

**Council of the Trust and Estate Section of the Colorado Bar Association
Notice of and Agenda for the August 2, 2023, Meeting**

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

From: Jonathan F. Haskell
Secretary/Treasurer
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Notice of Meeting

The next monthly meeting of the 2022-2023 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: **Wednesday, September 6, 2023, 3:15 p.m.**

Place: 1290 Broadway, Suite 1700, Denver, CO 80203 Room West 1
or Call-In/Zoom

<https://cba-cle.zoom.us/j/83843741966?pwd=NXVOTEExdUxuQ0FrV0VXV3ZrU3hVQT09>

Meeting ID: 838 4374 1966

Passcode: 534100

Call-in: 16694449171

Minutes of Previous Meetings & Attachments

1. Minutes of the May 3, 2023 meeting of the Council
2. June 29, 2023 Financial Statements
3. Memorandum regarding the May 16, 2023 CBA Real Estate Section Council Meeting

Trust and Estate Section Council Agenda
August 2, 2023

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise his/her 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 May 3, 2023 meeting of the Council
2. Chair's Report and Administrative Matters (Lauren Da Cunha)
3. Secretary/Treasurer's report (Jonathan Haskell)
4. Tax Section Liaison (Aaron Burton)
5. Elder Law Section (Patrick Thiessen)
6. Real Estate Section Liaison (Chad Rounds)
7. Family Law Section Liaison (Kim Willoughby)
8. Statutory Revisions Committee (Hayley Lambourn)
9. Legislative Liaison (Steve Brainerd and Leia Ursery)
10. Legislative Update (Tyler Mounsey)
11. Council Notes (Kristin Dittus)
12. CLE/Estate Planning Retreat (Dylan Metzner)
13. Orange Book Forms Committee (Mary Luu-Chen)
14. Supreme Court's Rules and Forms Committee (Leia Ursery)
15. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
16. Justice Equity, Diversity, and Inclusivity Committee (Amber Marchlowska)
17. Probate Trial and Procedures Committee (Marcie McMinimee & Lindsay Andrew)
18. Colorado Estate Planning Handbook (David Johns)

19. Green Book (Josie Faix)
20. Trust & Estate Practice Support Committee (Margrit Parker)
21. The Colorado Lawyer (Emily Bowman & David Kirch)
22. Communications Representative/Ambassador Program (Kayla Nelson)
23. Board of Governors Representative (Jonathan Haskell)
24. Miscellaneous/FYI
25. Adjournment

**Council of the Trust and Estate Section of the Colorado Bar Association
Minutes of the May 3, 2022, Meeting**

Council met on Wednesday, May 3, 2023 in person and via audio-conference. The meeting was called to order at approximately 2:30 p.m. by Molly Zwerdinger, Chair.

The following member of Council participated by Zoom/phone or in-person and constituted a quorum:

In attendance were:

Molly Zwerdinger, Chair
Lauren Da Cunha, Vice Chair
Dylan Metzner, Secretary/Treasurer
Marianne Luu-Chen (2nd year member)
Lindsay Andrew (1st year member)
Kelianne Chamberlain, (1st year member)
Margot Edwards (1st year member)

Also in attendance were:

Emma Baxter, CBA Staff
Stephen Brainard
Kyla Nelson
Kristin Dittus
Gina Trevey
Leia Ursery
Jonathan Haskell
Spencer Crona
Kevin Millard
Amber Marchlowska
Jennifer Hazelton
Sandra Sigler
Rikke Liska
Chad Rounds
Patrick Thiessen

1. Review/approval of April 5, 2023 Minutes.

- The minutes were approved unanimously

2. Chair's Report and Administrative Matters (Molly Zwerdlinger)

- None

3. Secretary/Treasurer's report (Dylan Metzner)

- Reviewed March 31, 2023 financials.

