

**MINUTES**

**CBA Real Estate Law Section Council**

**Date: Tuesday, September 20, 2022 – 3:00 p.m.**

**Colorado Bar Association**

1290 Broadway, Ste. 1700

Denver, Colorado 80203

**Call to Order** ..... Amy Brimah

**1. Introductions** ..... Amy Brimah

Ms. Amy Brimah introduced Holly Ryan, Justin Nyberg, Sal Quintana, Sam McMechan, Robin Rossenfield, and Elle Byram as guests.

**2. Approval of August Minutes**..... Amy Brimah

Ms. Joan Fritsche moved to approve the August 2022 meeting minutes, Mr. Adam Aldrich seconded, and the minutes were approved by a unanimous vote.

**3. Financial Report (\$81,415.14 as of August 31, 2022)** ..... Angie Schmitz

Ms. Angie Schmitz reported that the Section currently has \$81,415.14. The approximately \$7,000 increase is due to additional section dues payments.

**4. Chair’s Report** ..... Amy Brimah

a. Amendments to Bylaws Committee ..... Eric Snyder, Amy Brimah

Ms. Brimah reported on the impetus for amending the bylaws. The changes were requested by the CBA and the Real Estate Section also wanted to update the nomination and application processes for section positions. Additionally, changes were made to reflect the practices of the Section. Ms. Deanne Stodden congratulated the group that compiled the edits, including Mr. Zach Kessler, Mr. Eric Snyder, and Ms. Brimah. Mr. James Meseck inquired with Ms. Jess Ham whether the committee names in the amended bylaws would be acceptable to the CBA, and Ms. Ham said she believed they would be.

Ms. Fritsche moved that the Section approve the redline circulated in the meeting materials, Mr. Aldrich seconded, and the motion passed unanimously.

b. Plans for Spring Meeting (likely April, Thurs-Saturday, Fort Collins).....Amy Brimah

Ms. Brimah reported on initial plans for an out-of-Denver meeting of the Section in Spring 2023. It would likely be in April, on a Thursday through Saturday, with a dinner on Thursday, meeting on Friday, and optional stay through Saturday morning. A tour of the New Belgium brewery could be included. The Elizabeth is the likely venue.

Ms. Holly Ryan noted that the Public Trustees' organization has a meeting April 21-22.

c. CBA-CLE Forms Library.....Amy Brimah

Ms. Brimah reported that Mr. Dan Sweetser is working on the CBA-CLE forms library. If individuals want to update forms for the library (which are not DORA/Real Estate Commission forms), they could include their name and firm name on the form. Many of the real estate forms are very out of date. We expect to have more information next month.

Ms. Julie Waggoner asked how a balance is maintained in a form like a lease between tenant and landlord. Ms. Brimah responded that the initial goal is just to make sure the forms are up to date with law changes. Ms. Waggoner asked whether the forms include caveats that they are not up-to-date. Ms. Brimah responded that they all have a "last updated" date on them.

Ms. Schmitz asked whether other sections, like Trusts and Estates, handles crossover forms, like Personal Representative Forms. Ms. Brimah responded that the forms are grouped by different section topics.

Ms. Lyndsey O'Connell asked whether we can see a list of the forms without purchasing the forms subscription. Ms. Brimah responded that we can.

d. ABA 21-day challenge.....Amy Brimah

Ms. Brimah reported that the ABA has created a project available at this link

[https://www.americanbar.org/groups/diversity/resources/equal\\_opportunity/](https://www.americanbar.org/groups/diversity/resources/equal_opportunity/)

With 21 days of activities geared toward education on implicit bias. It is tailored for lawyers. All are encouraged to participate over the next month.

e. Happy Hour, following the meeting, Bar Offices

Ms. Brimah reported that a Happy Hour would be held immediately after the meeting in the bar offices.

f. Holiday Party December .....Amy Brimah

Ms. Brimah reported that the Section's Holiday Party would be held at a location to be determined. If someone is willing to host it at their house instead, they should contact her. Attendance is usually around 40 people. Invitations go out to all current council members, liaisons, and past chairs. The usual start time is 5:30pm.

