

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

Notice of and Agenda for the May 4, 2022, 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, May 4, 2022, 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 April 6, 2022 meeting of the Council
2. February and March Financial Statements
3. Memorandum from CBA Real Estate Section Council Meeting
4. Brochure on Elder or Probate Mediation

Trust and Estate Section Council Agenda
May 4, 2022

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 April 6, 2022 meeting of the Council
2. Chair's Report and Administrative Matters (Tim Bounds)
 - a. Report by Tim Bounds
 - b. Colorado Bar Foundation Presentation by Leia Ursery
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 (Tyler Mounsey)
11. Council Notes (Kristin Dittus)
12. CLE/Estate Planning Retreat (Molly Zwedlinger)
13. Orange Book Forms Committee (Hayley Lambourn)
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 April 6, 2022, Meeting**

Council met on Wednesday, April 6, 2022 in person and via audio-conference. The meeting was called to order at approximately 3:16 p.m. by Spencer Crona, Immediate Past Chair.

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

In attendance were:

Lauren da Cunha, Secretary
Georgine Kryda (2nd year member)
Amy Symons (2nd year member)
Simon Tolbert (2nd year member)
Kristin Piniero (1st year member)
Marianne Luu-Chen (1st year member)
Spencer Crona, (Immediate Past Chair)

Also in attendance were:

Emma Baxter, CBA Staff
Lindsay Andrew
Jonathan Haskell
Chad Rounds
Sandra Sigler
Dylan Metzner
Melissa Schwartz

1. Approval of Minutes of Prior Meeting

The minutes were approved unanimously.

2. Chair's Report (Tim Bounds)

Spencer Crona called the meeting to order on behalf of Tim Bounds. Please try to attend the Annual Section Meeting on May 4th. We will vote on the slate of nominees at the Annual Section Meeting. The proposed slate is:

Chair: Molly Zwerdinger
Vice-Chair: Lauren Da Cunha
Secretary/Treasurer: Dylan Metzner
First-Year Council Members: Lindsay Andrew, Kelianna Chamberlain,
Jessica Johnson

3. Secretary/Treasurer Report (Lauren da Cunha)

The Section is in good shape, with no outstanding expenses.

4. Tax Section Liaison (Georgine M. Kryda)

No report.

5. Elder Law Section Liaison (Patrick Thiessen)

Kayla Nelson is seeking to create a panel for the Elder Law Retreat that can present on the different cultural / ethnic views on the topic of death and dying customs. Anyone with recommendations regarding this topic or knows of someone who would like to be a presenter should contact Kayla for more information.

6. Real Estate Section Liaison (Chad Rounds)

Memo provided to members.

7. Family Law Section Liaison (Kim Willoughby)

No report.

8. Statutory Revisions Committee (Dylan Metzner)

SB 092, Uniform Probate Code 2019 Revisions, sponsored by Senator Gardner, was signed into law on 3/20/22 by the Governor. Had lengthy discussion regarding HB22-271: Protected Persons. Elder Law presented testimony against it. SRC is going to wait on taking on action. Advised that if any members are contacted about it by the media they should direct to the CBA and Tyler Mounsey. It doesn't look like it is going to really go anywhere this year; there are no co-sponsors and no Senate sponsor at this time. SRC may form a subcommittee to look into this issue as it is one that has shows up in the legislature repeatedly. The Lodged Wills subcommittee will be bringing their work to the Committee for a vote at the May meeting.

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

No report.

10. Legislative Update (Tyler Mounsey)

No report.

11. Council Notes (Kristin Dittus)

Thank you to Georgine Kryda for her many years of wonderful contributions regarding the Federal and IRS updates. Aaron M. Burton of Wade Ash, will be the new contributor for this topic. Thank you Spencer Crona for his article which will run in the June edition. If you would like to contribute a future article, please reach out to Kristin.

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

Lauren da Cunha provided the report. The Insolvent Estate CLE was rescheduled to 7/19 due to poor registration. CBA-CLE's IT was able to track down the issue. Emails about the CLE were not going out to membership as their mailing file had gotten corrupted. The emails were still being sent to CLE staff, so they did not catch the issue right away.

Likely going to have to cancel the May lunch CLE as CLE has not been able to connect with the speaker.

