

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

Notice of and Agenda for the November 3, 2021, Meeting

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

From: Lauren da Cunha
Secretary/Treasurer
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Notice of Meeting

The next monthly meeting of the 2021-2022 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Wednesday, November 3, 2021, 3:15 p.m.***
Place: 1290 Broadway, Suite 1700, Denver, CO 80203
or Call-In/Zoom

Minutes of Previous Meetings & Attachments

1. Minutes of the October 6, 2021 meeting of the Council
2. Memorandum from CBA Real Estate Section Council Meeting

Trust and Estate Section Council Agenda
November 3, 2021

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 October 6, 2021 meeting of the Council
2. Chair's Report and Administrative Matters (Tim Bounds)
3. Secretary/Treasurer's report (Lauren da Cunha)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section (Patrick Thiessen)
6. Real Estate Section Liaison (Chad Rounds)
7. Family Law Section Liaison (Kim Willoughby)
8. Statutory Revisions Committee (Dylan Metzner)
9. Legislative Liaison (Darla Daniel & Steve Brainerd)
10. Legislative Update (Andy White)
11. Council Notes (Kristin Dittus)
12. CLE/Estate Planning Retreat (Molly Zwedlinger)
13. Orange Book Forms Committee (Hayley Lambourn and Rikke Liska)
14. Rules and Forms Committee (Gordon Williams)
15. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
16. Equity, Diversity, and Inclusivity Committee (Melissa Schwartz)
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 (Jessica Hazleton)
21. The Colorado Lawyer (Emily Bowman & David Kirch)
22. Communications Representative/Ambassador Program (Lindsay Andrew)
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 October 6, 2021, Meeting**

Council met on Wednesday, October 6, 2021 in person and via audio-conference due to the ongoing COVID 19 pandemic. The meeting was called to order at approximately 3:15 p.m. by Tim Bounds, Chair.

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

In attendance were:

Tim Bounds, Chair
Molly Zwerdinger, Vice Chair
Lauren da Cunha, Secretary
Georgine Kryda (2nd year member), Tax Section Liaison
Amy Symons (2nd year member)
Simon Tolbert (2nd year member)
Marianne Luu-Chen (1st year member)
Tristan Younghaus (1st year member)
Spencer Crona, (Immediate Past Chair)

Also in attendance were:

Andy White, CBA Legislative Liaison
Katie Roberts, CBA Staff
Emma Baxter, CBA Staff
Bridgette Moore, CBA/CLE Staff
Kendra Yates, CBA/CLE Staff
Melissa Schwartz
Lindsay Andrew
Kayla Nelson
Chad Rounds
David Kirch
Leia Ursery
Patrick Thiessen
Chad Rounds
Darla Daniel
Sara Bastani
Matt Perkins

1. Approval of Minutes of Prior Meeting

The Minutes of the September 1, 2021, Council meeting were amended to correct the spelling of Michelle Mieras's last name. The minutes were approved unanimously with this amendment.

2. Chair's Report (Tim Bounds)

Annual Dinner is tonight from 5:30-7:30pm. Emma Baxter is our new section liaison for CBA. Welcome Emma! EDI committee still looking for a new chair. Please reach out to Tim if interested.

ABA Young Lawyers Division is having a regional summit in Santa Fe, where Molly Zwerdinger and Lawrence Gendelman will be presenting on Conservatorships. ABA YLD doesn't have funds to cover Molly and Lawrence presenting. Cost is \$450/person. Our finances are good and there is no financial reason to not approve. Proposal before Council is for CBA to cover half of the cost and T&E Section cover the other half. Motion to approve \$450 as our half. Motion passes unanimously. Molly Zwerdinger abstained from voting.

3. Secretary/Treasurer Report (Lauren da Cunha)

Financials are looking good. We're little above where we were last year. There will be an expenditure on the Annual Dinner tonight. Bridgette Moore and Kendra Yates from CBA CLE will give us an update on how our T&E retreat went. Kendra was the main CBA person who worked on the retreat with Tim. The Retreat was completely virtual but VERY well received. Lots of compliments on format and materials.

For the most recent Retreat, total attendees were 207, with 72 being section members. This is down a little bit from the past two years. However, if an attendee is a CLE passholder, the system doesn't log them as a section member. We did run a little into Zoom fatigue and attendance was down about 20%. 2021 numbers not yet final but total revenue \$97,818, total expenses 16,481.88. We had 9 staff members that were involved in the retreat. Expenses don't reflect overhead, and staff time. Very consistent with 2020 to 2021. We saved money by going virtual. Biggest expenses are still co-sponsors, special events and honorarium fees (this was larger than normal but it likely helped drive attendance). There is a lot of programming in 2021: monthly lunches, estate administration basic skills, understanding and using trust series (8 sessions), electronic wills and online remote notarization, and the T&E spring update.

