

**NOTICE OF MEETING FOR THE PROBATE TRIAL AND PROCEDURE  
COMMITTEE OF THE TRUST AND ESTATE SECTION AND ELDER LAW SECTION  
OF THE COLORADO BAR ASSOCIATION**

**May 5, 2021 at 10 a.m.**

<https://cba-cle.zoom.us/j/91827848116?pwd=VEFQRms3VHYyaFpXSDJmN1ROcVp0UT09>

Meeting ID: 918 2784 8116

Passcode: 620136

Call-in: 1 (312) 626 6799

Meeting ID: 918 2784 8116

Find your local number: <https://cba-cle.zoom.us/u/aiYe3oM0k>

**AGENDA**

1. Welcome and Introductions
2. Review of Minutes from April 7, 2021 - Approval
3. Chair's Report
  - a. Probate Bench Book – Kathy Seidel
  - b. Committee Co-Chair Succession – Marcie McMinimee and Lindsay Andrew
4. New Business or Requests
5. Updates/Reports
  - a. CRPP Rule 40(d). Submitted to Supreme Court for approval. Marcie McMinimee
  - b. Cost Recovery and Compensation Act; C.R.S. § 15-10-604 re procedure and process. Marc Darling/Marcie McMinimee
  - c. Due process concerns re “substantiated perpetrator” list maintained by Departments of Human Services. Kathy Seidel/Norv Brasch
  - d. C.R.S. §§15-14-708(2) and 421(6)(a) Powers of Attorney when fiduciary appointed. Marcie McMinimee
  - e. Virtual Court Proceedings. Norv Brasch
  - f. Conservator's Annual Report - Tabled.

6. Adjournment

**NEXT MEETING: August 4, 2021 @ 10 a.m.**

**REMINDER: Join the Committee through CBA Membership Department – email [membership@cobar.org](mailto:membership@cobar.org)**

## **Probate Trial and Procedure Committee**

### **Minutes of the April 7, 2021 Meeting**

The Probate Trial and Procedure Committee met virtually on April 7, 2021. The meeting was called to order at approximately 10:00 am.

The following members were present or participated by phone:

Lindsay Andrew – [Landrew@steenrodlaw.com](mailto:Landrew@steenrodlaw.com)  
Tim Bounds – [bounds@evanscase.com](mailto:bounds@evanscase.com)  
Norv Brasch – [norv@tealaw.com](mailto:norv@tealaw.com)  
Lynne Bruzzese – [lynne@lbdurangolaw.com](mailto:lynne@lbdurangolaw.com)  
Gary Clexton – [gclexton@m-s-lawyers.com](mailto:gclexton@m-s-lawyers.com)  
Kelly Cooper – [Kelly@kdcooperlegal.com](mailto:Kelly@kdcooperlegal.com)  
Spencer Crona – [scrona@brownandcrona.com](mailto:scrona@brownandcrona.com)  
David Imbler - [dimbler17@gmail.com](mailto:dimbler17@gmail.com)  
Todd Kastetter – [tkastetter@probatetrials.com](mailto:tkastetter@probatetrials.com)  
Keith Lapuyade – [keith.lapuyade@overtonlawfirm.com](mailto:keith.lapuyade@overtonlawfirm.com)  
Lettie Maxfield – [letty@tealaw.com](mailto:letty@tealaw.com)  
Kayla Nelson – [kayla@siglerlawCO.com](mailto:kayla@siglerlawCO.com)  
Sal Quintana – [s.quintana@qlegalservices.com](mailto:s.quintana@qlegalservices.com)  
Patricia Rankin – [prankin99@gmail.com](mailto:prankin99@gmail.com)  
Tom Rodriguez – [tom@elderlawcolorado.com](mailto:tom@elderlawcolorado.com)  
Sandra Sigler - [sandra@siglerlawco.com](mailto:sandra@siglerlawco.com)  
Ernest Staggs – [estaggs@staggs-morris.com](mailto:estaggs@staggs-morris.com)  
Chelsea Ziegler – [chelsea@tealaw.com](mailto:chelsea@tealaw.com)

#### **1 Approval of Minutes of Prior Meeting**

The minutes of the March 3, 2021 meeting were approved.

#### **2 Chair's Report**

- a. Probate Bench Book – Project continues to move forward slowly. We are working on the last two sessions, will contests and will construction issues.
- b. Estate of Colby, 2021 COA 31 was reviewed. The appellate court held that the provisions of CRS 15-12-804, only apply to creditor's claims, not to a beneficiary's claim to estate assets.

- c. Having had no other volunteers to steward this committee for the next year, Marcie McMinimee and Lindsay Andrews are officially the new co-chairs effective August, 2021.

### **3 New Business or Requests**

- a. None

### **4 Updates/Reports**

- a. CRPP Rule 40(d). No change from last month's report from Marci McMinimee.
- b. Cost Recovery and Compensation Act. No report
- c. DHS/APS "substantiated perpetrator" list. It appears likely that HB 1123 and Senate Bill 118 will be approved by the legislature. HB 1123 deals with the CAPS system and requires that courts order a report from DHS prior to guardianship and conservatorship proceedings to check whether a proposed guardian or conservator has been reported as a substantiated perpetrator of elder abuse. DHS has seven days to respond to the court. This will be viewed by the courts as third party information, not evidence. If passed, will require changes to JD Forms. SB 118 would create a pilot project in fifteen Colorado counties to establish a less invasive procedure for investigating minor or low level reports of elderly abuse. This pilot project would not apply to professional fiduciaries.
- d. C.R.S. §§ 15-14-708(2) and 15-14-421(6)(a) re Powers of Attorney. Proposed changes were approved by SRC and T&E Council in December. They were also approved by Elder Law Council at their January meeting. The proposed statutory changes were forwarded to LPC.
- e. Virtual Court Proceedings. Norv Brasch has continued discussions with Justice Gabriel. They will put this initiative on hold as it appears that judges in some jurisdictions are urging that live proceedings recommence. Webex virtual meetings will continue to replace telephonic meetings, so there may be need for additional guidance going forward.
- f. Conservator's Annual Report – Tabled.

### **5 Adjournment**

The meeting adjourned at approximately 10:45 am.