

**Council of the Trust and Estate Section
of the Colorado Bar Association
Notice of and Agenda for the August 17, 2017 Meeting**

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

From: Josie M. Faix
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Notice of Meeting

The first meeting of the 2017-2018 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Thursday, August 17, 2017, 3:00 p.m.****
Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, Colorado 80203

* or as close as possible to 15 minutes after the end of the Statutory Revisions Committee meeting, if that meeting runs past 3:00 p.m.

Call-In Instructions

Call-in instructions are as follows: 1.855.392.2520
Access Code: 2627690#

Minutes of Previous Meeting, Financial Reports & Attachments

1. Minutes of the May 18, 2017 meeting of the Council
2. Trust and Estate Section Financial Reports as of July 2017

Matters Likely to be Voted Upon

Please review the Statutory Revisions Committee website at <http://www.cobar.org/For-Members/CBA-Sections/Trust-and-Estate/Statutory-Revisions-Subcommittee-Homepage> for proposals that may be brought the Statutory Revisions Committee and Council.

Trust and Estate Section Council Agenda
August 17, 2017

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise its 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 18, 2017 meeting of the Council
2. Chair's Report and Administrative Matters (Kelly Dickson Cooper)
3. Secretary/Treasurer's report (Josie M. Faix)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section Liaison (Patrick R. Thiessen)
6. Real Estate Section Liaison (David W. Kirch)
7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)
8. Legislative Liaison (Stephen M. Brainerd)
9. Council Notes (Julia G. McVey/Josie M. Faix)
10. CLE/Estate Planning Retreat (Leia G. Ursery)
11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)
12. Rules and Forms Committee (Casey L. Williams)
13. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
14. Diversity Committee (Melissa R. Schwartz)
15. Probate Trial and Procedure Committee (Aaron Evans)
16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)
17. Green Book (David K. Johns)
18. New T&E Lawyers Committee (Mark D. Masters/John M. Estes)

19. The Colorado Lawyer (David W. Kirch/Constance D. Smith)
20. Media Liaison (Mark D. Masters)
21. Board of Governors Representative (Melissa R. Schwartz)
22. GAL Subcommittee (David W. Kirch)
23. Miscellaneous/FYI
24. Adjournment

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

Minutes of the May 18, 2017 Meeting

Council met on Thursday, May 18, 2017, at the Colorado Bar Association offices, 1900 Grant Street, Denver, Colorado. The meeting was called to order at approximately 3:30 p.m.

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

Darla L. Daniel, Chair
Kelly Dickson Cooper, Vice-Chair (phone)
Leia G. Ursery, Secretary/Treasurer
Melissa R. Schwartz, Immediate Past Chair
Josie M. Faix, Second Year Member
Patrick Thiessen, Second Year Member
Nicole Brown, First Year Member

Also in attendance were: Georgine M. Kryda (Tax Section Liaison); David W. Kirch (Real Estate Section Liaison, The Colorado Lawyer and GAL Subcommittee); Sandra Sigler (Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections); Timothy Bounds; Jeremy Schupbach (CBA); Susan Hoyt (CBA); and Elizabeth Akalin (CBA).

1. Approval of Minutes of Prior Meeting

The Minutes of the April 20, 2017 Council meeting were approved unanimously.

2. Chair's Report, Administrative Matters (Darla L. Daniel)

A new committee has been formed to review the "Mediation Best Practices Guide." Darla will ask the ADR Subcommittee from the Statutory Revisions Committee to serve as a liaison on behalf of our Section.

The Solo Small Firm Section authored a letter to Colorado Attorney Regulation Counsel about its plan to disclose the identity of an attorney's malpractice carrier on the CARC website. The website already affirms whether or not an attorney has malpractice coverage and the name of the carrier is disclosed if someone follows up with a call to CARC. The belief is that coverage by all attorneys will be encouraged if such further disclosure is made. Each Section has been asked to sign off in support of the letter, which was provided as an attachment for today's meeting materials and outlines several reasons in support of the opposition. Georgine Kryda indicated that the Tax Section offered a few revisions but otherwise voted to sign and support the letter. The CBA Executive Council will likely review the letter at its June 2017 and it would like to present a single position on behalf of the CBA. A motion to support the letter was passed unanimously.

With respect to the Estate Planning Retreat, Marc Darling and Jeremy Schupbach will be attending based on the planned special session on the proposed Colorado Trust Code. Marc will be staying one night and Jeremy will be staying two nights. A motion to reimburse Marc and Jeremy for the cost of their rooms was passed unanimously.

3. Secretary/Treasurer's Report (Leia G. Ursery)

Nothing specific to report but Leia will work with Josie Faix next year as incoming Secretary/Treasurer to ensure that we reevaluate budget adjustments based on the lower amount of reserves in the Section account.

4. Tax Section Liaison (Georgine M. Kryda)

No report.

5. Statutory Revisions Committee (Josie M. Faix/Leia G. Ursery)

This month's meeting was focused on an overview of the Uniform Trust Code Subcommittee's work on the Colorado Trust Code and the presentation seemed to go well.

6. Legislative Liaison (Stephen M. Brainerd/Jeremy Schupbach - CBA)

Jeremy reported on the following:

- HB17-1087, "Office of Public Guardianship Pilot Program," passed and is awaiting signature by the Governor.
- HB17-1213, "Transfer on Death of Vehicles," passed and was signed by the Governor on May 3, 2017.
- SB17-227, "Relocate Title 12 Attorneys-at-law," passed and was signed by the Governor on May 3, 2017.
- HB17-1303, "Judicial Performance Evaluation System and Commissions," passed and is awaiting signature by the Governor.

Overall, we had a successful legislative session this year.

7. Council Notes (Julia G. McVey/Josie M. Faix)

Josie report that they are working on the June 2017 edition. Darla is working on a piece. Melissa would like a list of next year's Diversity Committee events included and she will contact Josie and Julia with more information.

8. CLE/Estate Planning Retreat (Kelly Dickson Cooper/Vincent O'Brien)

Kelly reported that everything looks good for the Estate Planning Retreat next month. So far, 120 people have registered but there was an increase in room block reservations, which suggests more registrations will be coming. Melissa would like a ribbon or star placed on each

new attendee's name tag; this would allow us to recognize and welcome them where possible. She also wants the various Ambassadors to use the Welcome Reception as an opportunity to introduce his or her paired new lawyer to other attendees.

Leia asked that anyone with ideas for next year's CLE topics to email her as she is starting to put together a list to review with Heidi Ray.

9. Orange Book Forms Committee (Peggy K. Gardner/Elizabeth T. Meck)

Peggy reported to Darla that the Committee is continuing its work on the Marital Agreement form.

10. Rules & Forms Committee (Casey L. Williams)

Kelly, Casey, Aaron Evans and Susan Hoyt met to discuss the purpose and future of the Committee and identified three types of projects for the Committee going forward. Casey is working on a handbook to help guide future projects, including the process for approval, which they hope will improve the Committee's relationships with other Sections. Casey will work on the handbook over the summer in hopes that it will be ready for submission to Council for approval in the fall.

11. Diversity Committee (Melissa R. Schwartz)

Next year, the Committee is planning four events:

- coffee session in the spring;
- winter event at the University of Colorado;
- participant at Derby Days at the University of Denver in August; and
- sponsorship of the Elder Law Society Bingo Night at the University of Denver.

12. Elder Law Section Liaison (Patrick R. Thiessen)

There is joint committee between the Sections to review and deal with future efforts towards remote notary and electronic wills. Letty Maxfield and Herbert Tucker, among others, will be participating. Jeremy indicated that, based on our experience this year, it is very probably that remote notary will be passed legislation in the next year or two. Since the Secretary of State's Office does not know where to start its review, he believes this would be a great opportunity for us to get ahead and try to put together measures that make sense for Colorado. We can work with all the Sections and hopefully submit a single proposal to the Secretary of State's Office for consideration.

Patrick indicated that the Uniform Law Commission is working on a new "Uniform Guardianship and Protective Proceeding Act." The Section is forming a committee to review and it will start its work after the second reading of the proposed legislation.

13. Real Estate Section Liaison (David W. Kirch)

The Supplemental Affidavit form was sent to the Real Estate Section for review at its next meeting. Title companies will also need to be consulted to ensure that it will be recognized and supported for title purposes.

14. Probate Trial and Procedure Committee (Aaron Evans)

Timothy Bounds reported on Aaron's behalf.

Kelly presented on the Uniform Trust Code Subcommittee's work on the proposed Colorado Trust Code; there was much discussion about the proposed provisions on arbitration.

Marcie McMinimee reported that the new Rule 8.8 will be circulated for public comment in hopes that it will be ready for review and approval at the first of next year.

Legislative updates, as noted herein, were discussed.

Jamie Roth is seeking volunteers to review the Probate Bench Book over the summer; most work will be done virtually.

15. *Colorado Estate Planning Handbook* (David K. Johns/Constance B. Wood/Julia G. McVey)

No report.

16. *Green Book* (David K. Johns)

No report.

17. New T & E Lawyers Committee (John M. Estes/Mark D. Masters)

No report.

18. *Colorado Lawyer* (David W. Kirch/Constance D. Smith)

Bette Heller is working on an article regarding the small estate affidavit. Jessica Broderick is working on an article concerning the intersection of trust and estate issues with family law. David is working on an article concerning IRAs and trusts.

19. Media Liaison (Mark D. Masters)

No report.

20. Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections (Sandra Sigler)

Senior Law Days have been scheduled statewide between May 2017 and October 2017; the specific dates and locations will be published in the next edition of Council Notes. The handbooks have been delivered.

21. Board of Governors Representative (Melissa R. Schwartz)

The last meeting took place on May 6, 2017. Melissa reported that the meetings are becoming much more interactive and focused. A revision to the CBA By-Laws was approved; more information is available on the CBA website. Also, the new CBA logo and Colorado Lawyer design was introduced.

A “Best Practice Handbook for Sections” is in the works and will provide mandatory guidance on various administration matters, which will be very helpful to CBA staff. The major change will impact the election process. The request for nominations and the proposed slate must be published in certain months and each Section will vote on next year’s Council in May. Additionally, there will be guidelines as to how at-large Council members are chosen. While there will be some adjustments for our Section, they will not be substantial since our Section was used as one of the models for the handbook. The handbook will be presented at the Section Summit next week and they hope to publish on or about July 1, 2017.

There was also a significant discussion about micro-volunteerism as an effort to increase the CBA’s membership overall.

22. GAL Subcommittee (David W. Kirch)

The Subcommittee approved revisions to the proposed Rule 17. The Rule incorporates the Sorensen test and identifies the allowed and prohibited roles of a GAL. The Rule will be presented to the other Section for comments, revisions, additions, etc., as well as to Judicial. Upon approval by the CBA, it will be presented to the Colorado Supreme Court Civil Rules Committee.

23. Miscellaneous/FYI

Kelly and Darla will be attending the Section Summit next week. If anyone else wants to attend, they need to RSVP by May 19, 2017.

24. Adjournment

The meeting was adjourned at or about 4:20 p.m.

Respectfully submitted,
/s/ Leia G. Ursery
Leia G. Ursery

		June	YTD	Budget	Variance	%
Beginning balance	01-3160-31600		\$5,658.89		\$5,658.89	
Trust & Estate Section- General						
Revenue	01-4???-31600		27,287.50		27,287.50	
Expenses	01-5???-31600	(3,521.10)	(20,431.61)	(18,780.00)	(1,651.61)	109%
Statutory Revisions Committee						
Expenses	015???3160...		(281.15)	(300.00)	18.85	94%
CLE						
Expenses	015???3161...		(7,500.00)	(5,000.00)	(2,500.00)	150%
Council Notes						
Community & Civic Affairs						
Rules & Forms Committee						
Orange Book Forms						
Expenses	01-5???-31607		(200.00)	(500.00)	300.00	40%
Local Liaison						
Uniform Trust Code						
Admin. Chair						
Estate Planning Handbook						
Admin Council Dinner						
Revenue	01-4???-31612		1,400.00	1,500.00	(100.00)	93%
Expenses	01-5???-31612		(5,979.55)	(5,500.00)	(479.55)	109%
Legislative Liaison						
Internet Editor						
Technology Committee						
Real Estate Liaison						
Green Book						
The Colorado Lawyer						
Diversity Committee						
Expenses	01-5???-31628		(368.80)	(500.00)	131.20	74%
Judicial Liaison						
Member Vouchers						
Uniform Trust Code						
Expenses	01-5???-31625		(19.87)		(19.87)	
Transfer Deposit						
Young Lawyer Society						
Expenses	01-5???-31629		(27.24)	(500.00)	472.76	5%
Beginning Balance	01-3160-31600		5,658.89		5,658.89	
Total Revenue All Sources	01-4???-316??		28,687.50	1,500.00	27,187.50	1913%
Total Expenses All Sources	01-5???-316??	(3,521.10)	(34,788.35)	(31,080.00)	(3,708.35)	112%
Ending Balance		(3,521.10)	(441.96)	(29,580.00)	29,138.04	1%

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AGENDA

Colorado Commission on Uniform State Laws

September 22, 2017, 1:30 p.m.