Programs have served 1920 live, webcast and home study registrants. This is more than last year. Last year had about 1500 registrants. T&E runs more programs than most sections. T&E Retreat revenue (pre-pandemic) accounted for 8-9% of total CBA-CLE seminar revenue each year. In 2020 the retreat revenue account for about 3% of total. Some of this is due to passholders. Despite a decrease in seminar revenue, the CBA is still financially stable. They also received a PPP loan and forgiveness.

T&E Section contributions: 2019 Retreat \$7,500; 2020 retreat: \$6,250, 2021 retreat: \$7,000 (up to \$10k approved in December 2020). For comparison, Elder law contributes between \$2-4k annually and has about 160 attendees.

T&E Retreat for 2022 is in Beaver Creek and will be a hybrid event.

4. Tax Section Liaison (Georgine M. Kryda)

No report. Georgine will continue to serve as the liaison to T&E for the Tax section.

5. Elder Law Section Liaison (Patrick Thiessen)

Elder Law Executive Council discussed future fiduciary regulation and where potential regulation could be housed and how to be proactive on regulations. Discussion on CAPs abuse system. Kris Zumalt reported that CAPs hearings are getting schedule 15-18 months out and that even when the individual and government entity reach a stipulation on removal, the DA is still bringing a criminal case against the individual.

6. Real Estate Section Liaison (Chad Rounds)

Memo was provided to members.

7. Family Law Section Liaison (Kim Willoughby)

No report.

8. Statutory Revisions Committee (Dylan Metzner)

Three new subcommittees are looking for members: community property rights on death (Connie Eyster); beneficiary deeds in light of Strobe-Robinson v State Farm case (Carl Stevens); and lodged wills.

9. Legislative Liaison (Stephen M. Brainerd & Darla Daniel)

Making good progress on UPC revisions. Should be able to bring to SRC in the next month or two. If you want to look at what has been approved by the subcommittee reach out to Darla.

10. Legislative Update (Andy White)

LPC begins meeting this Tuesday at noon. LPC meetings are open for everyone to attend; information to attend is on the CBA website. Next meetings will be on 11/10 and 12/16. Meeting weekly January through May. There are already a few proposals ready to go through LPC. Andy will be meeting with legislatures to get a feel for the new session soon; new session begins on Jan 12. Likely to see continued Democratic control of both chambers.

11. Council Notes (Kristin Dittus)

Please reach out with ideas for Council notes; more articles are needed.

12. Continuing Legal Education & Estate Planning Retreat (Molly Zwerdinger)

Canceled the lunch CLE for December due to an unanticipated issue with the speakers. Famous estates lecture this month was very successful.

13. Orange Book Forms Committee (Hayley Lambourn/Rikke Liska)

Nearly completed the ADR subcommittee presentation and will finish that next month. Next month will discuss where ADR provisions should go in the orange book. Looking to update form 20 in December as well as review beneficiary deed to trust.

14. Rules & Forms Committee (Gordon Williams)

No report.

15. Civic & Community Affairs (Sandra Sigler)

Kayla Nelson gave report. Handbooks are currently in publication and should be shipped any day now. Senior Law days have been happening (hybrid events). El Paso had 80 in person and some online. Boulder County has had a senior law series on Tuesday and Thursday. Their last one is tomorrow. Pitkin, Eagle and Garfield counties will be in the next couple of weeks. The handbook is available online at seniorlawhandbook.org. Senior Law Day events are on the CBA website. Will resume brochure updates later this year.

16. Equity, Diversity & Inclusivity Committee (Melissa Schwartz)

Looking for new Chair. Melissa will stay as chair until there is a replacement. Events with law students at CU and DU in the fall and spring. Going to work on the website (EDI section on T&E), continuing with outreach to diverse members of the section. Everyone on council should do individual action plans for this year (IAPs). Reminder to read CBA diversity and inclusion action plan and keep that in mind when planning events.

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

Kathy Seidel has been working hard on a probate bench book (300 pages), courts have reviewed 15% so far. Won't be ready for publishing until Q1 2022, court is looking at restructuring for uniformity. Will update it on an annual basis. Abandoned wills subcommittee (Bette Heller) going to have a conversation about whether this subcommittee should come from CBA or the Colorado District Courts. Have an update on that next month. Statutory changes to 15-14-708 and 15-14-421 will go to LPC next month. These were approved by T&E Executive Council in Dec 2020 and Elder Law Executive Council in Jan 2021. Will present to LPC in November.

18. Colorado Estate Planning Handbook (David Johns)

No report.

19. Green Book (Josie Faix)

No report.