4. Tax Section Liaison (Aaron Burton)

- None

5. Elder Law Section (Patrick Thiessen)

- In Re Davis Case- Elder law will be doing a working group on this over the summer. Questions regarding the Will that was created by a protected person under a conservatorship and the Conservator was not aware that a Will was created or signed.
- Elder law and Trust and Estate CLE should work together in 2023 and 2024 on presentation topics to avoid overlap and perhaps have overflow go to Elder Law Retreat

6. Real Estate Section Liaison (Chad Rounds)

- Chad refers to memo in real estate area and affordable housing.

7. Family Law Section Liaison (Kim Willoughby)

- None

8. Statutory Revisions Committee (Jonathan Haskell)

- Start in August with Electronic Estate planning documents act.

9. Legislative Liaison (Steve Brainerd)

- Movement for items approved by Section and LPC was light due to the convoluted legislative session. Judicial items, and real estate items have been the focus on the Bar Association.
- The Legislature no longer want us coming to them with omnibus bills for clean up items, which may be a big hurdle moving forward. Anything more

substantive than a revisors bill clean up will need more. Therefore the sooner we can get things started and to LPC the better.

The T&E Executive Council Meeting was paused at 2:45pm to move to the T&E Section Annual Meeting.

The T&E Executive Council Meeting was re-convened at 2:50pm.

10. Legislative Update (Tyler Mounsey)

- None

11. Council Notes (Kristin Dittus)

- None

12. CLE/Estate Planning Retreat (Lauren da Cunha)

- Retreat is a go and CLE lunches are set through November.

13. Orange Book Forms Committee (Rikke Liska)

- The notes on use for Beneficiary Deeds are out of date and need to be updated. Orange Book will be creating a subcommittee to review the notes on use.
- Committee reported to Council that the Committee does not believe an Orange Book Supplement will be useful this year because there are no substantive updates and there will be a larger update in the 2023-2024 session.
- Motion was made and duly seconded that Council support Orange Book Forms Committee in its decision not to release a Supplement for the 2022-2023 session. The motion was passed unanimously.
- Orange Book Committee is hopeful that it will have have increased participation from Section Members in the 2023-2024 session.

14. Supreme Court's Rules and Forms Committee (Leia Ursury)

- None

15. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)

- Handbooks are arriving this month in time for the Jefferson County Senior Law Day on June 3rd.
- Updated “So Now you are a Personal Representative” Brochures were emailed to Council on April 21, 2023.
 - Motion was made and duly seconded to approve updated brochure. duly made and seconded and unanimously approved. Motion passed unanimously.
- Committee’s goal is to update all other brochures in the 2023-2024 session. Will be starting from scratch on these. Looking for volunteers to help contribute.

16. Equity, Diversity, and Inclusivity Committee (Amber Marchlowska)

- Pamphlet is getting finalized which JEDI will be sending out for Council Approval over the summer
- Great DU Networking Event and EDI event in Fall
- Committee is working on establishing a Day of Service for the 2023-2024 session.

17. Probate Trial and Procedures Committee (Marcie McMinimee & Lindsay Andrew)

- No update. New Co-Chairs appear to be in the works and will be announced in August

18. Colorado Estate Planning Handbook (David Johns)

- None

19. Green Book (Josie Faix)

- None

20. Trust & Estate Practice Support Committee (Jessica Hazleton)

- None

21. The Colorado Lawyer (Emily Bowman & David Kirch)

- Good articles coming up to meet/exceed quota for the coming year.

22. Communications Representative/Ambassador Program (Lindsay Andrew)

- None

23. Board of Governors Representative (Jonathan Haskell)

- Meeting will be on June 23rd in Breckenridge.

24. Other Business

- May 9- Colo Guardianship association presentation from Mary O’Hara on Young Onset Dimension
- Arapahoe County Probate Bench Bar Meeting July 11th from noon to one; opportunity to meet with new judges there
- Office of Public Guardianship Bill 23064 is making its way through to passed out of house judiciary and there is hope there will be some action.
- Council expressed gratitude to Emma Baxter for all of her work.

ADJOURNMENT

The meeting was adjourned at 3:42 p.m. The next Council meeting will be held August 2, 2023.