Committee Room: SCR 352

1. Public comment regarding items not on the agenda
2. Acts considered at the 2017 annual Uniform Law Commission conference but not adopted this year:
 - Amendments to Uniform Commercial Code Articles 1, 3, and 9
 - Civil Remedies for Unauthorized Disclosure of Intimate Images Act
 - Criminal Records Accuracy Act
 - Fiduciary Principal and Income Act
 - Non-Parental Child Custody and Visitation Act
3. Updates on Colorado Bar Association discussions regarding:
 - a. Uniform Commercial Real Estate Receivership Act
 - b. Uniform Trust Code
 - c. Revised Uniform Residential Landlord and Tenant Act
4. Preliminary discussion items for proposed 2018 legislative agenda:
 - a. Acts newly adopted by the Uniform Law Commission
 - i. Directed Trust Act
 - ii. Guardianship, Conservatorship, and Other Protective Arrangements Act
 - iii. Protected Series Act
 - iv. Regulation of Virtual Currency Businesses Act
 - v. Uniform Parentage Act
 - vi. Model Veterans Treatment Court Act and Model Veterans Treatment Court Rules*
**Of possible interest to the Colorado Commission on Criminal and Juvenile Justice.*
 - b. Acts previously adopted by the Uniform Law Commission:
 - i. Revised Uniform Unclaimed Property Act
 - ii. Uniform Wage Garnishment Act
 - iii. 2016 amendment to RULONA regarding electronic notarization
5. Additional Commission business:
 - a. Publication of official and Colorado comments
 - b. Potential addition of a “pre-conference” meeting to CCUSL’s regular meeting schedule
 - c. Potential Statutory Revision Committee consideration of ULC-approved technical correction to the Uniform Trust Decanting Act, SB 16-085
6. Other business

- (f) Upon the Committee's own motion.

2.3. *Directing Requests to the Committee.*

- (a) Each internal request shall be made by delivery to the Executive Director.
- (b) Each external request that is received by any officer of the CBA or by any Section, Committee, or other constituent of the CBA shall be forwarded to the Executive Director.
- (c) Upon receipt of a request, the Executive Director shall forward the request to all of the members of the Committee. The Executive Director may include with the request information that the Executive Director may have obtained regarding the request or its context.

2.4. *Content of Internal Requests.* Internal requests for *amicus* briefs shall conform to the requirements set forth in § 7.

2.5. *Content of External Requests.* It is recognized that the Committee cannot control the nature or content of external requests; but the Committee may determine, in its discretion, whether the nature and content of any external request is appropriate for its consideration; and the Committee may communicate with any person with respect to an external request with a view toward clarifying, reformulating, restating, or supplementing the external request as the Committee deems appropriate for its consideration.

3. SOLICITATION OF INPUT FROM SECTIONS, COMMITTEES, AND OTHER CONSTITUENTS

3.1. *Solicitation of Input from Constituents.* At any time in its consideration of an *amicus* brief, the Committee may solicit the input of any Section, Committee, or other constituent of the CBA. At some time prior to recommending to the Executive Council that an *amicus* brief be filed, the Committee, through the Executive Director, shall inform each Section and Committee of the CBA of the possibility of such filing, providing the Sections and Committees with appropriate information about the *amicus* brief to enable them to give consideration to it, and shall solicit their input on the propriety of such filing; provided, however, that, if a determination by the Executive Council of whether to file an *amicus* brief must be made quickly, the solicitation of input from Sections and Committees may be in parallel with submission of the Committee's recommendation to the Executive Council. The Committee need not solicit input with respect to requests for *amicus* briefs that it denies.

3.2. *Solicitation of Input from Other Persons.* At any time in its consideration of an *amicus* brief, the Committee may solicit input from any other bar association, trade organization, or interest group, or from any other person.

4. APPROPRIATE CASES FOR *AMICUS* BRIEFS

4.1. *In General.* It is the general policy of the CBA to file *amicus* briefs sparingly and only when the imprimatur of the CBA or of the Section, Committee, or other constituent of the CBA on behalf of which the *amicus* brief would be filed would be of value to the advancement of the position taken by the *amicus* brief and when the filing of the *amicus* brief would not be detrimental to the interests of the CBA.

4.2. *Particular Standards.* It is the general policy of the CBA to authorize an *amicus* brief only when the brief would constitute a significant contribution to the consideration of the issue or issues to be briefed and only when the position sought to be advanced is—

- (a) Consistent with the core values and the policies and positions known to have been previously adopted or promoted by the CBA;
- (b) A matter of public interest;
- (c) A matter of interest to lawyers or the legal profession; or
- (d) A matter of interest to the lawyers participating in, or represented by, the Section, Committee, or other constituent of the CBA on behalf of which the *amicus* brief is to be filed.

4.3. *Restatements of Party Arguments; Factual Issues.* An *amicus* brief should add perspective and depth to its subject and not merely restate arguments advanced by participating parties. Factual issues are not to be argued in an *amicus* brief, although the brief may take into account the existence of factual issues.

4.4. *Discussion of CBA Values, Policies, or Positions.* As appropriate, the *amicus* brief may cite and discuss prior adoption or promotion by the CBA of core values or policies or positions applicable to the subject of the *amicus* brief.

4.5. *Consideration of Appropriate Level for Briefing.*

(a) *Amicus* briefs may be filed in any court, including a trial court, but the Committee shall take care to direct each brief to the level of court at which it is likely to have maximum effect in establishing the position that is to be advanced by the *amicus* brief; ordinarily it is to be expected that such maximum effect would be attained at the highest level of court at which the issue is to be finally determined.

(b) *Amicus* briefs may be filed urging the court to grant certiorari or to note probable jurisdiction.

5. MATTERS INVOLVING CONFLICT AMONG SECTIONS, COMMITTEES, OR OTHER CONSTITUENTS

The Committee may recommend the filing of two or more opposing *amicus* briefs on behalf of Sections, Committees, or other constituents of the CBA when (a) the subject is not of general interest to the CBA but is of interest to those constituents; (b) those constituents have opposing positions about the subject; (c) the filing of opposing *amicus* briefs will enhance the development of the issues and will assist the court in which the briefs are to be filed in understanding and resolving the issues; and (d) the filing of opposing briefs will not be detrimental to the interests of the CBA. It is likely that such filings will rarely be recommended by the Committee or approved by the Executive Council.

6. RECOMMENDATION FOR, OR DENIAL OF, BRIEFING

6.1. *Committee Recommendation for Briefing.* If the Committee determines that an *amicus* brief should be filed on behalf of the CBA or any of its Sections, Committees, or other constituents, the Committee shall prepare a writing making such recommendation and shall deliver the writing to the Executive Director. The Executive Director shall put the recommendation before the

Executive Council in the appropriate manner for its timely approval or disapproval. The Committee may request the opportunity to make a presentation to the Executive Council regarding its recommendation, and the Committee shall participate in the Executive Council's consideration of the recommendation as the Executive Council may direct.

6.2. *Consideration by the Board of Governors.* Pursuant to the Bylaws, consideration of whether the CBA or any of its Sections, Committees, or other Constituents should file an *amicus* brief may be referred to the Board of Governors. In the event of such a referral, the Committee may request the opportunity to make a presentation to the Board of Governors regarding its recommendation, and the Committee shall participate in the consideration of the request by the Board of Governors as the Executive Council or the Board of Governors may direct.

6.3. *Committee Denial of Briefing.* If the Committee determines that a request for an *amicus* brief should not be filed on behalf of the CBA or any of its Sections, Committees, or other constituents, that denial need not be submitted to the Executive Council for approval or disapproval. If the Chair deems it appropriate, the Chair may communicate the fact of the denial, with such explanation as the Chair may choose to provide, to any person or persons associated with the request.

6.4. *Reports of Denials of Briefing.* The Committee shall report upon its denial of requests for *amicus* briefs in its annual reports to the Executive Director made pursuant to § 1.3(e).

7. CONTENT OF INTERNAL REQUESTS FOR *AMICUS* BRIEFS

7.1. *Requests in Writing, Including by Electronic Means.* Each internal request shall be in writing, which may be in hardcopy or electronic form. Each internal request that is made in electronic form shall be delivered to the Executive Director by email or by such other means as the Executive Director may permit. Internal requests that are in electronic form shall be in files that are in "portable document format." To the extent feasible, the content of such files shall be text-searchable.

7.2. *Content of Internal Request.* Each internal request for an *amicus* brief shall contain the following items, as appropriate:

- (a) The identities of all of the parties to the controversy;
- (b) A full statement of the relevant facts of the controversy or instruction directing the Committee to the places within the submitted materials where a statement or statements of those facts can be found;
- (c) A statement of the position or positions the *amicus* brief will support;
- (d) An outline of the argument or arguments to be made in the *amicus* brief, or a draft of the brief;
- (e) If the *amicus* brief would further one or more core values or policies or positions known to have been previously adopted or promoted by the CBA, a statement identifying those values, policies, or positions, citing to known, prior expressions thereof by or on behalf of the CBA, and indicating how the brief would further them;
- (f) If the *amicus* brief would further a value, policy, or principle of law which is not known to have been previously adopted or promoted by the CBA, a statement of that value, policy, or principle of law and of reasons why it should be adopted or promoted by the CBA;

WADE ASH

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July 18, 2017

Aaron L. Evans Esq.
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Re: Amicus Brief - Brookoff Case

Dear Aaron:

I have been contacted by Kyle Brenton, who is an attorney at Davis Graham, and Jeffrey Ruebel, who is Chair of the Amicus Committee, to approach Council regarding the Probate and Trust Section preparing its own Amicus Brief or joining with the Amicus Committee related the Brookoff case (see attached). The Colorado Supreme Court has granted cert. This is the case involving a medical malpractice claim whereby the Trial Court applied the Dead Man's statute to prohibit testimony from Plaintiff regarding conversations with Dr. Brookoff who was deceased. However, the Court of Appeals reversed the Trial Court's application of the Dead Man's statute and recognized an "insurance" exception to the Dead Man's Statute.

Jeffrey Ruebel advised me that the Amicus Committee had already agreed to submit a brief recognizing that the Colorado Court of Appeals' ruling might have broad public policy ramifications and create an "Insurance" exception to the application of the Dead Man's Statute that the legislature never intended.

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I advised Kyle and Jeff that I would reach out to the Trial and Procedure Sub-Committee and Council to see if there was any interest in participation from our Section. I would like to put this on the agenda for the Probate Trial and Procedure Committee for our August meeting and get a vote as to whether the Trust and Estate Section should either file their own Amicus Brief or join in the Amicus Committee's Brief.

Below is a brief summary of the case:

Dr. Brookoff died in 2011. The Plaintiff, Alexander Clark, brought two claims against Dr. Brookoff's estate; first claim – medical negligence, second – failure of Dr. Brookoff to obtain Clark's informed consent. The Trial Court granted the Motion in Limine filed by the Defendant Brookoff. The Motion stated:

“Dr. Brookoff, whose estate is the party defendant in this matter, died in 2011. Alexander Clark and his family should be precluded from testifying at trial regarding conversations they had with Dr. Brookoff. Alexander Clark and his family have direct and indirect financial incentive in this litigation and the outcome in this litigation, such that any testimony by them, standing alone regarding alleged conversations with the now deceased Dr. Brookoff, should be considered untrustworthy and biased. Accordingly, pursuant to C.R.S. § 13-90-102, any such testimony should be barred.”

As a result of the Trial Court's ruling on the Defendant's Motion in Limine, the Plaintiff Clark filed her own Motion in Limine seeking to exclude from trial any notations in Dr. Brookoff's medical records concerning informed consent discussions. The Plaintiff also argued, citing *Estate of Crenshaw*, 100 P.3d 568, 569 (Colo.App. 2004), that there is an insurance exception to the Dead Man's Statute relying on pre-2002 case law which provided that where an estate cannot be diminished, the Dead Man's Statute has no applicability. Thus, because Dr. Brookoff had professional liability insurance, his estate would not be diminished by the Plaintiff's claim and, therefore, the Dead Man's Statute did not apply.