**5. ACTION ITEMS:**

a. ADR/Resolution Corps.....Amy Brimah, Robin Rossenfield, Elle Byram

Ms. Elle Byran presented information on a remote mediation program started by the CBA ADR Section. Judge Seamus initiated the idea of remote mediation to increase mediation access before the pandemic. It was up and running before the pandemic. There were plans to link the program with an entity to provide administrative support for scheduling, payment of mediators, etc. Then those plans slowed when the

pandemic occurred. More recently, the CBA executive committee approved the program. Now they are working on funding for administrative support.

Ms. Brimah asked what kind of work the mediators do related to real estate. Ms. Robin Rossenfield stated that FEDs and HOA matters are included. Mediation pricing is similar to the Office of Dispute Resolution. 20% of the fees will be put back into the program, and mediators commit to doing one pro bono mediation per year. The cases come from county court and small claims cases. The objective is to serve underserved areas which included rural areas and parts of Denver. There is mentoring for new mediators. Panel members are ADR section members. They would like the CBA to administer the program. They are asking the Real Estate Section to contribute funding to the program.

Ms. Rossenfield and Ms. Byram left the meeting

Ms. Brimah initiated discussion of the proposal. She stated that such a contribution is not in the budget, so only \$500-1000 would be available.

Mr. Snyder asked how mediation would be possible for an FED, since they move so quickly. Ms. Schmitz responded that mediation could occur between the return date (when the Defendant answers) and a trial date, though that would be 10-14 days. HOA mediation could be useful also.

Ms. O'Connell stated that this sort of mediation could be useful for earnest money disputed.

Mr. Snyder asked whether the Family Law Section had been asked to contribute. Ms. Ham stated that she knew YLD (Young Lawyers Division) had given \$500.

Mr. Andy Toft stated that he has talked to Judge Seamus about the issue. Judge Seamus initiated the idea to provide more mediation services to rural Colorado. Mr. Toft stated that initial funding would help this program get off the ground. He knows they are seeking other funding sources including grants.

Mr. Snyder noted that the vast majority of tenants in FED cases are unrepresented.

Mr. Sal Quintana asked how this program is different from ODR (Office of Dispute Resolution)?

Ms. Brimah responded that this program provides zoom mediation to judicial districts that don't have a local ODR program.

Mr. Snyder noted that this is an access to justice issue and suggested that the section has enough in the budget to provide \$1,000.

Mr. Snyder moved that the Section contribute \$,1000 to the remote mediation program, Mr. Aldrich seconded, and the motion passed unanimously

b. Uniform Voidable Transaction Act.....Amy Brimah

Mr. Tyler Mounsey described the legislation, which is now referred to as the Colorado Voidable Transactions Act, or Colorado VTA. As reported last month, last legislative session there was an effort to pass a bill that originated with the National Uniform Law Commission (ULC). However, certain changes were made that were unacceptable to the ULC, and the sponsor, Bob Gardner, did not proceed with the bill. Mr. Herrick Lidstone and Ms. Holly Shilliday have prepared a bill that is essentially the same, which will not be associated with the ULC. They will present it to the LPC (Legislative Policy Committee) for the upcoming legislative session. They are asking for the Real Estate Section's support, and are also seeking support from the Business Law Institute.

Mr. Adam Aldrich moved that the Real Estate Section support the Colorado LPC so that it may be presented to the LPC. Ms. Fritsche seconded the motion. The motion passed unanimously.

c. Symposium Funds..... Amy Brimah

Ms. Brimah presented information on payment of money toward last year's symposium to CBA-CLE. The cost of attendance does not cover all expenses of the event. For budget timing reasons, the payment has historically been made from section to CBA-CLE after that year's symposium

Ms. O'Connell moved to approve a \$10,000 payment by the Section to CBA-CLE for the 2022 Real Estate Symposium, Mr. Jung seconded, and the motion passed unanimously

6. Legislative ..... Tyler Mounsey

Mr. Mounsey reported that he is monitoring legislation related to judicial discipline and an ombuds program. The Colorado Womens Bar Association (CWBA) is taking the lead on some of these issues. He will have more information in October.

