very good events, Sandra reported. She is thankful for the section's financial support for the Senior Law Handbook, and there is an ad in the Handbook thanking the section. Next month she will be discussing the need for additional funding for the book. Pete Bullard said he heard reports of attorneys being "pushed" out at the Senior Law Day in Larimer County. Sandra will investigate and report back.

14. Diversity Committee (Melissa R. Schwartz)

Met and planned the first event - a coffee on October 13th, the place to be determined. In addition, Melissa will go with Sumi Lee to CU law, as they have a new elder law society.

15. Probate Trial and Procedure Committee (Aaron Evans)

They discussed Herb Tucker's request for an amicus brief and the new Boulder probate judge.

16. *Colorado Estate Planning Handbook* (David K. Johns/Constance B. Wood/Julia G. McVey)

No report, but there was a general discussion of the CLE's financials. They are over \$300K in the red. They are trying to find ways to make up the short fall - our section isn't the only one trying to reduce the budget.

17. *Green Book* (David K. Johns)

No report.

18. New T & E Lawyers Committee (John M. Estes/Mark D. Masters)

No report.

19. *Colorado Lawyer* (David W. Kirch/Constance D. Smith)

No report.

20. Media Liaison (Mark D. Masters)

No report.

21. Board of Governors Representative (Melissa R. Schwartz)

No report.

22. GAL Subcommittee (David W. Kirch)

The Subcommittee approved revisions to the proposed Rule 17. The Rule incorporates the Sorensen test and identifies the allowed and prohibited roles of a GAL. The Rule will be presented to the other Section for comments, revisions, additions, etc., as well as to Judicial. Upon approval by the CBA, it will be presented to the Colorado Supreme Court Civil Rules Committee.

23. Miscellaneous/FYI

Elizabeth asked that folks who reserve a room, and then don't use it, be asked to be more considerate in releasing rooms earlier.

24. Adjournment

The meeting was adjourned at or about 5:13 p.m.

Respectfully submitted,

Josie M. Faix

		August	YTD	Budget	Variance	%
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)	
Trust & Estate Section- General						
Revenue	01-4???-31600	2,880.00	28,875.00		28,875.00	
Expenses	01-5???-31600	(573.89)	(1,403.27)		(1,403.27)	
Statutory Revisions Committee						
CLE						
Council Notes						
Community & Civic Affairs						
Rules & Forms Committee						
Orange Book Forms						
Local Liaison						
Uniform Trust Code						
Admin. Chair						
Estate Planning Handbook						
Admin Council Dinner						
Legislative Liaison						
Internet Editor						
Technology Committee						
Real Estate Liaison						
Green Book						
The Colorado Lawyer						
Diversity Committee						
Judicial Liaison						
Member Vouchers						
Uniform Trust Code						
Transfer Deposit						
Young Lawyer Society						
Beginning Balance	01-3160-31600		(441.96)		(441.96)	
Total Revenue All Sources	01-4???-316??	2,880.00	28,875.00		28,875.00	

Total Expenses All Sources	01-5???-316??	(573.89)	(1,403.27)	(1,403.27)
Ending Balance		2,306.11	27,029.77	27,029.77

Trust & Estate

For the Two Months Ending August 31, 2017

		August	YTD	Budget	Variance	%
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)	
Trust & Estate Section						
Revenue						
Dues Income Section	01-4050-31600	2,880.00	28,875.00		28,875.00	
Total Revenue Trust & Estate Section		2,880.00	28,875.00		28,875.00	
Expenses						
Postage	01-5304-31600	(0.46)	(0.46)		(0.46)	
Telephone	01-5412-31600	(78.85)	(78.85)		(78.85)	
Meals (Not travel related)	01-5491-31600		(334.80)		(334.80)	
Administration Fee	01-5494-31600	(494.58)	(989.16)		(989.16)	
Total Expenses Trust & Estate Section		(573.89)	(1,403.27)		(1,403.27)	
Statutory Revisions Committee						
Revenue						
Rev. Elderlaw Joint Task Force						
Rev. Uninform POA Act						
Rev. Uniform Trust Code						
Expenses						
Exp. Elderlaw Joint Task Force						
Exp. Uninform POA Act						
Exp. Uniform Trust Code						

CLE					
Revenue					
Revenue Joint CLE					
Revenue CLE Retreat					
Revenue CLE Section Only					
Expenses					
Expenses Joint CLE					
Expenses CLE Retreat					
Expenses CLE Section Only					
Council Notes					
Revenue					
Expenses					
Community & Civic Affairs					
Revenue					
Expenses					
Rules & Forms Committee					
Revenue					
Expenses					
Orange Book Forms					
Revenue					

Expenses

Local Liaison
Revenue

Expenses

Uniform Trust Code
Revenue

Expenses

Transfer Deposits
Revenue

Expenses

Admin. Chair
Revenue

Expenses

Estate Planning Handbook
Revenue

Expenses

Admin Council Dinner
Revenue

Expenses

Legislative Liaison
Revenue

Expenses

Internet Editor
Revenue

Expenses

Technology Committee
Revenue

Expenses

Real Estate Liaison
Revenue

Expenses

Green Book
Revenue

Expenses

The Colorado Lawyer
Revenue

Expenses

T&E Diversity Committee
Revenue

Expenses

Judicial Liaison
Revenue

Expenses

Member Vouchers

Expenses

T&E Young Lawyer Society
Revenue

Expenses

Beginning Balance	01-3160-31600		(441.96)	(441.96)
Total Revenue All Sources	01-4???-316??	2,880.00	28,875.00	28,875.00
Total Expense All Sources	01-5???-316??	(573.89)	(1,403.27)	(1,403.27)
Ending Balance		2,306.11	27,029.77	27,029.77