The Colorado Court of Appeals agreed with the Plaintiff and reversed the Trial Court. The issue before the Colorado Court of Appeals was whether the Trial Court erred in applying the Dead Man's Statute to bar Clark and his family's testimony regarding their conversations with Dr. Brookoff regarding the lack of informed consent for treatment.

The Supreme Court granted Certiorari. The question before the Supreme Court is whether in a medical malpractice case against the deceased physician, where the physician has professional

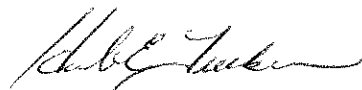
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liability coverage which would presumably pay any verdict in favor of the Plaintiff, the Dead Man Statute would not apply. One must assume this exception might be applied to a deceased estate planning attorney or other professionals with professional liability policies.

Thanks.

Yours truly,



Herbert E. Tucker

HET:jla

cc:

Darla Daniels

Kelly Cooper

Leia Ursery

Melissa Schwartz

Josie Faix

Steve Brainerd

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14CA1131 Clark v Estate of Brookoff 04-07-2016

COLORADO COURT OF APPEALS

Court of Appeals No. 14CA1131
City and County of Denver District Court No. 11CV3987
Honorable R. Michael Mullins, Judge

Alexander Clark,

Plaintiff-Appellant,

v.

Estate of Daniel Brookoff, M.D.,

Defendant-Appellee.

JUDGMENT REVERSED AND CASE
REMANDED WITH DIRECTIONS

Division V
Opinion by JUDGE BERNARD
Furman and Plank*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)
Announced April 7, 2016

Avery Law Firm, James W. Avery, Denver, Colorado, for Plaintiff-Appellant

Davis Graham & Stubbs, LLP, Shannon Wells Stevenson, Anna-Liisa Mullis,
Denver, Colorado, for Defendant-Appellee

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S. 2015.

Plaintiff, Alexander Clark (the patient), appeals the trial court's judgment entered on a jury verdict in favor of defendant, the Estate of Daniel Brookoff, M.D. (the estate). We reverse, and we remand the case for a new trial.

I. Background

Daniel Brookoff (the doctor) treated the patient for chronic pain. The patient claimed that the doctor had negligently prescribed the drug ketamine for him in large doses for an extended period of time. He alleged that the ketamine had disabled him because it had caused neurological and urological damage.

The doctor died before the patient filed his complaint. The patient, who was a minor when the doctor began treating him, asked the court to allow his mother to testify that the doctor had not adequately informed them of the risks associated with ketamine use. The trial court excluded the mother's testimony under the dead man's statute, section 13-90-102, C.R.S. 2015.

II. Analysis

A. The Dead Man's Statute Does Not Apply

The patient contends that the trial court erred when it applied section 13-90-102 to exclude his mother's testimony about her

discussion with the doctor. He asserts that the dead man's statute does not apply because the doctor's malpractice insurance is adequate to pay any judgment against the estate. We agree.

The court's decision that the dead man's statute barred the mother's testimony raises a legal issue that we review de novo. *In re Estate of Crenshaw*, 100 P.3d 568, 569 (Colo. App. 2004).

1. Preliminary Issues

As an initial matter, we reject the estate's contention that the patient did not preserve this issue for appellate review. The estate contends that the patient did not make a sufficient offer of proof describing the mother's proposed testimony. But we do not require parties to use "talismanic language" to preserve arguments for appeal; rather, parties must give the trial court an adequate opportunity to make findings of fact and conclusions of law. *People v. Melendez*, 102 P.3d 315, 322 (Colo. 2004).

In this case, the substance of the mother's testimony was sufficiently described by the parties' arguments. So the patient preserved this issue for appeal. CRE 103. And the patient did not have to make an offer of proof because the trial court had made it clear that it would not admit the mother's testimony without regard

to its specific content. *See People v. Jones*, 907 P.2d 667, 669 (Colo. App. 1995).

We likewise reject the estate's assertion that any error is harmless because the patient did not raise the issue of informed consent at trial. The trial court's ruling excluded evidence that was essential to establish the patient's claim that his mother's consent to the doctor's recommendation that her son be given ketamine was not informed. Without that evidence, the patient had no basis to submit the issue to the jury.

2. The Dead Man's Statute

The dead man's statute generally bars testimony from a party or from a person in interest with a party about oral statements that were made by a person who is no longer capable of testifying. § 13-90-102. But "[t]he dead man's statute has been construed as providing protection for the benefit of an estate; consequently, where the result of a proceeding can neither increase nor diminish the estate, the statute is inapplicable." *Crenshaw*, 100 P.3d at 570; *see also Nat'l State Bank of Boulder, Colo. v. Brayman*, 30 Colo. App. 554, 559, 497 P.2d 710, 713 (1972), *rev'd on other grounds sub nom. Brayman v. Nat'l State Bank of Boulder*, 180 Colo. 304,

505 P.2d 11 (1973); *cf. In re Estate of Abbott*, 39 Colo. App. 536, 539, 571 P.2d 311, 313 (1977)(dead man's statute barred petitioner from testifying to establish her common law marriage to decedent because judgment granting petition would adversely affect the interest of distributees under decedent's will).

The estate contends that decisions such as *Crenshaw* no longer apply. It asserts that the legislature amended the dead man's statute in 2002 to remove the language on which *Crenshaw* relied for the proposition that the statute does not apply if the result of the case will not increase or diminish an estate. We disagree with the estate's assertion for the following eight reasons.

First, we describe what the legislature did. Before 2002, the statute stated, as is pertinent here, that "[n]o party . . . shall be allowed to testify therein of such person's own motion or in such person's own behalf . . . when any adverse party . . . defends as . . . the executor . . . of any deceased person[.]" Ch. 178, sec. 19, § 13-90-102(1), 1994 Colo. Sess. Laws 1040. The legislature removed this language in 2002. Ch. 13, sec. 1, § 13-90-102, 2002 Colo. Sess. Laws 31-32.

But, second, the 2002 amendments did not change the underlying focus of the dead man's statute. It still concerns "person[s]" who are "incapable of testifying," which includes "any *decedent[s]*." § 13-90-102(3)(b) (emphasis added).

Third, the language that the legislature removed had no relationship to the statute's purpose that is relevant here, which is to protect estates. (Assuming, for the purposes of argument, that the legislature decided to change the purposes for the dead man's statute in 2002, there is no indication in the language of the change that the legislature rejected protecting estates as one of those purposes.)

Fourth, the purpose of protecting estates is, as *Crenshaw* pointed out, a product of judicial construction. *Crenshaw*, 100 P.3d at 570. This construction goes back to at least 1930 in Colorado. *Klein v. Munz*, 87 Colo. 223, 225, 286 P. 112, 113 (1930). (And, as two commentators pointed out in 2013, Colorado has had a dead man's statute since 1870. Herb E. Tucker & Marc Darling, *The 2013 Revised Colorado Dead Man's Statute*, 42 Colo. Law. 45, 47 (Sept. 2013).)

exceptions made the statute difficult to interpret and apply and resulted in more than eighty reported decisions construing it.” *Id.*

A commentator listed other criticisms in 2000. Herbert E. Tucker, *Colorado Dead Man’s Statute: Time for Repeal or Reform?*, 29 Colo. Law. 45, 46-48 (Jan. 2000). *None* of those criticisms had anything to do with the goal of protecting estates.

Seventh, the legislature rejected an effort in 1999 to repeal the dead man’s statute, “recognizing, as a matter of public policy, the need for the statute to reduce the risks of false claims against decedents . . . at trial.” Tucker, Swank & Hill, 32 Colo. Law. at 56.

Eighth, decisions from other states hold that their dead man’s statutes do not bar a witness’s testimony if the case would not increase or diminish an estate. *Kemp v. Kroutter*, 531 So. 2d 854, 856 (Ala. 1988)(Dead man’s statute did not apply in case that “would not serve to increase or diminish the estate of [decedent].”); *In re Estate of Holt*, 870 N.E.2d 511, 516 (Ind. Ct. App. 2007)(dead man’s statute did not bar testimony of witness when the case would not diminish the estate’s assets); *Reddy v. Mody*, 388 A.2d 555, 559 (Md. Ct. Spec. App. 1978)(“The testimony meant to be excluded by [the dead man’s statute] is only testimony of a party to a cause

which would tend to increase or diminish the estate of the decedent”); *Baker v. Baker*, 142 S.W.2d 737, 744 (Tenn. Ct. App. 1940)(“[W]e think it a reasonable view that the [dead man’s] statute does not contemplate a proceeding, the result of which can neither increase nor diminish the assets of the estate but concerns only the manner in which the assets will be distributed.”).

Turning to this case, the doctor carried two professional liability insurance policies with combined coverage of \$15 million per occurrence. This figure greatly exceeded the amount of damages that the patient claimed. The doctor’s estate would therefore not have been diminished if the patient obtained a judgment in his favor. *See Crenshaw*, 100 P.3d at 570.

And the estate had no interest in, or entitlement to, the insurance proceeds. Rather, only a successful malpractice claimant could receive funds under the doctor’s liability insurance policies. So the result of the proceeding could not affect the interest of any of the estate’s beneficiaries. *See Abbott*, 39 Colo. App. at 539, 571 P.2d at 313.

We therefore conclude that the dead man's statute did not bar the mother's testimony in this case. The trial court therefore erred when it relied on the dead man's statute to exclude her testimony.

Based on our disposition of this issue, we need not address the patient's remaining substantive contentions.

B. Attorney Fees on Appeal

The patient asks us to award him appellate attorney fees under section 13-17-102(2), C.R.S. 2015. Although we have resolved the appeal in his favor, we conclude that the estate's arguments did not lack substantial justification. We therefore decline his request.

The judgment is reversed, and the case is remanded for a new trial.

JUDGE FURMAN and JUDGE PLANK concur.

Rule 260. Mandatory Continuing Legal and Judicial Education

Preamble: Statement of Purpose

As society becomes more complex, the delivery of legal services likewise becomes more complex. The public rightly expects that ~~practicing attorneys~~ lawyers, in their practice of law, and judges, in the performance of their duties, will continue their ~~legal and judicial education professional development~~ throughout ~~the period of their service to society~~ their legal careers. ~~It is the purpose of these rules to make mandatory a minimum amount of continuing legal and judicial education requirements for practicing attorneys and judges in order to foster and is to promote and sustain competence and professionalism and to remain current on the law, law practice management and technology in our rapidly changing society. in the practice of law and the administration of justice.~~

Rule 260.1. Definitions

- (1) The “~~Board~~Committee” is the ~~Board of~~ Colorado Supreme Court’s Continuing Legal and Judicial Education Committee.
- (2) “Continuing legal education” is any legal, judicial or other educational activity ~~accredited by the Board, that meets the criteria of the Rules and Regulations Governing Mandatory Continuing Legal and Judicial Education and, therefore, satisfies the requirements of C.R.C.P. 250.2.~~
- (3) ~~An attorney in “inactive status” is one who has elected such status pursuant to Rule 227A.~~ Repealed.
- (4) “Registered ~~attorney~~lawyer” is an ~~attorney~~ lawyer who has paid the registration fee required by ~~Rule C.R.C.P. 227A~~ for the current year and who is not on inactive status, or suspended, ~~disbarred, or placed on disability~~ inactive status by the Colorado Supreme Court ~~from the practice of law.~~
- (5) “Judge” is a ~~judge~~ judicial officer who is subject to the jurisdiction of the Commission on Judicial ~~Qualifications~~ Discipline or the Denver County Court Judicial ~~Qualifications~~ Discipline Commission.
- (6) “These rules” refer to rules numbered 260.1 through 260.~~7~~8 of the Rules of Civil Procedure.
- (7) A “unit” of continuing legal education is a measurement factor combining time and quality assigned by the Board to all or part of a particular continuing legal educational activity.

Rule 260.2. CLE Requirements

- (1) Every registered attorney and every judge shall complete 45 units of continuing legal education during each applicable three-year compliance period as provided in these rules and C.R.C.P 250.

(2) At least 7 of the 45 units will be devoted to continuing legal education specifically addressed to legal or judicial ethics. This requirement shall be effective for all ~~three-year~~ compliance periods beginning on or after January 1, ~~1992~~, 2017 but before January 1, 2019. All registered attorneys and judges admitted on or after January 1, 2019, and all registered attorneys and judges whose compliance periods begin on or after January 1, 2019, are subject to the minimal continuing legal education requirements set forth in C.R.C.P. 250.