He wanted to make us all aware of Amendment D, and state constitutional amendment. A 23<sup>rd</sup> judicial district is being formed which will split the 18<sup>th</sup> JD in two with the new JD covering Douglas and other counties. Amendment D will assist with the transition so that 18<sup>th</sup> JD judges can serve in the 23<sup>rd</sup> for a period of time. LPC has voted to support the amendment. The Arapahoe and Douglas bar associations have also. There is concern that this is a statewide ballot initiative and most voters in the state aren't aware of the issue. Members are encouraged to spread the word about the purpose of the initiative.

Mr. Mounsey reported that the LPC has an opening for an at-large member.

He is currently looking for legislative sponsors for the bill related to the Buffalo Run case.

Mr. Mounsey welcomes ideas for legislation that the CBA could support.

Mr. Snyder reported that an issue with notaries came up at the Interprofessional Committee meeting. The Land Title Association of Colorado (LTAC) has noted a problem where notaries are not allowed to use foreign language interpreters to provide information. Sign language interpreters are allowed for signers who use sign language. This only relates to face-to-face notarizations (not remote).

Ms. Brimah inquired into the status of CCIOA legislation. Mr. Mounsey responded that legislators are campaigning now and not focused on this issue yet.

Mr. Mounsey, in response to a question from Mr. Toft, that there are two at-large openings on the LPC and any CBA member may serve.

7. In the News

a. Fremont County Cyberattack..... Amy Brimah

Ms. Pasquini reported that there was a cyberattack against the Fremont county clerk and recorder's office, and they are still not able to complete recordations. Ms. Fritsche noted that it affects the whole county, and their assessor records, maps, and email are all offline.

b. 40 year recorded listing agreements.....Angie Schmitz

Ms. Schmitz reported that individuals have been contacting Colorado homeowners and offering money in exchange for listing agreements that last for 40 years, and are then being recorded against the property. This has happened in Florida and other states.

Ms. Julie Waggoner stated that Colorado law provides for a 1-year limit on exclusive listing agreements. [see C.R.S. 12-10-409.]

Mr. James Meseck stated that he is aware of complaints made to the Real Estate Division of DORA regarding licensees who have entered into such agreements, investigations, and possible referred to the AG's office. He will attempt to gather more information from the Real Estate Division/Real Estate Commission.

Ms. Waggoner noted that there may be title issues for property owners who have listing agreements recorded against their property.

## REPORTS AND INFORMATIONAL ITEMS

### 8. Interprofessional Committee ..... Reagan Larkin, Eric Snyder

Mr. Snyder reported that the title organization, LTAC, is concerned that deals have not closed due to the restriction on notaries using interpreters. The forms committee of the Real Estate Commission will have updates to real estate forms in October

Ms. Waggoner reported that the Real Estate Commission will have openings for public members too and she encourages attorneys to apply.

### 9. Education CLE Committee ..... Steve Nagy, Ron Jung, Miro Kovacevic, Michelle DeVoe

Mr. Steve Nagy reported that the Fall Update CLE is scheduled for September 22, 2022. For the Spring Update, the committee is working on a theme.

### 10. Education/Topical Lunches Committee Deanne Stodden, Marjorie Sant, Michelle DeVoe, Miro Kovacevic

Ms. Stodden reported that we had 115 registrations for the lunch HOA CLE presented by Holly Ryan and Joey Lubinski.

The October lunch CLE will be by Zoom, and going forward after that, they will be hybrid.

### 11. Communications Committee ..... Zak Kessler, Eric Snyder, Joan Fritsche, Reagan Larkin, Michelle DeVoe

Ms. Brimah congratulated the committee on a great September newsletter. Mr. Zak Kessler reported that the committee has the outline for the winter newsletter, but welcomes articles and ideas.