There are currently 24 people registered for the retreat, 20 in-person and 4 virtual. About 50% of the CBA blocked rooms are booked.

13. Orange Book Forms Committee (Hayley Lambourn)

Finished approving almost all of form 15-20 (directed trust provisions), with just a few paragraphs left to approve. Marianne Luu-Chen will be Chair next year.

14. Rules & Forms Committee (Gordon Williams)

No report.

15. Civic & Community Affairs (Sandra Sigler)

A couple of brochures are almost ready for review by Council, the Committee is finalizing artwork. Kayla Nelson will email the brochures to Council for review. Will ask Council to vote in May. Sandra Sigler has had extensive conversations with CBA-CLE regarding the Senior Law Handbook. It will be a hybrid book, with the main body being 2021 material with a supplement for 2022 changes. Additional funds will be needed, but the amount is yet unknown. Sandra will come back with a formal request once the amount is known. Sandra will need to stuff the inserts personally.

There is a lot of interest, and misinformation, in the public about guardianships/conservatorships in Colorado. There are materials that already exist that could be used to help educate the public. Sandra recently had a case where the hospital wanted to be involved because the hospital administrator had some misconceptions based on a documentary she had seen. Sandra is now doing a presentation to the hospital about what guardianship/conservatorship in Colorado is really like.

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

Judge Steward and Kristin Pineiro organized a panel at DU last month, which was attended by more than 30 students. The Committee has been trying to reach out to CU but not having a lot of success. Discussed sending out a reminder email to the students at DU with the scholarship application. Deadline will be a day or two before next month's meeting. Melissa Schwartz is putting together a paper on her information that can be handed off to the new chair. If interested in chairing the committee, please reach out to Melissa.

There are currently no materials on EDI other than the links on the website. The next Chair may look into creating a sheet of talking points.

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

Kathy Sediel 1st edition to probate bench book has been distributed to the judiciary! Subcommittee will update the bench book as needed. Keith Lapuyade is drafting a letter that can be provided to clients, alerting them to policy issues after a decedent's death. Depending on how that come together Keith may reach out to the Orange Book committee to add as a draft letter to the Orange Book.

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)

Jennifer Spitz is presenting this month.

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

No report.

22. Communications Representative & Ambassador Coordinator (Lindsay Andrew)

No report.

23. Board of Governors Representative (Jonathan Haskell)

Next meeting is June 24th in Colorado Springs. If anyone has any concerns or issues they would like Jonathan to bring up, please reach out to him. Thursday, June 23, there will be a celebration of the 125th Anniversary of the CBA also taking place in Colorado Springs.

24. Other Business

Emma Baxter presented a request on behalf of the CBA, which requests that this Section contribute to the Solo/Small Firm Institute, given how many T&E attorneys fall under those categories. The CBA is asking for a contribution of \$5,000. Amy Larson is happy to talk about this at the May meeting.

ADJOURNMENT

The meeting was adjourned at 3:51 p.m. The next Council meeting will be held in May 2022.

Respectfully submitted

/s/ Lauren da Cunha, Secretary

Colorado Bar Association
Trust & Estate
For the Nine Months Ending March 31, 2022

		March	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		\$38,426.81		\$38,426.81	0%	\$28,848.32
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	135.00	33,480.00		33,480.00	0%	33,555.00
Total Revenue Trust & Estate Sect		135.00	33,480.00		33,480.00	0%	33,555.00
Expenses							
Internet/E-Mail Access	01-5413-31600					0%	(356.51)
Meals (Not travel related)	01-5491-31600		(5,103.70)		(5,103.70)	0%	
Administration Fee	01-5494-31600	(1,077.96)	(9,701.64)		(9,701.64)	0%	(9,180.00)
Grants/Contributions	01-5500-31600					0%	(13,250.00)
Total Expenses Trust & Estate Sec		(1,077.96)	(14,805.34)		(14,805.34)	0%	(22,786.51)
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							

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Trust & Estate
 For the Nine Months Ending March 31, 2022

	March	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 Nine Months Ending March 31, 2022

	March	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						

Colorado Bar Association
Trust & Estate
For the Nine Months Ending March 31, 2022