(3) All registered attorneys admitted after January 1, 1979, shall become subject to the minimal educational requirements set forth in these rules and C.R.C.P. 250 on the date of their initial admission to the bar of the State of Colorado. Their first compliance period shall begin on that date and end on December 31 of the third full calendar year following the year of admission.

(4) This subsection 4 is repealed and replaced by C.R.C.P. 203.2(6), 203.3(4), and 203.4(6).

(5) ~~Upon being reinstated pursuant to Paragraphs (3) or (8) of Rule 227A, any registered attorney who has been suspended under Paragraph (2) of Rule 227A, shall become subject to the minimum educational requirements set forth in these rules on the date of reinstatement. The first compliance period shall begin on that date and end on December 31 of the third full calendar year following the year of reinstatement, provided the date of reinstatement is more than one year after the date of suspension or transfer to inactive status. Otherwise, the compliance period shall be the same as it would have been absent the suspension or transfer. This subsection 5 is repealed and replaced by C.R.C.P. 250.2(4) and 250.8(9).~~

(6) ~~Units of continuing legal education completed after the adoption of this rule by the Supreme Court and prior to January 1, 1979, may be used to meet the minimum educational requirement for the first applicable compliance period.~~ Units of continuing legal education completed in excess of the required units of continuing legal education in any applicable compliance period may not be used to meet the minimum educational requirements in any succeeding compliance period.

Rule 260.3. Board of Continuing Legal and Judicial Education

(1) ~~There is established a Board of Continuing Legal and Judicial Education which shall consist of nine members appointed by the Supreme Court. Six of the members shall be registered attorneys, at least one of whom shall also be a judge, and three of the members shall be nonattorneys. At least one of the registered attorneys shall be under the age of 35 when he or she is appointed. Members shall serve three-year terms; except that of the members initially appointed, three shall serve for one year, three shall serve for two years, and three shall serve for three years. The Supreme Court shall appoint one of the members to serve as chairperson at its pleasure. In the event of a vacancy, a successor shall be appointed for the unexpired term of the member whose office is vacated. Membership on the Board may be terminated as to any member by the Supreme Court at its pleasure. The members shall be entitled to reimbursement for reasonable travel, lodging and other expenses incurred in the performance of official duties. This subsection 1 is repealed and replaced by C.R.C.P. 250.3(2).~~

~~(2) The Board shall employ an Executive Director and such other staff as may be necessary to assist it in performing its functions and shall pay all expenses reasonably and necessarily incurred by it under a budget approved by the Supreme Court.~~ Repealed.

~~(3) The Board shall administer the program of mandatory continuing legal education established by these rules. It may formulate rules and regulations and prepare forms not inconsistent with these rules pertaining to its functions and modify or amend the same from time to time. All such rules, regulations and forms and any modifications or amendments thereto shall be submitted to the Supreme Court and shall be made known to all registered attorneys and judges. Those rules, regulations and forms shall automatically become effective on the 28th day following submission unless they shall be suspended by the Supreme Court prior to that date.~~ This subsection 3 is repealed and replaced by C.R.C.P. 250.3(2) and 250.4.

Rule 260.4. Accreditation

~~(1) Continuing legal education must be educational activity which has as its primary objective the increase of professional competence of registered attorneys and judges. The activity must be an organized activity dealing with subject matter directly related to the practice of law or the performance of judicial duties. The Board shall accredit a broad variety of educational activities which meet these requirements.~~ This subsection 1 is repealed and replaced by C.R.C.P. 250.6(1).

~~(2) Formal classroom instruction or educational seminars which meet the requirements of Paragraph (1) above lend themselves very well to the fulfillment of the educational requirement imposed by these rules and will be readily accredited by the Board. However, it is not intended that compliance with these rules will impose any undue hardship upon any registered attorney or judge by virtue of the fact that he or she may find it difficult because of age or other reasons to attend such activities. Consequently, in addition to accrediting classroom activities and seminars at centralized locations, the Board shall attempt to promote and accredit such educational activities as video tape and audio tape presentations; preparation of articles, papers, books and other such written materials; self-administered courses and testing; and other meritorious learning experiences. The Board shall to the extent possible make all educational activities reasonably available throughout Colorado. In case of incapacity because of poor health, the Board may defer the requirements set forth in these rules for individual attorneys. Deferral does not constitute a waiver.~~ This subsection 2 is repealed and replaced by C.R.C.P. 250.6(2) and 250.7(2).

~~(3) The educational activity required by these rules will be in addition to teaching on a regular basis in which particular registered attorneys or judges may engage. Pursuant to paragraph (6) below, the Board will determine whether a registered attorney's or judge's teaching qualifies for accreditation.~~ This subsection 3 is repealed and replaced by C.R.C.P. 250.6(4).

~~(4) The Board shall assign an appropriate number of units of credit to each educational activity it shall accredit. Generally, a unit of credit shall be the equivalent of attending 50 minutes of a formal classroom lecture with accompanying textual material.~~ This subsection 4 is repealed and replaced by C.R.C.P. 250.6(5).

~~(5) The Board may accredit as a sponsoring agency any organization which offers continuing legal education activities. All of the activities sponsored by such agency which conform to the requirements of these rules and such additional rules and regulations as the Board may adopt from time to time shall be accredited. Accreditation extended by the Board to any sponsoring agency shall be reviewed by the Board at least annually. This subsection 5 is repealed and replaced by C.R.C.P. 250.6(6).~~

~~(6) The Board shall develop criteria for the accreditation of individual educational activities and shall in appropriate cases accredit qualifying activities of such nature. Although such accreditation will generally be given before the occurrence of the educational activity, the Board may in appropriate cases extend accreditation to qualified activities which have already occurred. This subsection 6 is repealed and replaced by C.R.C.P. 250.6(2) – (3) and 250.3(2)(c).~~

~~(7) The Board shall make available a list of all educational activities accredited by it, together with the units of credit assigned to each activity, which may be undertaken by registered attorneys or judges. This subsection 7 is repealed and replaced by C.R.C.P. 250.6(7).~~

~~(8) In furtherance of the purposes and objectives of this Rule to promote competence and professionalism in the practice of law and the administration of justice, the Board shall consider, in accrediting programs and educational activities, the contribution the program will make to the competent and professional practice of law by lawyers in this state or to the competent and professional administration of justice. To this end, the Board may review course content, presentation, advertising, and promotion to ascertain that the highest standards of competence and professionalism are being promoted. The Board may withhold accreditation for any program that does not meet these standards, or the contents or promotion of which would be scandalous or unprofessional. This subsection 8 is repealed and replaced by C.R.C.P. 250.6(2).~~

Rule 260.5. Exemptions

~~Any registered attorney shall be exempt from the minimum educational requirements set forth in these rules for the years following the year of the attorney's 65th birthday. Repealed and replaced by C.R.C.P. 260.7.~~

Rule 260.6. Compliance

~~(1) The mandatory continuing legal educational requirement imposed by these rules shall take effect on January 1, 1979. To aid administrative implementation of the requirement, the Board shall divide all registered attorneys into three groups of approximately equal numbers. The first group shall be required to complete 15 units of continuing legal education during the first year, and thereafter all registered attorneys in the first group shall complete 45 units of continuing legal education during each subsequent three year compliance period. The second group shall be required to complete 30 units of continuing legal education during the first two years, and thereafter all registered attorneys in the second group shall complete 45 units of continuing legal education during each subsequent three year compliance period. The third group shall be required to complete 45 units of continuing legal education during the first three years, and thereafter all registered attorneys and judges in the third group shall complete 45 units of~~

~~continuing legal education during each subsequent three-year compliance period. All registered attorneys admitted to the bar within the two calendar years preceding January 1, 1979 and all judges shall be placed in the third group. Repealed.~~

~~(2) Commencing with the date set forth in Paragraph (1) above, the Board shall send to each registered attorney and judge an Affidavit for the reporting of compliance with these rules. It shall be in such form as will allow the reporting of progress towards fulfilling the units required during each applicable compliance period, as such units are earned. This subsection 2 is repealed and replaced by C.R.C.P. 250.8(1) and (2).~~

~~(3) At the time of payment of the registration fee required by Rule 227A or Rule 227B, each registered attorney and each judge shall submit an Affidavit showing the units of continuing legal education completed since the date such registered attorney or judge became subject to these rules or the date an Affidavit was last filed, whichever shall be later. This subsection 3 is repealed and replaced by C.R.C.P. 250.8(1) and (2).~~

~~(4) No later than January 31st following the end of each applicable compliance period, each registered attorney and each judge shall submit a final Affidavit showing the total units of continuing legal education completed during such period, if the Board's records do not show that the attorney or judge has completed the requirements for that compliance period. This subsection 4 is repealed and replaced by C.R.C.P. 250.8(2).~~

~~(5) In the event a registered attorney or judge shall fail to complete the required units at the end of each applicable compliance period, the final Affidavit may be accompanied by a specific plan for making up the deficiency of units necessary within 119 days (17 weeks) after the date of final Affidavit. When filed, the plan shall be accompanied by a make-up plan filing fee, the amount of which shall be determined by the Board annually and which shall be used to cover the costs of processing the plan. Such plan shall be deemed accepted by the Board unless within 14 days after the receipt of such final affidavit the Board notifies the affiant to the contrary. Full completion of the affiant's plan shall be reported by Affidavit to the Board not later than 14 days following such 119-day period. Failure of the affiant to complete the plan within such 119-day period shall invoke the sanctions set forth in Paragraph (6).~~

~~(a) Section 5 does not apply to the required course on professionalism mandated by C.R.C.P. 203.2(6), 203.3(4), and 203.4(6).~~

This subsection 5 is repealed and replaced by C.R.C.P. 250.8(3) and (4).

~~(6) In the event that any registered attorney or judge shall fail to comply with these rules or Rules 203.2(6), 203.3(4), or 203.4(6) in any respect, the Board shall promptly notify such registered attorney or judge of the nature of the noncompliance by a statement of noncompliance. The statement shall advise the registered attorney or judge that within 14 days either the noncompliance must be corrected or a request for a hearing before the Board must be made, and that upon failure to do either, the statement of noncompliance shall be filed with the Supreme Court. This subsection 6 is repealed and replaced by C.R.C.P. 250.8(4).~~

~~(7) If the noncompliance is not corrected within 14 days, or if a hearing is not requested within 14 days, the Board shall promptly forward the statement of noncompliance to the Supreme Court which may impose the sanctions set forth in Paragraph (10). This subsection 7 is repealed and replaced by C.R.C.P. 250.8(5).~~

~~(8) If a hearing before the Board is requested, such hearing shall be held within 35 days after the request by the full Board or one or more of the members of the Board as it shall designate, provided that the presiding member at the hearing must be a registered attorney or judge. Notice of the time and place of the hearing shall be given to the registered attorney or judge at least 14 days prior thereto. The registered attorney or judge may be represented by counsel. Witnesses shall be sworn; and, if requested by the registered attorney or judge, a complete electronic record shall be made of all proceedings had and testimony taken. The presiding member shall have authority to rule on all motions, objections and other matters presented in connection with the hearing. The hearing shall be conducted in conformity with the Colorado Rules of Civil Procedure, and the practice in the trial of civil cases, except the registered attorney or judge involved may not be required to testify over his or her objection. The chairman of the Board shall have the power to compel, by subpoena issued out of the Supreme Court, the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in the hearing. This subsection 8 is repealed and replaced by C.R.C.P. 250.8(6).~~

~~(9) At the conclusion of the hearing, the member or members of the Board who conducted the hearing shall make findings of fact and shall determine whether the registered attorney or judge involved has complied with the requirements of these rules and, if it determines there was noncompliance, whether there was reasonable cause for noncompliance. A copy of such findings and determination shall be sent to the registered attorney or judge involved. If it is determined that compliance has occurred, the matter shall be dismissed; and the Board's records shall be made to reflect such compliance. If it is determined that compliance has not occurred, the Board shall proceed as follows:~~

~~(a) If the Board determines that there was reasonable cause for noncompliance, the registered attorney or judge shall be allowed 14 days within which to file with the Board a specific plan for correcting the noncompliance within 119 days (17 weeks). Such plan shall be deemed accepted by the Board unless within 14 days after its receipt the Board notifies the registered attorney or judge to the contrary. Full completion of the plan shall be reported by Affidavit to the Board not later than 14 days following such 119 day period. If the registered attorney or judge shall fail to file an acceptable plan, or shall fail to complete and certify completion of the plan within such 119 day period, the Board shall proceed as set forth in Paragraph (b) as though it had determined that there was not reasonable cause for noncompliance.~~

