

**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 (Marianne 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 (Tammy Conover & Andrew Rogers)
18. Colorado Estate Planning Handbook (David Johns)

19. Green Book (Josie Faix)
20. Trust & Estate Practice Support Committee (Margrit Parker or Caroline Young)
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 August 2, 2023, Meeting

Council met on August 2, 2023, in person and via audio-conference. The meeting was called to order at approximately 3:15 p.m. by Dylan Metzner, Vice Chair.

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

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

Dylan Metzner, Vice Chair, acting as chair
Jonathan F. Haskell, Secretary/Treasurer
Molly T. Zwerdinger, (Immediate Past Chair)
Lindsay Andrew (Second-Year Member)
Kelianna Chamberlain ((Second-Year Member)
Margot Edwards (Second-Year Member)
Jodie Gilbert (First-Year Member)
Angela Rockwood (First-Year Member)
Cathleen Giovannini (First-Year Member)

Also in attendance were:

Emma Baxter, CBA Staff
Marianne Luu-Chen, SRC
Amber Marchlowska, JEDI Chair
Darla Daniel, T&E Member
Leia Ursury, Legislative Liaison
Sandra Sigler, Chair of Civic and Community Affairs Committee
David Kirch, Colorado Lawyer
Hayley Lambourn, SRC
Jodi Davis, CBA/CLE
Dan Sweetser, CLE Executive Director
Elizabeth Thomas, Golden
Steven Brainerd, Legislative Liaison
Aaron Burton, Tax

1. Review/approval of May 3, 2023 Minutes.
The draft of the May 3, 2023, minutes were approved unanimously.

Approval of annual meeting minutes of May 3, 2023.

2. Chair's Report and Administrative Matters (Dylan Metzner on behalf of Lauren Da Cunha)
 - a. Continue in person attendance; encourage council members to reach out to new members and ask them to attend T&E meetings;
 - b. Happy Hours – September 6, March 6
 - i. In 2024 maybe have CLE Fall update and happy hour afterwards
3. Secretary/Treasurer's report (Jonathan F. Haskell)
 - a. We have \$62,847 in assets as of July 31, 2023
 - b. The Sterling Ambler Award Dinner will be held on Wednesday, November 1, 2023, to honor Bette Heller.
4. Tax Section Liaison (Aaron Burton)
 - a. Summer break, no report.
5. Elder Law Section (Patrick Thiessen)
 - a. No report
6. Real Estate Section Liaison (Chad Rounds)
 - a. No report
7. Family Law Section Liaison (Kim Willoughby)
 - a. No report
8. Statutory Revisions Committee (Hayley Lambourn)
 - a. Suggested comments for Electronic Estate Planning Act
 - b. New subcommittees – Conforming amendments for the Colo Uniform E-Wills Act – reach out to Letty Maxfield or Hayley; Uniform Healthcare Decisions Act – reach out to Hayley or Leia Ursery
9. Legislative Liaison (Steve Brainerd and Leia G. Ursery)
 - a. 5 Acts came out of summer session of Uniform Law Commission – informal subcommittee will review Uniform Healthcare Decisions Act
 - b. Looking to find a representative to run with three clean up issues from 2022
10. Legislative Update (Tyler Mounsey)
 - a. No report
11. Council Notes (Kristin Dittus)
 - a. Molly Zwerdinger provided report she is going to co-chair with Kristin

12. CLE/Estate Planning Retreat (Dylan Metzner)
 - a. Santa Fe, NM retreat was a success. Silent auction raised \$4,500 and was provided to charity.
 - b. Fall Update is almost finalized – November 9, 2023 all day event at CBA offices; morning will be 3 50 minute sessions; afternoon will be 2 90 minute sessions; likely going to provide lunch catered.
 - c. 2024 Retreat is in Vail – trying to have 2 keynote speakers; trying to have more interactive sessions. Daycare will likely be provided.
 - d. Monthly lunches are a success - Colorado Disposition of Last Remains lunch was held on August 1, 2023.
 - e. Dan Sweetser & Jodi Davis – \$7,500 was prior retreat requests since 2017. \$10,000 is request for this year – Family Law donated \$12,500. Of 30 sections, T&E is 6th most wealthy section.
 - i. Council decided to wait to vote on amount until after budget is provided
13. Orange Book Forms Committee (Marianne Luu-Chen)
 - a. Finished beneficiary deed of trust and notes on use over the summer; potential changes to disposition of last remains, work on special needs trust; retirement trust asset language; subcommittee is working to incorporate the Uniform Trust Code; medical power of attorney; engagement letter for joint representation with regards to Ethics Opinion 143 and ACTEC best practices.
 - b. A supplement is likely this year and then a completely new Orange Book the following year.
14. Supreme Court’s Rules and Forms Committee (Leia Ursury)
 - a. This committee deals with JDF updates and should remain open. No report.
15. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
 - a. 9/9 Senior Law Day in Adams and Broomfield County and also El Paso County
 - b. 9/30 Boulder County Senior Law Day and Denver.
 - c. Handbook for 2023 are available and free to the public– reach out to Sandra if you would like one.
 - d. Funding Request for 2024 Handbook -asking for \$2,500
 - e. Motion -\$2,500 donation for 2024 Handbook was approved.
16. Justice Equity, Diversity, and Inclusivity Committee “JEDI” (Amber Marchlowska)
 - a. JEDI requested \$1,000 in 2022, requesting \$2,000 in 2023 - \$1k for speaker event at DU; \$250 for spring event with CBA/CLE at DU; and \$750 sponsoring minority bar association table – 5 free spots for students – Dinner is 9/14 – Asian Pacific American Bar Association (“APABA”)
 - i. Motion to provide \$2,000 to JEDI is approved
 - b. Day of Service is being planned.