		March	YTD	Budget	Variance	%	Last FY
Expenses							
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		\$38,426.81		\$38,426.81	0%	\$28,848.32
Total Revenue All Sources	01-4???-316??	135.00	33,480.00		33,480.00	0%	33,555.00
Total Expense All Sources	01-5???-316??	(1,077.96)	(14,805.34)		(14,805.34)	0%	(22,786.51)
Ending Balance		(942.96)	57,101.47		57,101.47	0%	39,616.81

KIRCH ROUNDS BOWMAN & DEFFENBAUGH PC
MEMORANDUM

TO: CBA Council of the Trust and Estate Section

FROM: Chad Rounds

RE: Summary of 04/28/22 CBA Real Estate Section Council Meeting

DATE: 04/28/22

I attended the CBA Real Estate Section Council ("RESC") meeting on 04/28/22 by Zoom. Members participated in person and by Zoom. The following is my report on matters addressed which the CBA Trust and Estate Section Council ("TESC") might find of interest:

Willis Carpenter, esteemed real estate attorney, recently passed away. His memorial service will be in June. See attached link for more information:

<https://www.legacy.com/us/obituaries/denverpost/name/willis-carpenter-obituary?id=34348436>

He gave so much of his time, energy, and knowledge to the CBA.

Discussed increase in section dues by \$5 because of inflation and higher section administrative fee to the CBA. Dues would be \$35 annually. Long time at \$30. The increase was approved by the RESC.

The RESC approved proposed new Title Standard 3.3.3 which addresses the recording of a copy of a document.

Future legislation to amend Colorado HOA laws is likely to come down the pipeline in response to issues related to the Marshall Fire and foreclosures in Green Valley Ranch.

Colorado Bar Association
Trust & Estate
 For the Eight Months Ending February 28, 2022

		February	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		\$38,426.81		\$38,426.81	0%	\$28,848.32
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	240.00	33,345.00		33,345.00	0%	33,480.00
Total Revenue Trust & Estate Sect		240.00	33,345.00		33,345.00	0%	33,480.00
Expenses							
Internet/E-Mail Access	01-5413-31600					0%	(356.51)
Meals (Not travel related)	01-5491-31600		(5,103.70)		(5,103.70)	0%	
Administration Fee	01-5494-31600	(1,077.96)	(8,623.68)		(8,623.68)	0%	(8,160.00)
Grants/Contributions	01-5500-31600					0%	(6,250.00)
Total Expenses Trust & Estate Sec		(1,077.96)	(13,727.38)		(13,727.38)	0%	(14,766.51)
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							

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Trust & Estate
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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						
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Revenue						
Expenses						
Local Liaison						
Revenue						
Expenses						
Uniform Trust Code						
Revenue						
Expenses						
Transfer Deposits						
Revenue						

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Admin. Chair						
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Estate Planning Handbook						
Revenue						
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Expenses						
Technology Committee						
Revenue						
Expenses						
Real Estate Liaison						
Revenue						
Expenses						
Green Book						
Revenue						

Colorado Bar Association
Trust & Estate
 For the Eight Months Ending February 28, 2022

		<u>February</u>	<u>YTD</u>	<u>Budget</u>	<u>Variance</u>	<u>%</u>	<u>Last FY</u>
Expenses							
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		\$38,426.81		\$38,426.81	0%	\$28,848.32
Total Revenue All Sources	01-4???-316??	240.00	33,345.00		33,345.00	0%	33,480.00
Total Expense All Sources	01-5???-316??	(1,077.96)	(13,727.38)		(13,727.38)	0%	(14,766.51)
Ending Balance		(837.96)	58,044.43		58,044.43	0%	47,561.81

Mediation Association of Colorado (theMAC)

The Mediation Association of Colorado provides a Find a Mediator tool on their website.
<https://coloradomediation.org>

Colorado Bar Association

Some mediators are listed in the Colorado Bar Association Licensed Lawyer search engine. Under Practice Area, choose Alternative Dispute Resolution.
<https://www.cobar.org/Licensed-Lawyer>

This brochure is published as a public service by the Colorado Bar Association and was authored and is reviewed and updated as needed by the Civic and Community Affairs Committee, a Subcommittee of the Trusts and Estates Section. Its purpose is to provide general information about the topic contained herein, which is a common legal issue that may come up in estate planning, probate, and/or elder law cases. The information in this brochure is current as of March 2022. You should ensure that there have not been any changes in the law that may affect your matter, which may require consulting with an attorney.