~~(b) If the Board determines that there was not reasonable cause for noncompliance, a record of the matter, which must include a copy of the findings and determination, shall be promptly filed with the Supreme Court. If requested by the Board, registered attorney or judge, the record shall include a transcript of the hearing prepared at the expense of the requesting party. This subsection 9 is repealed and replaced by C.R.C.P. 250.8(7) and (8).~~

~~(10) Upon receipt of a statement of noncompliance upon which a hearing was not requested or upon receipt of the record of a Board hearing, the Supreme Court shall enter such order as it shall deem appropriate, which may include an order of summary suspension from the practice of law until the further order of the Court in the case of registered attorneys or referral of the matter to the Commission on Judicial Qualifications or the Denver County Court Judicial Qualifications Commission in the case of judges. This subsection 10 is repealed and replaced by C.R.C.P. 250.8(8).~~

~~(11) Any registered attorney who has been suspended pursuant to Paragraph (2) of Rule 227A, or who has elected to transfer to inactive status pursuant to Paragraph (7) of Rule 227A, shall be relieved thereby from the requirements of these rules. Upon being reinstated pursuant to Paragraphs (3) or (7) of Rule 227A, the compliance period for such registered attorney shall commence on the date of reinstatement and end on December 31 of the third full calendar year following the year of reinstatement, provided the date of reinstatement is more than one year after the date of suspension or transfer to inactive status, or such lesser period as the Board may determine. Otherwise, the compliance period shall be the same as it would have been absent the suspension or transfer. No registered attorney or judge shall be permitted to transfer from active status to inactive status and vice versa or to become suspended and then reinstated to circumvent the requirements of these rules. This subsection 11 is repealed and replaced by C.R.C.P. 250.8(9).~~

~~(12) All notices given pursuant to these rules shall be sent by certified mail, return receipt requested, to the registered address of the registered attorney or judge maintained by the Clerk of the Supreme Court pursuant to Rule 227A or Rule 227B. This subsection 12 is repealed and replaced by C.R.C.P. 250.8(6).~~

~~(13) Any attorney who has been suspended for noncompliance pursuant to Rule 260.6(10) may be reinstated by order of the Court upon a showing that the attorney's current continuing legal education deficiency has been made up. The attorney shall file with the Board three (3) copies of a petition seeking reinstatement, addressed to the Supreme Court. The petition shall state with particularity the accredited programs of continuing legal education which the attorney has already completed, including dates of their completion, by which activity the attorney earned sufficient units of credit to make up the deficiency which was the cause of the attorney's suspension. The petition shall be accompanied by a reinstatement filing fee, the amount of which shall be determined by the Board annually and which shall be used to cover the costs associated with noncompliance. The Board shall file a properly completed petition, accompanied by the Board's recommendation, with the Clerk of the Supreme Court within 14 days after receipt. This subsection 13 is repealed and replaced by C.R.C.P. 250.8(11).~~

Rule 260.7. Confidentiality

~~The files, records and proceedings of the Board, as they relate to the compliance or noncompliance of any registered attorney or judge with the requirements of these rules, shall be confidential and shall not be disclosed except upon written request or consent of the registered attorney or judge affected or as directed by the Supreme Court. This rule is repealed and replaced by C.R.C.P. 250.9.~~

Rule 260.8. Direct Representation and Mentoring in Pro Bono Civil Legal Matters

~~(1) A lawyer may be awarded a maximum of nine (9) units of general credit during each three-year compliance period for providing uncompensated pro bono legal representation to an indigent or near-indigent client or clients in a civil legal matter, or mentoring another lawyer or a law student providing such representation.~~

~~(2) To be eligible for units of general credit, the civil pro bono legal matter in which a lawyer provides representation must have been assigned to the lawyer by: a court; a bar association or Access to Justice Committee-sponsored program; an organized non-profit entity, such as Colorado Legal Services, Metro Volunteer Lawyers, or Colorado Lawyers Committee whose purpose is or includes the provision of pro bono representation to indigent or near-indigent persons in civil legal matters; or a law school. Prior to assigning the matter, the assigning court, program, entity, or law school shall determine that the client is financially eligible for pro bono legal representation because (a) the client qualifies for participation in programs funded by the Legal Services Corporation, or (b) the client's income and financial resources are slightly above the guidelines utilized by such programs, but the client nevertheless cannot afford counsel.~~

~~(3) Subject to the reporting and review requirements specified herein, (a) a lawyer providing uncompensated, pro bono legal representation shall receive one (1) unit of general credit for every five (5) billable equivalent hours of representation provided to the indigent client; (b) a lawyer who acts as a mentor to another lawyer as specified in this Rule shall be awarded one (1) unit of general credit per completed matter; and (c) a lawyer who acts as a mentor to a law student shall be awarded two (2) units of general credit per completed matter. A lawyer will not be eligible to receive more than nine (9) units of general credit during any three-year compliance period via any combination of pro bono representation and mentoring.~~

~~(4) A lawyer wishing to receive general credit units under this Rule shall submit to the assigning court, program, or law school a completed Form 8. As to mentoring, the lawyer shall submit Form 8 only once, when the matter is fully completed. As to pro bono representation, if the representation will be concluded during a single three-year compliance period, then the lawyer shall complete and submit Form 8 only once, when the representation is fully completed. If the representation will continue into another three-year compliance period, then the applying lawyer may submit an interim Form 8 seeking such credit as the lawyer may be eligible to receive during the three-year compliance period that is coming to an end. Upon receipt of an interim or final Form 8, the assigning court, program, entity, or law school shall in turn report to the Board the number of general CLE units that it recommends be awarded to the reporting lawyer under the provisions of this Rule. It shall recommend an award of the full number of units for which the lawyer is eligible under the provisions of this Rule, unless it determines after review that such an award is not appropriate due to the lawyer's lack of diligence or competence, in which case it shall recommend awarding less than the full number of units or no units. An outcome in the matter adverse to the client's objectives or interests shall not result in any presumption that the lawyer's representation or mentoring was not diligent or competent. The Board shall have final authority to issue or decline to issue units of credit to the lawyer providing representation or~~

mentoring, subject to the other provisions of these Rules and Regulations, including without limitation the hearing provisions of Regulation 108.

~~(5) A lawyer who acts as a mentor to another lawyer providing representation shall be available to the lawyer providing representation for information and advice on all aspects of the legal matter, but will not be required to file or otherwise enter an appearance on behalf of the indigent client in any court. Mentors shall not be members of the same firm or in association with the lawyer providing representation to the indigent client.~~

~~(6) A lawyer who acts as a mentor to a law student who is eligible to practice law under C.R.S. §§ 12-5-116 to 116.5 shall be assigned to the law student at the time of the assignment of the legal matter with the consent of the mentor, the law student, and the law school. The matter shall be assigned to the law student by a court, a program or entity as described in Rule 260.8(2), or an organized student law office program administered by his or her law school, after such court, program, entity, or student law office determines that the client is eligible for pro bono representation in accordance Rule 260.8(2). The mentor shall be available to the law student for information and advice on all aspects of the matter, and shall directly and actively supervise the law student while allowing the law student to provide representation to the client. The mentor shall file or enter an appearance along with the law student in any legal matter pursued or defended for the client in any court. Mentors may be acting as full time or adjunct professors at the law student's law school at the same time they serve as mentors, so long as it is not a primary, paid responsibility of that professor to administer the student law office and supervise its law student participants.~~

This rule is repealed and replaced by C.R.C.P. 250.10.

Rule 260. Mandatory Continuing Legal and Judicial Education

Preamble: Statement of Purpose

As society becomes more complex, the delivery of legal services likewise becomes more complex. The public rightly expects that lawyers, in their practice of law, and judges, in the performance of their duties, will continue their professional development throughout their legal careers. The purpose of mandatory continuing legal and judicial education requirements is to promote and sustain competence and professionalism and to remain current on the law, law practice management and technology in our rapidly changing society.

Rule 260.1. Definitions

- (1) The “Committee” is the Colorado Supreme Court’s Continuing Legal and Judicial Education Committee.
- (2) “Continuing legal education” is any legal, judicial or other educational activity that meets the criteria of the Rules and Regulations Governing Mandatory Continuing Legal and Judicial Education and, therefore, satisfies the requirements of C.R.C.P. 250.2.
- (3) Repealed.
- (4) “Registered lawyer” is a lawyer who has paid the registration fee required by C.R.C.P. 227 for the current year and who is not on inactive status, or suspended, disbarred, or placed on disability inactive status by the Colorado Supreme Court.
- (5) “Judge” is a judicial officer who is subject to the jurisdiction of the Commission on Judicial Discipline or the Denver County Court Judicial Discipline Commission.
- (6) “These rules” refer to rules numbered 260.1 through 260.8 of the Rules of Civil Procedure.
- (7) A “unit” of continuing legal education is a measurement factor combining time and quality assigned by the Board to all or part of a particular continuing legal educational activity.

Rule 260.2. CLE Requirements

- (1) Every registered attorney and every judge shall complete 45 units of continuing legal education during each applicable three-year compliance period as provided in these rules and C.R.C.P. 250.
- (2) At least 7 of the 45 units will be devoted to continuing legal education specifically addressed to legal or judicial ethics. This requirement shall be effective for all compliance periods beginning on or after January 1, 2017 but before January 1, 2019. All registered attorneys and judges admitted on or after January 1, 2019, and all registered attorneys and judges whose compliance periods begin on or after January 1, 2019, are subject to the minimal continuing legal education requirements set forth in C.R.C.P. 250.

(3) All registered attorneys admitted after January 1, 1979, shall become subject to the minimal educational requirements set forth in these rules and C.R.C.P. 250 on the date of their initial admission to the bar of the State of Colorado. Their first compliance period shall begin on that date and end on December 31 of the third full calendar year following the year of admission.

(4) This subsection 4 is repealed and replaced by C.R.C.P. 203.2(6), 203.3(4), and 203.4(6).

(5) This subsection 5 is repealed and replaced by C.R.C.P. 250.2(4) and 250.8(9).

(6) Units of continuing legal education completed in excess of the required units of continuing legal education in any applicable compliance period may not be used to meet the minimum educational requirements in any succeeding compliance period.

Rule 260.3. Board of Continuing Legal and Judicial Education

(1) This subsection 1 is repealed and replaced by C.R.C.P. 250.3(2).

(2) Repealed.

(3) This subsection 3 is repealed and replaced by C.R.C.P. 250.3(2) and 250.4.

Rule 260.4. Accreditation

(1) This subsection 1 is repealed and replaced by C.R.C.P. 250.6(1).

(2) This subsection 2 is repealed and replaced by C.R.C.P. 250.6(2) and 250.7(2).

(3) This subsection 3 is repealed and replaced by C.R.C.P. 250.6(4).

(4) This subsection 4 is repealed and replaced by C.R.C.P. 250.6(5).

(5) This subsection 5 is repealed and replaced by C.R.C.P. 250.6(6).

(6) This subsection 6 is repealed and replaced by C.R.C.P. 250.6(2) – (3) and 250.3(2)(c).

(7) This subsection 7 is repealed and replaced by C.R.C.P. 250.6(7).

(8) This subsection 8 is repealed and replaced by C.R.C.P. 250.6(2).

Rule 260.5. Exemptions

Repealed and replaced by C.R.C.P. 260.7.

Rule 260.6. Compliance

- (1) Repealed.
- (2) This subsection 2 is repealed and replaced by C.R.C.P. 250.8(1) and (2).
- (3) This subsection 3 is repealed and replaced by C.R.C.P. 250.8(1) and (2).
- (4) This subsection 4 is repealed and replaced by C.R.C.P. 250.8(2).
- (5) This subsection 5 is repealed and replaced by C.R.C.P. 250.8(3) and (4).
- (6) This subsection 6 is repealed and replaced by C.R.C.P. 250.8(4).
- (7) This subsection 7 is repealed and replaced by C.R.C.P. 250.8(5).
- (8) This subsection 8 is repealed and replaced by C.R.C.P. 250.8(6).
- (9) This subsection 9 is repealed and replaced by C.R.C.P. 250.8(7) and (8).
- (10) This subsection 10 is repealed and replaced by C.R.C.P. 250.8(8).
- (11) This subsection 11 is repealed and replaced by C.R.C.P. 250.8(9).
- (12) This subsection 12 is repealed and replaced by C.R.C.P. 250.8(6).
- (13) This subsection 13 is repealed and replaced by C.R.C.P. 250.8(11).

Rule 260.7. Confidentiality

This rule is repealed and replaced by C.R.C.P. 250.9.