### 12. Publications Committee ..... Eric Snyder, Steve Nagy, Reagan Larkin

Mr. Snyder reported that article ideas and authors are needed to fill the pipeline for future articles.

Ms. DeVoe asked what the requirements are for articles. Mr. Snyder responded that, compared to newsletter articles, Colorado Lawyer articles are more in -depth, neutral, scholarly, include extensive citations.

Mr. Aldrich suggested an article on ethical issues in real estate transactions and litigation.

Mr. Snyder responded that parents lending a child money for a real estate transaction are an example.

Ms. Waggoner stated that there are formal ethics opinions on such transactions as a starting point.

**13. Community Service Committee.....** Ron Jung, Marjorie Sant, Steve Nagy, Lyndsey O’Connell,  
John Koeche

Mr. Jung reported that the committee is working to support Habitat for Humanity. Mr. Jung reported that the committee had vetted Habitat for Humanity as an organization the Section could support. A representative will make a presentation at our upcoming happy hour. This was announced in the newsletter. The committee is also looking into supporting high school moot court teams with professional clothing for moot court.

Mr. Jung reported that they are working with Habbitat for Humanity, they will be at happy hour to make a pitch. It was also announced in newsletter. Mr. Jung also floated idea to help moot court teams have professional clothing on "Law Days"

**14. Membership and Practice Development .....** Joan Fritsche, Zak Kessler, John Koechel,  
Lyndsey O’Connell

Ms. Fritsche announced the Fall Social event:

Event: Wednesday, October 26th 5:00-7:00 p.m.

Location - the public area of The Laundry Building, 2701 Lawrence Street.

Habitat for Humanity will make a presentation. We will encourage membership in the section. All Section members are encouraged to attend and to bring a colleague. They will give away gift cards sponsored by Tueller and Gibbs, and Coan Payton and Payne. They will also give away a section membership.

**15. Bylaws Task Force.....** Eric Snyder, Zak Kessler, Joan Fritsche, Melinda Pasquini,  
Adam Aldrich, Jim Meseck, Angie Schmitz, Amy Brimah

Ms. Brimah stated that the amendments are completed and the task force is no longer necessary.

**16. UCC Taskforce.....**Zak Kessler, Eric Snyder, Joan Fritsche, Andy Toft, Lyndsey O’Connell

**17. Fairways Taskforce.....**Chuck Calvin, Andy Toft, Robin Kube, Eric Snyder, Jean Arnold,  
Suzanne Leff, Cati Shadakofsky

**18. CBA Ethics Committee Liaison .....** Kate Strauss

Kate Strauss is excused.

Ms. Stodden reported that a subcommittee of the Ethics Committee is forming to study the question posed by Mr. Aldrich about passing along credit card surcharges to clients.

The Ethics committee is considering emeritus status for people who want to be involved but not attend every meeting.

**19. CBA Tax Section Liaisons.....**Tyler Murray, Bobbie Collins

No liaison attended.

**20. Colorado Housing Council** ..... Deanne Stodden

Ms. Stodden reported that there is no update.

**21. CBA Trust and Estate Section** ..... Chad Rounds

Mr. Chad Rounds reported that the Trusts and Estates Section also gave \$1,000 to the Resolution Corps. He stated that the section has worked on a communication to the courts about returning original wills. The Section is working on a beneficiary deed-to-trust form where the grantee is a trust.

**22. CBA Title Standards**..... Catherine Hance, Geoff Anderson

Ms. Stodden reported that the committee is working on what happens when deeds purport to pass title to an estate, when an estate cannot hold title.

**23. Forms Committee Liaison** ..... Geoff Anderson

Mr. Anderson asked that attendees send him information on forms that we believe need to be addressed.

**24. CAR Liaison** ..... Damian Cox

**25. CBA Business Section Liaison** ..... Andy Toft

Mr. Toft reported that there was no meeting in the past month.