Respectfully submitted

/s/ Dylan Metzner, Secretary

Colorado Bar Association
Trust & Estate
For the Twelve Months Ending June 29, 2023

		June	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		\$43,092.16		\$43,092.16	0%	\$38,426.81
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	120.00	32,925.00		32,925.00	0%	33,780.00
Registration Income	01-4501-31600		2,280.00		2,280.00	0%	
Total Revenue Trust & Estate Sect		120.00	35,205.00		35,205.00	0%	33,780.00
Expenses							
Other Expense	01-5000-31600		(1,000.00)		(1,000.00)	0%	
AWARDS	01-5007-31600	(100.00)	(128.54)		(128.54)	0%	
Meals (Not travel related)	01-5491-31600	(191.27)	(11,630.82)		(11,630.82)	0%	(5,179.13)
Printing	01-5492-31600		(176.23)		(176.23)	0%	
Administration Fee	01-5494-31600	(1,110.38)	(13,324.56)		(13,324.56)	0%	(12,935.52)
Grants/Contributions	01-5500-31600	(7,500.00)	(16,250.00)		(16,250.00)	0%	(11,000.00)
Total Expenses Trust & Estate Sec		(8,901.65)	(42,510.15)		(42,510.15)	0%	(29,114.65)
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							

Colorado Bar Association
Trust & Estate
 For the Twelve Months Ending June 29, 2023

	June	YTD	Budget	Variance	%	Last FY
Revenue CLE Section Only						
Expenses						
Expenses Joint CLE						
Expenses CLE Retreat						
Expenses CLE Section Only						
Council Notes						
Revenue						
Expenses						
Community & Civic Affairs						
Revenue						
Contributions 01-4500-31613		\$3,500.00		\$3,500.00	0%	
Total Revenue Community & Civic		3,500.00		3,500.00	0%	
Expenses						
Rules & Forms Committee						
Revenue						
Expenses						
Orange Book Forms						
Revenue						
Expenses						
Local Liaison						
Revenue						
Expenses						
Uniform Trust Code						
Revenue						

Colorado Bar Association
Trust & Estate
 For the Twelve Months Ending June 29, 2023

	June	YTD	Budget	Variance	%	Last FY
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						

Colorado Bar Association
Trust & Estate
For the Twelve Months Ending June 29, 2023

		June	YTD	Budget	Variance	%	Last FY
Green Book							
Revenue							
Expenses							
The Colorado Lawyer							
Revenue							
Expenses							
T&E Diversity Committee							
Revenue							
Misc Income	01-4299-31628		\$1,000.00		\$1,000.00	0%	
Total Revenue Diversity Committe			1,000.00		1,000.00	0%	
Expenses							
Judicial Liaison							
Revenue							
Expenses							
Meals (Not travel related)	01-5491-31615		(746.50)		(746.50)	0%	
Total Expenses Judicial Liaison			(746.50)		(746.50)	0%	
Member Vouchers							
Expenses							
T&E Young Lawyer Society							
Revenue							
Expenses							
Beginning Balance	01-3160-31600		43,092.16		43,092.16	0%	38,426.81
Total Revenue All Sources	01-4???-316??	120.00	39,705.00		39,705.00	0%	33,780.00
Total Expense All Sources	01-5???-316??	(8,901.65)	(43,256.65)		(43,256.65)	0%	(29,114.65)
Ending Balance		(8,781.65)	39,540.51		39,540.51	0%	43,092.16

Within each of these options, T&E and Elder Law attorneys help people on a personal level. You can help ensure that your clients' wishes are carried out and protect them during incapacity, which provides them peace of mind. Thoughtful planning minimizes family disputes and is rewarding. At the end of the day, you'll feel good about yourself and what you do. The T&E and Elder Law legal communities are collaborative, supportive, and helpful, which is essential because no two families are alike and there are always unique situations to handle.

Both T&E and Elder Law provide the opportunity to get to know your clients and their families over an extended period of time. You likely will help guide them through difficult moments, such as administering an estate after the death of a loved one. You will likewise be there to observe positive life changes, such as updating an estate plan for a marriage or the birth or adoption of a child.