Rule 260.8. Direct Representation and Mentoring in Pro Bono Civil Legal Matters

This rule is repealed and replaced by C.R.C.P. 250.10.

RULE 250. MANDATORY CONTINUING LEGAL AND JUDICIAL EDUCATION

- Rule 250.1 Definitions**
- Rule 250.2 CLE Requirements**
- Rule 250.3 Advisory Committee and the Continuing Legal and Judicial Education Committee**
- Rule 250.4 Attorney Regulation Counsel**
- Rule 250.5 Immunity**
- Rule 250.6 Accreditation**
- Rule 250.7 Exemptions and Deferrals**
- Rule 250.8 Compliance**
- Rule 250.9 Access to Information**
- Rule 250.10 Representation in Pro Bono Legal Matters**
- Rule 250.11 Participation in the Colorado Attorney Mentoring Program (CAMP)**

PREAMBLE: Statement of Purpose

As society becomes more complex, the delivery of legal services likewise becomes more complex. The public expects that lawyers, in their practice of law, and judges, in the performance of their duties, will continue their professional development throughout their legal careers. The purpose of mandatory continuing legal and judicial education requirements is to promote and sustain competence and professionalism and to ensure that lawyers and judges

remain current on the law, law practice management and technology in our rapidly changing society.

Rule 250.1. Definitions

(1) An “accredited” CLE activity is an educational endeavor that meets the criteria in these Rules and the Regulations Governing Mandatory Continuing Legal and Judicial Education and satisfies the requirements of C.R.C.P. 250.6.

(2) “CLE” stands for “Continuing Legal Education,” which is any legal, judicial or other educational activity that meets the criteria in these Rules and the Regulations Governing Mandatory Continuing Legal and Judicial Education and, therefore, satisfies the requirements of C.R.C.P. 250.2.

(3) A “CLE credit” or a “CLE credit hour” is a measurement unit combining time and quality assigned by the CLJE Office to all or part of a particular continuing legal educational activity. A CLE credit hour will be the equivalent of attending 50 minutes of an accredited program with accompanying textual material unless otherwise specified in these rules.

(4) “CLE transcript” means the official record maintained by the CLJE Office of a lawyer’s or judge’s CLE credit hours earned during a CLE compliance period and will be used to verify a lawyer’s or judge’s compliance with the CLE requirements.

(5) The “CLJE Committee” is the Colorado Supreme Court’s Continuing Legal and Judicial Education Committee.

(6) “Compliance period” means the three years during which a lawyer or judge is required to earn the minimum number of CLE credits.

(7) “Court” means the Colorado Supreme Court.

(8) “Judge” is a judicial officer who is subject to the jurisdiction of the Commission on Judicial Discipline or the Denver County Court Judicial Discipline Commission.

(9) “Live credits” means a CLE activity that falls into one of the following categories: (a) an accredited program that a lawyer or judge may attend in person or via an electronic medium, such as teleconferences, videoconferences, and live or real-time webcasts, and in which there are presenters available to all course attendees at the time the course is initially presented, and all attendees can contemporaneously hear or see other attendees’ questions as well as any responses and discussion; (b) accredited teaching activities pursuant to these rules; (c) pro bono representation as provided in C.R.C.P. 250.10; (d) mentoring as provided in C.R.C.P. 250.11; or (e) the required course on professionalism identified in C.R.C.P. 203.2(6).

(10) “Office of Continuing Legal and Judicial Education” (CLJE Office) is the central office of the Office of Attorney Regulation Counsel that administers and implements these rules and the CLJE Committee’s regulations.

(11) “Provider” means any individual or organization that offers continuing legal education activities.

(12) “Registered lawyer” is a lawyer who has paid the registration fee required by C.R.C.P. 227 for the current year and who is not on inactive status, or suspended, disbarred, or placed on disability inactive status by the Court.

(13) “Teaching” means participating as a speaker, lecturer, presenter, or moderator in any accredited CLE activity.

(14) “These rules” refer to rules 250.1 through 250.11 of the Colorado Rules of Civil Procedure.

Rule 250.2. CLE Requirements

(1) **CLE Credit Requirement.** Every registered lawyer and every judge must complete 45 credit hours of continuing legal education during each applicable CLE compliance period as provided in these rules. The 45 credit hours must include a) at least 21 live credit hours and b) at least seven credit hours devoted to ethics. At least three of the ethics credit hours must be earned as live credits. Failure to comply with these requirements in a timely manner as set forth in these rules may subject the registered lawyer or judge to a fee, a penalty, and/or administrative suspension.

(2) **Compliance Period.** All registered lawyers and judges become subject to these rules on the date of their admission or certification to the bar of the State of Colorado. The first compliance period begins on the date of admission or certification and ends on the 31st of December of the third full calendar year following the year of admission or certification to practice law in Colorado. For non-lawyer judges, the first CLE compliance period begins on the date of appointment as a judge and ends on the 31st of December of the third full calendar year following the year of appointment as a judge. Subsequent CLE compliance periods begin on the 1st of January immediately following a previous compliance period and end on the 31st of

December of the third full calendar year thereafter.

(3) Reporting. All registered lawyers and judges must report compliance as set forth in C.R.C.P. 250.8.

(4) Lawyer Status and Compliance. Any registered lawyer who has been suspended under C.R.C.P. 227A(4), or who has elected to transfer to inactive status under C.R.C.P. 227A(6)(a), will, upon being reinstated pursuant to C.R.C.P. 227A(5) or (7), become subject to the minimum continuing legal educational requirements set forth in these rules on the date of reinstatement, pursuant to C.R.C.P. 250.2 and as set forth in C.R.C.P. 25.8(9).

(5) No Roll-Over Credits. CLE credit hours completed in excess of the required 45 credit hours in any applicable compliance period may not be used to meet the minimum educational requirements in any subsequent compliance period.

COMMITTEE COMMENT

[1] These rules are effective for all compliance periods beginning on or after January 1, 2019. For registered lawyers and judges whose compliance periods begin on or after January 1, 2017, but before January 1, 2019 the requirements under C.R.C.P. 260 will apply through the completion of his or her current compliance period. All registered lawyers and judges admitted on or after January 1, 2019, and all registered lawyers and judges whose compliance periods begin on or after January 1, 2019, are subject to the minimum continuing legal education requirements set forth in these rules.

[2] Under the previous C.R.C.P. 260.5 (Exemptions), registered lawyers and judges over the age of 65 were exempt from mandatory educational requirements. On the effective date of these

rules, all registered lawyers and judges who were exempt from the educational requirements under the previous C.R.C.P. 260.5 will again become subject to the requirements in these rules. The compliance period for all previously exempt active registered lawyers and judges will begin on the effective date of these rules and end on the 31st of December of the third full calendar year following the start of the compliance period. Subsequent compliance periods will begin on the 1st of January of the year immediately following the end of the previous compliance period.

Rule 250.3. Advisory Committee and the Continuing Legal and Judicial Education Committee

(1) Advisory Committee. The Supreme Court Advisory Committee (Advisory Committee) is a permanent committee of the Court. *See* C.R.C.P. 251.34. The Advisory Committee oversees the coordination of administrative matters for all programs of the lawyer regulation process, including the continuing legal and judicial education program set forth in these rules. The Advisory Committee reviews the productivity, effectiveness and efficiency of the continuing legal and judicial education program, and recommends to the Court proposed changes or additions to these rules.

(2) The Continuing Legal and Judicial Education Committee. The Continuing Legal and Judicial Education Committee (CLJE Committee) serves as a permanent committee of the Supreme Court.

(a) Members. The CLJE Committee consists of nine members appointed by the Court, and is subject to oversight by the Advisory Committee. With the exceptions of the chair and the vice

chair, members will be appointed for one term of seven years. Diversity will be a consideration in making the appointments. The terms of the members will be staggered to provide, so far as possible, for the expiration each year of the term of one member. Six of the members must be volunteer lawyers, at least one of whom must also be a judge, and three of the members must be volunteer non-lawyers (citizen members). All members serve at the pleasure of and may be dismissed at any time by the Court. A member of the CLJE Committee may resign at any time. In the event of a vacancy, a successor will be appointed by the Court for the remainder of the unexpired term of the member whose office is vacated.

(b) Chair and Vice Chair. The Court will designate two members of the CLJE Committee to serve as its chair and vice-chair for unspecified terms. The chair will also be a member of the Advisory Committee.

(c) Powers and Duties. The CLJE Committee will formulate regulations consistent with these rules, modify or amend the same from time to time, and perform CLJE Committee duties established by these rules. The CLJE Committee's regulations will be published on the website of the Office of Attorney Regulation Counsel.

(3) Reimbursement. The CLJE Committee members are entitled to reimbursement for reasonable travel, lodging and other expenses incurred in the performance of official duties.

Rule 250.4 Attorney Regulation Counsel

The Attorney Regulation Counsel will maintain and supervise a permanent office, the CLJE Office, and will administer all mandatory CLE functions as part of a budget approved by the Court.

Rule 250.5 Immunity

All persons performing official duties under the provisions of these rules, including but not limited to the Advisory Committee and its members, the CLJE Committee and its members, the Attorney Regulation Counsel and staff, and other enlisted volunteers are immune from suit for all conduct performed in the course of their official duties.

Rule 250.6. Accreditation

(1) **Objective.** CLE must be educational activity which has as its primary objective the promotion of professional competence of registered lawyers and judges, and must deal with subject matter directly related to the practice of law or the performance of judicial duties. The CLJE Committee will develop criteria for the accreditation of CLE activities, and the CLJE Office will accredit a broad variety of educational activities that meet these requirements.

(2) **Criteria.** For an activity to be accredited, the following criteria must be met: 1) the subject matter must directly relate to legal subjects and the performance of judicial duties or the practice of law, including professionalism, leadership, diversity, wellness, ethics, and law

practice management, and 2) the activity must be directed to lawyers and judges. The CLJE Office will consider, in accrediting educational activities, the contribution the activity will make to the competent and professional practice of law or administration of justice.

(3) **Ethics.** For an activity or portion within an activity to be accredited as “ethics” it must deal with the Colorado Rules of Professional Conduct, the Colorado Code of Judicial Conduct, similar rules of other jurisdictions, the ABA Model Rules of Professional Conduct, the ABA Model Rules of Judicial Conduct, or legal authority related to any of the above-specified rules.

(4) **Non-accredited Activities.** The CLJE Office will not accredit activities completed in the ordinary course of the practice of law, in the performance of regular employment, or in a lawyer’s or judge’s service on a committee, section or division of any bar-related organization except as provided in these rules.

(5) **Assignment of Credit.** The CLJE Office will assign an appropriate number of CLE credit hours to each educational activity it accredits.

(6) **Provider Eligibility.** The CLJE Committee may establish provider eligibility requirements consistent with these rules.

(7) **Published List.** The CLJE Office will publish a list of all accredited programs, together with the approved CLE credit hours for each program.

Rule 250.7. Exemptions and Deferrals

(1) **Exemptions.**

(a) **Inactive or Suspended Status.** A lawyer who is on inactive status, disability inactive status, or under suspension during his or her entire CLE compliance period is excused from the CLE requirements for that compliance period.

(b) **Military Deployment.** A registered lawyer or judge serving on full-time active duty in the armed forces of the United States who is deployed to a location outside the United States is exempt from CLE requirements for that compliance period. To claim this exemption, the registered lawyer or judge must provide to the CLJE Office a copy of military orders or other official paperwork listing the date, location and duration of the deployment.

(2) **Deferral.**

(a) **Inability to Comply.** In cases of inability to comply with these rules for good cause shown, the CLJE Office may, in its discretion, defer individual compliance with the CLE requirements set forth in these rules.

(b) **No Waiver.** Deferral does not constitute a waiver of the CLE requirements.

COMMITTEE COMMENT

Under the previous C.R.C.P. 260.5, registered lawyers and judges over the age of 65 were exempt from mandatory educational requirements. On the effective date of these rules, all registered lawyers and judges who were exempt from the educational requirements under the previous C.R.C.P. 260.5 will again become subject to the requirements in these rules. The compliance period for all previously exempt active registered lawyers and judges will begin on the effective date of these rules and end on the 31st of December of the third full calendar year following the start of the compliance period. Subsequent compliance periods will begin on the

1st of January of the year immediately following the end of the previous compliance period. *See* C.R.C.P. 250.2.

Rule 250.8. Compliance

(1) Reporting Requirement. Each registered lawyer and judge must report compliance with these rules. CLE credit hours must be reported by the online affidavit on the CLJE Office's website or other form approved by the CLJE Committee within a reasonable amount of time after the credit hours are earned.