Elder or Probate Mediation

istock
by Getty Images



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CBA
Est. in 1897
Colorado Bar Association

Conflicts about caring for an elderly family member or dealing with a family member's estate are often very emotional and can destroy relationships. Mediation is an alternative for addressing and resolving these conflicts.

What is Mediation?

Mediation is an informal process where a neutral person (a "mediator") helps people in conflict to resolve issues and find solutions. A mediator talks with each party in the conflict and assists with facilitating an agreement to resolve the parties' conflict. Each party has the opportunity to tell the mediator their side of the story and have their concerns heard.

If the parties are able to come to an agreement, they sign a written agreement that states the terms of their agreement. This written agreement may be called a settlement agreement. An agreement signed by both parties is a contract that is enforceable under Colorado law. If an agreement is then approved by the judge in your case, it becomes an order of the court.

What are the Benefits of Mediation?

Mediation has many benefits.

- Mediation can resolve disputes faster than going to trial. If the parties reach an agreement that settles all of the issues through mediation, pursuing a trial in court is no longer necessary.
- Mediation may save you money. A mediator charges a fee for his or her time to assist the parties. However, the cost of a mediator's fee is usually much lower than the cost of a party's attorney fees for pursuing a case to trial in court.
- Mediation is confidential. Statements you make to a mediator are not allowed to be shared with the other party in the conflict unless you agree. Additionally, statements made in mediation cannot be used as admissions of fault or guilt in the court process later if the parties are unable to reach an agreement during mediation.

- Mediation is informal. The parties do not follow court rules for presenting evidence and testimony of witnesses. Mediation is a conversational process. A mediator reviews documents and talks with each party to understand that party's side of the conflict and how the parties can resolve their conflict.
- Mediation allows parties to control the outcome of their dispute. Parties in a mediation decide for themselves how their conflict is resolved and what their agreement says. If the issues are not resolved in mediation, a court decides the outcome of the case for you.
- Mediation is readily available. Parties can decide to enter into mediation before a court case is filed. Additionally, mediation can be helpful for non-legal disputes when family members need assistance resolving conflict in their relationships and communicating with each other.

What Types of Disputes Are Appropriate for Elder or Probate Mediation?

Mediation is helpful for a broad range of disputes, including:

- Wills
- Trusts
- Conservatorships
- Guardianships
- Health care
- Respite care and support for caregivers
- End-of-life decisions
- Familial disputes
- Information sharing and communication issues

While many cases are appropriate for mediation, talk to your mediator or attorney about whether your case is suitable for mediation.

What is a Mediator's Role?

- A mediator is impartial. The mediator listens to all parties and points of view.

- A mediator effectively guides parties to discuss and resolve issues and conflicts.
- A mediator assists in communication. The mediator helps parties frame their perspective in a productive manner.
- A mediator respects confidentiality. When issues are discussed in a private session with one party, the information is not made public.
- A mediator does not impose a solution or agreement on the parties.
- A mediator does not provide legal advice.

How do I find the Mediator that's right for me and my case?

A mediator should be someone who is qualified to handle your dispute. If your conflict is a legal issue or court case, the mediator should have knowledge and experience in the specific legal issues involved in your dispute. A mediator for legal disputes can be a retired judge or an attorney. You will want to talk to potential mediators about their experience, training and continued education to maintain their skills.

A mediator should also be someone who has the experience to handle the personal dynamics of your dispute. A mediation with multiple parties will be more complicated than a mediation with only two parties.

Resources to Find a Mediator

Colorado Judicial Division

Many Colorado courts have lists of mediators in their District. The Colorado Judicial Branch Office of Dispute Resolution also has a list of mediators that meet certain qualifications.

<https://www.courts.state.co.us/Administration/Unit.cfm?Unit=odr>

Denver Bar Association Court Mediation Services

Court Mediation Services provides affordable mediation services to the community and courts.

<https://courtmediationservices.org>