17. Probate Trial and Procedures Committee (Tammy Conover & Andrew Rogers)
 - a. Lindsay Andrews provided report and will continue as liaison.
 - b. Wrongful Death Subcommittee is reviewing other state statutes
 - c. Court Visitor subcommittee – how do attorney’s and interested persons know that the court visitor report is complete?
 - d. How do you get more Bench Bar Meetings – maybe coordinate with Probate Trial and Procedures Committee
 - e. Unauthorized practice of law by professional fiduciaries – subcommittee may be formed.

18. Colorado Estate Planning Handbook (David Johns)
 - a. No report

19. Green Book (Josie Faix)
 - a. No report

20. Trust & Estate Practice Support Committee – “TEPS” (Carolyn Young)
 - a. Request for \$2,000 to be used for gatherings and encouraging members of TEPS to go to the retreat.
 - b. Carolyn will come back in September with a more concrete budget and at that point council will have a vote to approve

21. The Colorado Lawyer (Emily Bowman & David Kirch)
 - a. 1 article was just reviewed; if you have ideas reach out to David

22. Communications Representative/Ambassador Program (Kayla Nelson)
 - a. No report

23. Board of Governors Representative (Jonathan F. Haskell)
 - a. Waterman Fund - <https://denbar.org/Members/Waterman-Fund>
 - b. Next meeting is October 19, 2023 – please let me know if there are T&E issues to be brought to CBA

24. Other Business
 - a. ABA Meeting is in Denver this week; Ralph Carr reception is Friday, August 4.
 - b. Colorado Guardianship Association – 9/12 meeting will have John Coldwell and come in to talk about incapacity, surreptitious recordings.

ADJOURNMENT

The meeting was adjourned at 4:43p.m. The next Council meeting will be held September 6, 2023.

Respectfully submitted

/s/ Jonathan F. Haskell, Secretary

KIRCH ROUNDS BOWMAN & DEFFENBAUGH PC
MEMORANDUM

TO: CBA Council of the Trust and Estate Section

FROM: Chad Rounds

RE: Summary of 08/15/23 CBA Real Estate Section Council Meeting

DATE: 08/15/23

I attended the CBA Real Estate Section Council ("RESC") meeting on 08/15/23 by Zoom. The following is my report on matters addressed which the CBA Trust and Estate Section Council ("TESC") might find of interest:

Final Tenant Radon Disclosure Form has been approved by the Executive Council. It is now available for purchase, download, and use from the Bar Association.

On June 6, 2023; Governor Polis vetoed House Bill 23-1190, "Affordable Housing Right Of First Refusal." It would have created a right of first refusal for a local government to match an acceptable offer for the sale of a residential or mixed-use multifamily property. The government's right to the purchase would have been contingent on the property being used for long-term affordable housing. The Governor raised concerns that this bill would increase liability and insurance costs. He also found fault in the failure to define the term an "economically substantially identical" offer submitted by the government. He saw this ambiguity as exposing sellers to challenge and chilling real estate transactions in Colorado.

A standing committee of the ABA proposed changes to Model Rule of Professional Conduct 1.16 (Declining or Terminating Representation). The changes would clarify and strengthen the attorney's client due diligence duty. The purpose for the changes is to prevent a lawyers' unwitting involvement in criminal financial activities of a client. The Business Law Section opposed the current proposed changes because it sees the focus shifting too much from protecting clients to assisting law enforcement. The ABA has since passed the changes, and next they go to each of the states.

Colorado Bar Association
Trust & Estate
 For the Month Ending July 31, 2023

		<u>July</u>	<u>YTD</u>	<u>Budget</u>	<u>Variance</u>	<u>%</u>	<u>Last FY</u>
Beginning balance	01-3160-31600		\$39,540.51		\$39,540.51	0%	\$43,092.16
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	24,450.00	24,450.00		24,450.00	0%	17,880.00
Total Revenue Trust & Estate Sect		24,450.00	24,450.00		24,450.00	0%	17,880.00
Expenses							
Administration Fee	01-5494-31600	(1,116.21)	(1,116.21)		(1,116.21)	0%	(1,110.38)
Total Expenses Trust & Estate Sec		(1,116.21)	(1,116.21)		(1,116.21)	0%	(1,110.38)
Statutory Revisions Committee							
Revenue							
Rev. Elderlaw Joint Task Force							
Rev. Uniform POA Act							
Rev. Uniform Trust Code							
Expenses							
Exp. Elderlaw Joint Task Force							
Exp. Uniform POA Act							
Exp. Uniform Trust Code							
CLE							
Revenue							
Revenue Joint CLE							
Revenue CLE Retreat							
Revenue CLE Section Only							
Expenses							

Colorado Bar Association
Trust & Estate
 For the Month Ending July 31, 2023

	July	YTD	Budget	Variance	%	Last FY
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						

Colorado Bar Association
Trust & Estate
 For the Month Ending July 31, 2023

	July	YTD	Budget	Variance	%	Last FY
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						

Colorado Bar Association
Trust & Estate
 For the Month Ending July 31, 2023

		<u>July</u>	<u>YTD</u>	<u>Budget</u>	<u>Variance</u>	<u>%</u>	<u>Last FY</u>
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		\$39,540.51		\$39,540.51	0%	\$43,092.16
Total Revenue All Sources	01-4???-316??	24,450.00	24,450.00		24,450.00	0%	17,880.00
Total Expense All Sources	01-5???-316??	(1,116.21)	(1,116.21)		(1,116.21)	0%	(1,110.38)
Ending Balance		23,333.79	62,874.30		62,874.30	0%	59,861.78