**INACTIVE**

**26. Multifamily and Affordable Housing Taskforce**....Erin Clark, Zak Kessler, Lyndsey O’Connell,  
John Koechel, Michelle DeVoe, Melinda Pasquini

**27. CCIOA Taskforce** ..... Ron Jung, Miro Kovacevic, Eric Snyder, Reagan Larkin, Justin Nyberg

**28. Landlord/Tenant and Foreclosure Taskforce** ..... Deanne Stodden, Steve Nagy, Reagan Larkin,  
Zak Kessler, Carolin Topelson

**29. Oil and Gas, Water & Natural Resources Taskforce** .....Marjorie Sant, Steve Nagy, Michelle  
DeVoe, Amy Mowry

**30. Eminent Domain Taskforce** ..... Steve Nagy, Miro Kovacevic, Jody Alderman

**31. Removal of Race-Based Restrictive Covenants Taskforce** ..Eric Nesbitt, Brianna Dowling, and  
Erin Clark

**32. Special Districts Taskforce**.....Joan Fritsche, Marjorie L. Sant, John Koechel

- 33. **Records Redaction Taskforce** ..... Steve Nagy, Geoff Anderson, Reagan Larkin
- 34. **CBA Young Lawyers Division** ..... Diana Mendez, Dani Kaiser
- 35. **Board of Governors** ..... Katy Dunn
- 36. **Diversity and Inclusion Liaison** ..... Eric Nesbitt
- 37. **CBA Cannabis Law Committee Liaison** ..... vacant
- 38. **Regional Membership Liaison** ..... Doug Tueller
- 39. **Access to Justice Liaison** ..... Andy Toft

**NEW MATTERS**

none

**ADJOURN**

**At 4:40pm**



## 2022-2023 Meeting Dates

Tuesday August 16, 2022

Tuesday September 20, 2022

Tuesday October 18, 2022

Tuesday November 15, 2022

December Holiday Party TBD

Tuesday January 17, 2023

Tuesday February 21, 2023

Tuesday March 21, 2023

Tuesday April 18, 2023

Tuesday May 16, 2023

Tuesday June 20, 2023 (tentative)

**ATTENDANCE ROSTER**  
Real Estate Law Section Council  
**September 20, 2022**  
COLORADO BAR ASSOCIATION  
In-Person/Remote Meeting

NAME	PRESENT	EXCUSED	ABSENT
<b>Officers:</b>			
Amy Brimah – Chair	X		
James M. Meseck – Vice Chair	X		
Angie Schmitz - Secretary	X		
Adam Aldrich – Legislative Policy Officer	X		
Katy Dunn – Board of Governors Representative	X		
<b>Members:</b>			
Eric Snyder (2023)	X		
Ron Jung (2023)	X		
Zak Kessler (2023)	X		
Marjorie Sant (2023)	X		
Steve Nagy (2024)	X		
Reagan Larkin (2024)	X		
Deanne Stodden (2024)	X		
Joan Fritsche (2024)	X		
Lyndsey O’Connell (2025)	X		
John Koechel (2025)		X	
Michelle DeVoe (2025)	X		
Miro Kovacevic (2025)	X		
<b>Committees / Liaisons:</b>			
Melinda Pasquini - Immediate Past Chair RESC	X		
Chuck Calvin – Fairways Taskforce Chair		X	
Chad Rounds – Trusts and Estate Liaison	X		
Damian Cox –CAR Liaison		X	
Geoff Anderson – RE Title Standards/Forms Liaison	X		
Jody Alderman – Eminent Domain Committee Liaison		X	
Tyler Murray – Tax Section Liaison		X	
Bobbie Collins – Tax Section Liaison		X	
Danielle Kaiser – YLD Liaison		X	
Diana Mendez - YLD Liaison		X	
Catherine Hance –RE Title Standard Committee	X		
Suzanne Leff – Past Chair RESC		X	
Doug Tueller – Regional Liaison		X	
Andrew Toft – Access to Justice Liaison/Business Section	X		
Kate Strauss- Ethics Committee Liaison		X	
Eric Nesbitt- Diversity Liaison/Inclusion Taskforce Chair		X	
Eric Jaworski – Cannabis Liaison		X	