(2) Verification Requirement. It is the responsibility of each registered lawyer and judge to verify CLE credit hours completed during a compliance period, and to confirm that his or her CLE transcript is accurate and complete by no later than the 31st of January following that compliance period. Failure to comply with these requirements in a timely manner as set forth in these rules may subject the registered lawyer or judge to a fee, a penalty, and/or administrative suspension.

(3) Make-up Plan. If a registered lawyer or judge fails to complete the required CLE credit hours by the end of the CLE compliance period, the registered lawyer or judge must do the following: 1) by the 31st of January following the end of the CLE compliance period, file a specific plan to make up the deficiency; and 2) complete the planned CLE credit hours no later than the 31st of May following the end of the CLE compliance period. The plan must be accompanied by a filing fee determined by the CLJE Committee. Such plan will be deemed accepted by the CLJE Office unless within 28 days after the receipt of the make-up plan the

CLJE Office notifies the registered lawyer or judge to the contrary. Completion of the make-up plan must be reported by affidavit to the CLJE Office no later than the 14th of June following the end of the CLE compliance period. Failure of the registered lawyer or judge to complete the plan by the 31st of May or to file an affidavit demonstrating compliance constitutes grounds for imposing administrative remedies set forth in paragraph (8) of this rule.

(4) Statement of Noncompliance. If any registered lawyer or judge fails to comply with these rules, or C.R.C.P. 203.2(6) or 203.3(4) in any respect, the CLJE Office will promptly provide a statement of noncompliance to the registered lawyer or judge. The statement will advise the registered lawyer or judge that within 14 days of the date of the statement, either the noncompliance must be corrected, or the registered lawyer or judge must request a hearing before the CLJE Committee. Upon failure to do either, the CLJE Office will file the statement of noncompliance with the Court, which may impose the administrative remedies set forth in paragraph (8) of this rule.

(5) Failure to Correct Noncompliance. If the noncompliance is not corrected within 14 days, or if a hearing is not requested within 14 days, the CLJE Office will promptly forward the statement of noncompliance to the Court, which may impose the sanctions set forth in Paragraph (8).

(6) Hearing Before the CLJE Committee. If a hearing before the CLJE Committee is requested, the following apply:

- (a) Notice of the time and place of the hearing will be given to the registered lawyer or judge by the CLJE Office at least 14 days prior thereto;
- (b) The registered lawyer or judge may be represented by counsel;

(c) The hearing will be conducted in conformity with the Colorado Rules of Civil Procedure and the Colorado Rules of Evidence;

(d) The Office of Attorney Regulation Counsel will prosecute the matter and bear the burden of proof by a preponderance of the evidence;

(e) The chair will preside at the hearing, or will appoint another lawyer member of the CLJE Committee to act as presiding officer, and will appoint at least two other CLJE Committee members to the hearing panel;

(f) Upon the request of any party to the hearing, the chair or vice chair may issue subpoenas for the use of a party to compel attendance of witnesses and production of pertinent books, papers, documents, or other evidence, and any such subpoenas will be subject to the provisions of C.R.C.P. 45;

(g) The presiding officer will rule on all motions, objections, and other matters presented in connection with the hearing; and,

(h) The hearing will be recorded and a transcript may be provided to the registered lawyer or judge upon request and payment of the cost of the transcript.

(7) Determination by the CLJE Committee. Within 28 days after the conclusion of the hearing, the Panel will issue a written decision on behalf of the CLJE Committee setting forth findings of fact and the determination as to whether the registered lawyer or judge has complied with the requirements of these rules. A copy of such findings and determination will be sent to the registered lawyer or judge involved.

(a) If the Panel determines that the registered lawyer or judge complied, the lawyer's or judge's record will reflect compliance and any previously assessed fees may be rescinded.

(b) If the Panel determines the registered lawyer or judge was not in compliance, the written decision issued by the Panel, will be promptly filed with the Court.

(8) Supreme Court Review. When the Court receives either a statement of noncompliance or the written decision of a CLJE Committee hearing, the Court will enter such order as it deems appropriate, which may include an order of administrative suspension from the practice of law in the case of registered lawyers or referral of the matter to the Colorado Commission on Judicial Discipline or the Denver County Court Judicial Discipline Commission in the case of judges.

(9) Modification of Compliance Period. A registered lawyer's obligation to comply with these rules during a compliance period will be modified if the lawyer has been suspended for any reason other than noncompliance with these rules, has elected to transfer to inactive status, or has been placed on disability inactive status by Court order. However, upon reinstatement or return to active status, the compliance period will be calculated as follows:

(a) If the registered lawyer remains on suspension, inactive status or disability inactive status for one year or longer, the start of the compliance period will begin on the date of reinstatement from suspension or disability inactive status, or date of transfer to active status, and will end on the 31st of December of the third full calendar year following the start of the compliance period.

(b) If the registered lawyer is suspended, on disability inactive status, or on inactive status for less than one year, the compliance period will not be recalculated. However, upon reinstatement or return to active status, the lawyer will have 91 days from the date of reinstatement or return to active status, or the remainder of the original compliance period, whichever is longer, to complete and report all deferred CLE requirements as otherwise set forth under C.R.C.P. 250.8, and to pay any penalties or fees that accrued before the suspension or transfer to inactive status.

Failure to complete deferred CLE requirements or to pay related penalties or fees during this 91 day period will subject the lawyer to suspension pursuant to C.R.C.P. 250.8(8).

(c) No registered lawyer will be permitted to change status to circumvent these rules.

(10) Notice. All notices given pursuant to these rules may be sent to any address provided by the registered lawyer or judge provided pursuant to C.R.C.P. 227.

(11) Reinstatement. Any lawyer who has been suspended for noncompliance pursuant to C.R.C.P. 250.8(8) may be reinstated by order of the Court upon a showing that the lawyer's CLE deficiency has been corrected. The lawyer must file with the CLJE Office three copies of a petition seeking reinstatement by the Court. The petition must state with particularity the CLE activities that the lawyer has completed, including dates of completion, which correct the deficiency that caused the lawyer's suspension. The petition must be accompanied by a reinstatement filing fee as determined by the CLJE Committee. The CLJE Office will file a properly completed petition with its recommendation with the Clerk of the Court within 14 days after receipt. However, a lawyer suspended for noncompliance pursuant to C.R.C.P. 250.8(8) for five continuous years or longer must apply for and successfully complete the Colorado bar examination pursuant to C.R.C.P. 203.4, in addition to satisfying the other requirements of this rule, to be eligible for reinstatement.

(12) Jurisdiction. All suspended and inactive lawyers remain subject to the jurisdiction of the Court as set forth in C.R.C.P. 251.1(b).

Rule 250.9. Access to Information

(1) Compliance Information.

(a) **CLE Transcript Maintenance.** For each registered lawyer or judge, the CLJE Office will maintain CLE transcripts for the current and immediately preceding compliance periods as reported pursuant to C.R.C.P. 250.8(1).

(b) **CLE Transcript – Public.** CLE transcripts of each registered lawyer’s or judge’s current and immediately preceding compliance periods will be available to the public.

(c) **Other Compliance Records - Confidential.** All other records maintained by the CLJE Office pertaining to a registered lawyer’s or judge’s compliance are confidential and will not be disclosed except upon written request or consent of the registered lawyer or judge affected or as directed by the Court.

(2) Accreditation Information – Public. All records submitted by a Provider to obtain accreditation pursuant to C.R.C.P. 250.6 will be available to the public.

(3) Expunction of Records.

(a) **Expunction – Self-Executing.** All records maintained by the CLJE Office pursuant to these rules, in paper or electronic form, will be expunged from the files of the CLJE Office as follows:

(i) All records pertaining to accreditation of CLE activities by approved Providers pursuant to C.R.C.P. 250.6 will be expunged one year after the end of the year in which the activity request was processed by the CLJE office;

(ii) All records pertaining to requests for accreditation of activities submitted by a registered lawyer or judge will be expunged three months following the date the submission was processed by the CLJE Office, including but not limited to activities under C.R.C.P. 250.10 and 250.11, self-study, graduate study, and teaching or writing accreditation requests;

- (iii) Affidavits submitted in paper form to the CLJE Office by registered lawyers or judges relating to completion of an approved CLE activity will be expunged seven days after the claimed credits have been entered on the CLE Transcript by the CLJE Office;
- (iv) All records pertaining to proceedings under C.R.C.P. 250.8(3) – (11) will be expunged three years after the expiration of the registered attorney’s or judge’s current compliance period or after reinstatement, whichever time period is longer; and,
- (v) All records pertaining to requests pursuant to C.R.C.P. 250.7 will be expunged three years after the expiration of the registered attorney’s or judge’s current compliance period.

Rule 250.10 Representation in Pro Bono Legal Matters

- (1) **Maximum Credits.** A registered lawyer may earn a maximum of nine CLE credit hours during each three-year compliance period for providing uncompensated pro bono legal representation to persons of limited means, or supervising a law student providing such representation. Credits earned through participation in pro bono legal representation as described in this rule are live credits. Ethics credit may not be earned under this rule.
- (2) **Eligibility.** To be eligible for CLE credit hours, the pro bono legal matter in which a registered lawyer provides representation must have been assigned to the registered lawyer by: a court; a bar association or Access to Justice Committee-sponsored program; a law school; or an organized, non-profit entity, such as Legal Services Corporation, Metro Volunteer Lawyers, or Colorado Lawyers Committee, whose purpose is or includes the provision of pro bono representation to indigent or near-indigent persons. Prior to assigning the matter, the assigning

court, program, law school or entity will determine that the client is financially eligible for pro bono legal representation because (a) the client qualifies for participation in programs funded by the Legal Services Corporation, or (b) the client's income and financial resources are slightly above the guidelines utilized by such programs, but the client nevertheless cannot afford counsel.

(3) **Computation of Credits.** Subject to the reporting and review requirements specified herein, (a) a registered lawyer providing uncompensated, pro bono legal representation may receive one unit of credit for every five billable-equivalent hours of representation provided to the indigent client; and (b) a registered lawyer who acts as a supervisor to a law student may be awarded three CLE credit hours per completed matter.

(4) **Claiming Credits.** A registered lawyer wishing to receive CLE credit hours under this rule must submit to the assigning court, program, or law school a completed form as designated by the CLJE Committee. As to supervising a law student, the registered lawyer will submit the form when the matter is fully completed. As to pro bono representation, if the representation will be concluded during a single three-year compliance period, then the registered lawyer will complete and submit the form when the representation is fully completed. If the representation will continue into another three-year compliance period, then the applying registered lawyer may submit an interim form seeking such credit as the lawyer may be eligible to receive during the three-year compliance period that is coming to an end. Upon receipt of an interim or final form, the assigning court, program, law school or entity must in turn report to the CLJE Office the number of CLE credit hours that it recommends be awarded to the reporting registered lawyer under the provisions of this rule. The CLJE Committee has final authority to issue or decline to issue CLE credit hours to the registered lawyer providing representation or mentoring, subject to the other provisions of these rules.

(5) **Law Student Supervision.** A registered lawyer who acts as a supervisor to a law student who is eligible to practice law under C.R.C.P. 205.7(2)(a)(i)(o) may claim CLE credits consistent with (1) and (3) above. The matter must be assigned to the law student by a court, a program or entity as described in C.R.C.P. 250.10(2), or an organized student law office program administered by his or her law school, after such court, program, entity, or student law office determines that the client is eligible for pro bono representation in accordance with C.R.C.P. 250.10(2). The registered lawyer must be available to the law student for information and advice on all aspects of the matter and must directly and actively supervise the law student while allowing the law student to provide representation to the client. The registered lawyer must file or enter an appearance along with the law student in any legal matter pursued or defended for the client in any court. Lawyers may be acting as full-time or adjunct professors at the law student's law school at the same time they serve as supervising lawyers so long as it is not a primary, paid responsibility of that professor to administer the student law office and supervise its law-student participants.

Rule 250.11. Participation in the Colorado Attorney Mentoring Program (CAMP)

(1) **One-Year CAMP Program.** A registered lawyer or judge may earn a maximum of nine CLE credit hours, two hours of which will count toward the ethics requirement of C.R.C.P. 250.2(1), for successful completion of the one-year CAMP program curriculum (pursuant to C.R.C.P. 255) as either a mentor or as a mentee. Credits earned through participation in the mentoring program as described in this rule are live credits.

(2) **Six-Month CAMP Program.** A registered lawyer or judge may earn a maximum of four CLE credit hours, one hour of which will count toward the ethics requirement of C.R.C.P. 250.2(1), for successful completion of the six-month CAMP program curriculum (pursuant to C.R.C.P. 255) as either a mentor or a mentee. Credits earned through participation in the mentoring program as described in this rule are live credits.