Opportunity

Demographic data in Colorado shows a rising number of older residents in the state. The state demographer estimates that 903,297 Coloradans are over the age of 65, accounting for approximately 15.8% of Colorado's population. This figure is projected to increase to 1,182,816 by 2030. With this so-called "silver tsunami," not only will the need for T&E and Elder Law practitioners increase, but the number of experienced T&E and Elder Law practitioners will decrease as these attorneys retire. This results in an incredible opportunity for up-and-coming attorneys to make a lifetime career in these areas.

Why Join the Colorado Bar Association's Trust and Estate and Elder Law Sections?

Attorneys who practice in the areas of T&E and Elder Law are encouraged to join the CBA Trust and Estate Section, the CBA Elder Law Section, or both. Each section meets monthly to give members the opportunity to contribute to the Colorado legal profession

in a substantive and meaningful way. Section members are offered support, networking opportunities, exposure to intellectual discourse among colleagues, and an opportunity to impact legislation affecting their clients. Due to the relatively small and close-knit practice areas, members may also find career opportunities by participating in these meetings.

The CBA's Trust and Estate and Elder Law sections each maintain several committees. These committees are focused on such areas as trial and procedure, legislation, estate planning and probate forms, diversity, and statutory revisions. In addition, the collegiality of the T&E and Elder Law practices is exemplified by the T&E Practice Support (TEPS) Committee, a forum that provides resources and seasoned attorneys to address questions and provide presentations on relevant issues in the field.

Outside of the monthly meetings, the sections are active in presenting and attending quality continuing legal education courses. In short, when practicing in T&E and elder law, participation in the sections can truly make you a better attorney.

Diversity

The Justice, Equity, Diversity, and Inclusivity Committee (JEDI) is dedicated to promoting full and equal participation in the CBA's Trust and Estate and Elder Law sections by all attorneys and law students, including historically underrepresented groups such as racial and ethnic minorities, persons with disabilities, members of the queer community, and women. The JEDI Committee focuses on building strong connections within the legal community and promoting cultural competency in our practice through education.

Elder Law

CBA
Est. in 1897
Colorado Bar Association

Consider a Career in Trust & Estate and Elder Law

CBA
Est. in 1897
Colorado Bar Association

What Are Trust and Estate and Elder Law?

The trust and estate (T&E) and Elder Law areas cover a multitude of disciplines. T&E and Elder Law attorneys strategize, prepare, and enforce estate planning documents; advise-fiduciaries in administering probate estates and trusts; and consult with families regarding important financial and family concerns, such as:

- Who acts on my behalf if I cannot act on my own?
- What do I do and what protections do I have once I'm no longer able to care for myself?
- Who speaks for me once I've died, to address who inherits from my estate?
- How do I provide for loved ones in their minority or disability?
- How can I be sure I'm making the best decisions?

In short, T&E and Elder Law attorneys work with clients who have entrusted them with their most intimate personal and financial information. They provide clients and families peace of mind in areas that can be both challenging and intimidating.

Why Practice Trust and Estate or Elder Law?

Variety

The practices of T&E and Elder Law are analogous to a Swiss army knife, as they encompass many other fields. Attorneys who practice in these areas will be, as necessary, attorneys, counselors, housing experts, referees, tax wizards, mediators, litigators, business advisors, real estate advisors, and confidants. While this may seem like a daunting task, attorneys in these areas enjoy their practices because they value their clients and find it gratifying to help them carry out their wishes.