20. New T&E Practice Support Committee (Jennifer Hazelton)

No report.

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

Just had a great article come out on Trust Situs. Herb Tucker and Letty Maxwell will be writing an article on the E-Wills statute (Dec), Alternatives to conservators/guardianships for individuals with addictions or mental health issues article forth coming. Also an article on priority of appointment for personal representative is in the works. UPC revisions would be a good future article when this happens. An article on the Everheart case is also in the works but a co-author is needed. Always able to reach out to Dave or Emily with ideas. Credit to Emily for all her work on this.

22. Communications Representative & Ambassador Coordinator (Lindsey Andrew)

Quiet over the summer but a new request came in for getting an Ambassador. Looking for volunteers to be mentors. Ambassador would reach out to ambassadee and answer any questions they have about First Wednesday meetings, attend meetings with them and introduce them at the start of meetings and to colleagues. Some people take them out to coffee or lunch but that is not required. The Ambassador is supposed to be a first contact for the Bar Association. Marianne Luu-Chen happy to serve as ambassador for the new Ambassadee.

23. Board of Governors Representative (Jonathan Haskell)

Meeting on Dec 3rd. Reach out to Jonathan if there are any issues you want him to bring up.

24. Other Business

None.

ADJOURNMENT

The meeting was adjourned at 4:10 p.m. The next Council meeting will be held in November 2021.

Respectfully submitted

/s/ Lauren da Cunha, Secretary

Colorado Bar Association
Trust & Estate
 For the Three Months Ending September 30, 2021

		September	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600	\$280.00	\$37,346.81		\$37,346.81	0%	\$28,848.32
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	2,280.00	31,605.00		31,605.00	0%	31,470.00
Total Revenue Trust & Estate Sect		2,280.00	31,605.00		31,605.00	0%	31,470.00
Expenses							
Internet/E-Mail Access	01-5413-31600					0%	(356.51)
Meals (Not travel related)	01-5491-31600	(45.00)	(182.86)		(182.86)	0%	
Administration Fee	01-5494-31600		(2,155.92)		(2,155.92)	0%	(3,060.00)
Total Expenses Trust & Estate Sec		(45.00)	(2,338.78)		(2,338.78)	0%	(3,416.51)
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							

Colorado Bar Association
Trust & Estate
 For the Three Months Ending September 30, 2021

	September	YTD	Budget	Variance	%	Last FY
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						

Colorado Bar Association
Trust & Estate
 For the Three Months Ending September 30, 2021

	September	YTD	Budget	Variance	%	Last FY
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						

Colorado Bar Association
Trust & Estate
 For the Three Months Ending September 30, 2021

		September	YTD	Budget	Variance	%	Last FY
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	\$280.00	\$37,346.81		\$37,346.81	0%	\$28,848.32
Total Revenue All Sources	01-4???-316??	2,280.00	31,605.00		31,605.00	0%	31,470.00
Total Expense All Sources	01-5???-316??	(45.00)	(2,338.78)		(2,338.78)	0%	(3,416.51)
Ending Balance		2,515.00	66,613.03		66,613.03	0%	56,901.81

KIRCH ROUNDS BOWMAN & DEFFENBAUGH PC
MEMORANDUM

TO: CBA Council of the Trust and Estate Section

FROM: Chad Rounds

RE: Summary of 10/19/21 CBA Real Estate Section Council Meeting

DATE: 10/20/21

I attended the CBA Real Estate Section Council ("RESC") meeting on 10/19/21. Members participated in person, as well as by Zoom. The following is my report on matters addressed which the CBA Trust and Estate Section Council ("TESC") might find of interest:

Telluride Seminar Update:

It was a full day seminar on September 24th in Telluride at the Transfer Warehouse. It was an outreach to the Four Corners region of the state. Art, Real Estate, and the Law was the theme, with a focus on establishing art districts as an economic revitalization tool. 4 CLE hours. It was well received. Possibly another one will be tried in Durango in the future.

***Walters v. Cates*, Fed.R.App.P 32.1 (10th Cir. 2021):**

This was a bankruptcy case. The 10th Circuit vindicated the doctrine of "chain of title" as it related to the recording of a deed of trust after the real property was transferred into the owner's trust and therefore outside of the "chain of title." It held the deed of trust did not encumber the property overturning the lower court decisions to the contrary.

***Fairway at Buffalo Run* Legislative Proposal:**

LPC supported the proposed legislation of the Real Estate Section regarding a fix to the *Fairway at Buffalo Run* holding. The goal is to overturn this judicial decision through legislative means by requiring that common interest community documents be only signed by the actual owner of the affected property. The courts had not adhered to this important real estate concept by accepting the validity of documents executed by nonowners.