T&E and Elder Law attorneys should be able to recognize the interplay of other areas of law and apply knowledge they have from those areas to reach the best solution for the client. This is a distinct advantage to practicing T&E and elder law: you will gain

understanding and expertise in a multitude of legal fields, including:

- **Real Estate**—Cases may involve mineral rights, time shares, property transfers, and eviction.
- **Family Law**—Custodial concerns can occur with children with special needs who might need a legal guardian in adulthood. Benefit eligibility may change with a divorce. Blended families often seek protection for loved ones who may not otherwise inherit under default laws. In addition, persons with diminished capacity may need to seek dissolution of marriage.
- **Mental Health**—Probate judges may handle involuntary commitments for mental illness treatment or alcohol and drug addiction issues, and “red flag” protection orders.
- **Corporations**—Family businesses may be passed down or sold to provide for the needs of the family as time passes.
- **Legal Ethics**—Ethics concerns often arise when capacity is at issue, no matter the age of the client. Family members often act as fiduciaries and may need guidance to navigate possible conflicts of interests.
- **Public Benefits**—Veterans and Medicaid recipients are often not fully informed or comfortable making decisions when it comes to their public benefits. Those with special needs and their families also seek help when navigating the available options.
- **Tribal Law**—Many desire guidance on how to incorporate their cultural values into their estate planning.
- **Tax**—Wealth transfers can be difficult to navigate without the advice of a tax law expert.

From genealogy to international real estate, T&E and Elder Law touch on issues in almost every facet of the law. One minute you could be recovering the property of an at-risk person in Mexico, and the next you could be locating 40 potential heirs of an estate.

Business

Another career opportunity within T&E and Elder Law is to serve in a public administrator's office. The court may appoint public administrators to protect the assets of certain individuals (minors or those with diminished capacity) and to administer the estates of decedents, including estates with no nominated personal representative and estates in which there is a risk of infighting among family members or beneficiaries to an estate and no resolution can be reached among them without outside guidance.

In addition, T&E and Elder Law appeal to transactional attorneys and litigators alike. Some attorneys in these fields practice both transactional work and litigation. Others choose to specialize in one or the other: A transactional attorney may draft estate planning documents after counseling your client on a plan that best fits the client's needs. A litigator may advocate for a client's interests in a contested trust administration, decedent's estate, or guardianship or conservatorship proceeding. Your practice can evolve over time depending on your specific interests, and knowledge and skill in one area will be an asset in another. There are also many opportunities to specialize in various subjects within these areas of practice.

If you enjoy expanding your arsenal of knowledge and applying that knowledge to a multifaceted puzzle, T&E or Elder Law may be an ideal practice area for you.

Longevity

The T&E and Elder Law practices offer attorneys the opportunity to evolve their practice and lifestyle through the years. Fast-paced probate litigation can be high stress and exciting, but for some, it may not be sustainable as family pressures or other interests contend for time. For others, advocacy in contested cases is what brings excitement to their day-to-day work. Still others choose to balance a transactional and litigation practice, with each practice informing the other.

KIRCH ROUNDS BOWMAN & DEFFENBAUGH PC
MEMORANDUM

TO: CBA Council of the Trust and Estate Section

FROM: Chad Rounds

RE: Summary of 05/16/23 CBA Real Estate Section Council Meeting

DATE: 05/17/23

I attended the CBA Real Estate Section Council ("RESC") meeting on 05/16/23 by Zoom. The following is my report on matters addressed which the CBA Trust and Estate Section Council ("TESC") might find of interest:

Great Northern v. Extraction - Amicus Brief:

The Colorado Court of Appeals added a new element for the centerline presumption to apply. The new element is that the grantor/developer must first convey away all the property they own abutting the right-of-way. This is problematic because it creates a springing interest in the surface and minerals of the right-of-way which makes title examinations more difficult and uncertain for the developed lots. It was voted that the CBA will file an amicus brief, drafted by members of the Real Estate Section, with the Colorado Supreme Court in opposition to the lower court's creation of springing interests in rights-of-way.

FINCEN Targeting Order:

In April 2023, the U.S. Department of Treasury issued a Geographic Targeting Order requiring title insurance companies to collect and report information about the persons involved in certain residential real estate transactions. The order covers certain real estate in 14 Colorado counties.

Legislation:

The RESC discussed how to get more engaged with legislators for next session. They talked about attending stakeholder meetings over the summer to get a head start on new bills for the next legislative session.