(3) **CLE Credit Participation Criteria.** To receive CLE credit hours as a mentor or mentee:

(a) The mentor must be a Colorado lawyer or judge in good standing with an active license or a Colorado lawyer or judge who retired from the practice of law in good standing. The mentor must be licensed for five years and must not be currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction, and must be current with all CLE requirements. The mentor must be approved by the CAMP Director.

(b) The mentee must be a licensed, active Colorado lawyer, who is either practicing or is intending to practice law in Colorado. The CAMP Director may accept and approve petitions to participate from new lawyers not otherwise eligible to participate in CAMP programs. The mentee must be registered in a CAMP program.

(c) Mentors may participate in a CAMP program, one mentor relationship at a time, as often as they wish, but may receive a maximum of nine total CLE credit hours, including a maximum of two ethics credit hours, per compliance period.

(d) Mentees may receive CLE credits as a mentee only once in a CAMP program.

(e) The award of CLE credits will apply to the compliance period in which the CAMP program is completed.

(f) Any mentee or mentor who fails to complete the CAMP program will not receive CLE credit, partial or otherwise.

(g) Mentors and mentees who participate together in pro bono representation during or as a part of this program may not also receive CLE credit under C.R.C.P. 250.10 for the same representation.

(4) Verification by Director. All certificates and affidavits of completion of a CAMP program must be submitted to the CAMP Director for verification pursuant to C.R.C.P. 255. Following verification of substantial completion, the CAMP Director will recommend to the CLJE Office that the CLE hours be recorded as earned.

**Council of the Trust and Estate Section
of the Colorado Bar Association
Notice of and Agenda for the September 14, 2017 Meeting**

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

From: Josie M. Faix
Balson & Faix LLP
7400 E. Caley Ave., #300
Centennial, Colorado 80111
Telephone: (720) 974.6350
Josie@balsonfaix.com

Notice of Meeting

The second meeting of the 2017-2018 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Thursday, September 14, 2017, 3:00 p.m.****
Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, Colorado 80203

* or as close as possible to 15 minutes after the end of the Statutory Revisions Committee meeting, if that meeting runs past 3:00 p.m.

Call-In Instructions

Call-in instructions are as follows: 1.855.392.2520
Access Code: 2627690#

Minutes of Previous Meeting, Financial Reports & Attachments

1. Minutes of the August 17, 2017 meeting of the Council
2. Trust and Estate Section Financial Reports as of August 2017

Matters Likely to be Voted Upon

Please review the Statutory Revisions Committee website at <http://www.cobar.org/For-Members/CBA-Sections/Trust-and-Estate/Statutory-Revisions-Subcommittee-Homepage> for proposals that may be brought the Statutory Revisions Committee and Council.

**Trust and Estate Section Council Agenda
September 14, 2017**

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise its 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 August 17, 2017 meeting of the Council
2. Chair's Report and Administrative Matters (Kelly Dickson Cooper)
3. Secretary/Treasurer's report (Josie M. Faix)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section Liaison (Patrick R. Thiessen)
6. Real Estate Section Liaison (David W. Kirch)
7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)
8. Legislative Liaison (Stephen M. Brainerd)
9. Council Notes (Julia G. McVey/Josie M. Faix)
10. CLE/Estate Planning Retreat (Leia G. Ursery)
11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)
12. Rules and Forms Committee (Casey L. Williams)
13. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
14. Diversity Committee (Melissa R. Schwartz)
15. Probate Trial and Procedure Committee (Aaron Evans)
16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)
17. Green Book (David K. Johns)
18. New T&E Lawyers Committee (Mark D. Masters/John M. Estes)
19. The Colorado Lawyer (David W. Kirch/Constance D. Smith)

20. Media Liaison (Mark D. Masters)
21. Board of Governors Representative (Melissa R. Schwartz)
22. GAL Subcommittee (David W. Kirch)
23. Miscellaneous/FYI
24. Adjournment

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

Minutes of the August 2017 Meeting

Council met on Thursday, August 17, 2017, at the Colorado Bar Association offices, 1900 Grant Street, Denver, Colorado. The meeting was called to order at approximately 3:30 p.m.

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

Kelly Dickson Cooper, Chair
Leia G. Ursery, Vice Chair
Josie M. Faix, Secretary/Treasurer
Darla Daniel, Immediate Past Chair
Zachary D. Schlichting, Second Year Member
Nicole Brown, Second Year Member
Peter W. Bullard, First Year Member
Timothy Bounds, First Year Member

Also in attendance were: Georgine M. Kryda (Tax Section Liaison); Steve Brainerd (Legislative Liaison); Sandra Sigler (Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections, by phone); Herb Tucker; Kyle Brenton (phone); Jeremy Schupbach (CBA); and Elizabeth Akalin (CBA); Melissa Schwartz.

1. Approval of Minutes of Prior Meeting

The Minutes of the May 18, 2017 Council meeting were approved unanimously.

2. Chair's Report, Administrative Matters (Kelly Dickson Cooper)

Kelly welcomed Council to a new year, and welcomed First Year council members. Kelly also warned Council that the Colorado Trust Code is a big project and may take the majority of our attention this year and next.

There are ethical rules changes regarding CLE requirements for attorneys over the age of 65. Past rule was no requirement, but now they are required to be in compliance as well. There is also a live credit component as well. Asked for comments, but nothing directly impacts our section. Council members did not like the idea of publishing which CLEs an attorney attended, as it does not translate to any technical competence.

Kelly discussed the CBA's REFOCUS 20/20 Strategic Plan and the section best practices playbook. She asked that we all review it for the discussion in the September meeting. Kelly plans on focusing on the implementation of the Plan this year. There was a Section Summit and it was clear others saw T&E as a well run section. We are the third largest section. Kelly will present changes next month. Melissa Schwartz said that as part of the changes, T&E needs to

update its bylaw and change our election times to match the rest of the sections. Must be implemented by January.

Jeremy was asked if there are other issues coming up that are not on the ULC agenda. Jeremy thinks issues related to oil/gas and natural resource issues will be dominant in the state legislature this year. Right now, our issues are not on anyone's radar. He discussed the long-time issue of not including the names of a real estate purchaser that has been the victim of domestic abuse and fears being found. Darla Daniel spoke about the long and difficult process of trying to find solutions. Using a nominee as an option was initially discarded, but has been revived. Darla asked for any support she could get, as she's invested a great deal of time and effort into this issue. Kelly asked Leia for SRC to create a subcommittee to work on this issue, or ask ALERT committee members to step up as well.

Kelly also reported problems with the list serv, and she reached out to Joe and Gene regarding fixing the problems.

At this point in the meeting, Council diverged from the agenda, and heard from Herb Tucker and Kyle Brenton with a description of a case for which they were seeking Council's approval to move their request to the Amicus Committee of the Bar. Briefs are due 9/19, but Herb was hopeful for an extension. The case boiled down to use the of the dead man's statute in a medical malpractice case in which the doctor in question is dead. Herb and Kyle argued that the case has significant ramification for our section, as the appeals court seemed to rely on the fact that the doctor had malpractice insurance as a reason to allow testimony that might otherwise be blocked by the dead man statute. Seems to create an insurance exception to the statute, which is what the revised statute was trying to eliminate. Herb talked about the dead man statute history, and how it might impact our section. There were many questions from Council members regarding the case and its impact. Kelly asked if they have approached other sections, and they had not, and didn't plan to. They were not aware of any opposition.

Council discussed the issue at length, and voted to not issue a recommendation to the amicus committee.

3. Secretary/Treasurer's Report (Josie M. Faix)

There was discussion about the fact that the section is in the red, and how do we pay for all the items Council wants to pay for, but cannot. There was a lively discussion about the list serv, and Josie was asked to reach out to Letty to ask about perhaps sharing the cost of the separate list serv with Elder Law. There was also discussion about T&E's contribution to the Senior Law Handbook, and how the Section dinner is paid for. Josie was asked to consider how the Council Dinner could be modified to not consume such a large part of the over all budget. There was a bit of discussion of the appropriateness of using so many funds for one dinner, in which very few section members are invited to attend. All agreed the budget will be an ongoing issue this year, and there are many options in solving the issue.

4. Tax Section Liaison (Georgine M. Kryda)

The tax section will meet next month. Georgine will circulate the CTC to the tax section.

5. Elder Law Section Liaison (Patrick R. Thiessen)

The Elder Law Retreat is next week, and Patrick encouraged all to attend. Patrick indicated the new “Uniform Guardianship and Protective Proceeding Act” was on their agenda as well, and hopes to work with T&E to review the proposed legislation.

6. Real Estate Section Liaison (David W. Kirch)

The Supplemental Affidavit form was sent to the Real Estate Section for review but no report.

7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)

Leia was happy to report the passing of the CTC, unanimously. She said there is discussion on how to present the CTC - through the ULC or the CBA. She said the new Uniform Guardianship Act will be rough. A group will start meeting weekly, but worried there will not be enough time to work it through a committee. Leia believes SRC needs to be ready to deal with changes on a very short time frame. We need a T&E person as part of that review. Steve Brainerd said the section needs to be ready to give direction to Jeremy on how to run bills with ULC. Steve said it's very important to the commissioners that comments be included, which we do not want. Steve wanted to defer to Jeremy, and Kelly wondered if Council should give authority to Steve and Jeremy to make quick decisions on how to best run the bill. Leia said she had the same concern, and agreed to Jeremy and Steve should be able to react quickly. Jeremy said the ULC has six items, but only two of which are viable, and that it part of why he thinks the Guardianship bill will be pushed.

8. Legislative Liaison (Stephen M. Brainerd/Jeremy Schupbach - CBA)

This was covered during Leia's SRC update.

9. Council Notes (Julia G. McVey/Josie M. Faix)

Josie reported that they are working on the September 2017 edition. They are always looking for good articles, and plan to ask presenters from the T&E and Elder Law Retreat to consider writing something based on their presentation.

10. CLE/Estate Planning Retreat (Leia G. Ursery/Vincent O'Brien)

Leia reported that she has been very busy planning CLEs. Kevin Millard's recent talk went very well. The lunches are planned through November, with September focusing on LGBTQ issues. She is considering going a CLE in May regarding UTC, but that will depend on how this year progresses.

11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)

Elizabeth reported to Kelly that the Committee is continuing its work on the Pre-Marital/Marital Agreement form. The beneficiary deed to transfer real estate to a trust is coming up for vote.

12. Rules & Forms Committee (Casey L. Williams)

Casey reported the Supplementary Affidavit was approved last month, and is now being reviewed by the Real Estate section. We also discussed the new probate rules, and how the section should approach the open public comment period. Council agreed that since the work product came from our section, Casey was authorized by Council make a bland public statement of support. Mike Holder was worried but Council agreed to support the changes.

13. Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections (Sandra Sigler)

Senior Law Days have been very good events, Sandra reported. She is thankful for the section's financial support for the Senior Law Handbook, and there is an ad in the Handbook thanking the section. Next month she will be discussing the need for additional funding for the book. Pete Bullard said he heard reports of attorneys being "pushed" out at the Senior Law Day in Larimer County. Sandra will investigate and report back.

14. Diversity Committee (Melissa R. Schwartz)

Met and planned the first event - a coffee on October 13th, the place to be determined. In addition, Melissa will go with Sumi Lee to CU law, as they have a new elder law society.

15. Probate Trial and Procedure Committee (Aaron Evans)

They discussed Herb Tucker's request for an amicus brief and the new Boulder probate judge.

16. *Colorado Estate Planning Handbook* (David K. Johns/Constance B. Wood/Julia G. McVey)

No report, but there was a general discussion of the CLE's financials. They are over \$300K in the red. They are trying to find ways to make up the short fall - our section isn't the only one trying to reduce the budget.

17. *Green Book* (David K. Johns)

No report.

18. New T & E Lawyers Committee (John M. Estes/Mark D. Masters)

No report.

19. *Colorado Lawyer* (David W. Kirch/Constance D. Smith)

No report.

20. Media Liaison (Mark D. Masters)

No report.

21. Board of Governors Representative (Melissa R. Schwartz)

No report.

22. GAL Subcommittee (David W. Kirch)

The Subcommittee approved revisions to the proposed Rule 17. The Rule incorporates the Sorensen test and identifies the allowed and prohibited roles of a GAL. The Rule will be presented to the other Section for comments, revisions, additions, etc., as well as to Judicial. Upon approval by the CBA, it will be presented to the Colorado Supreme Court Civil Rules Committee.

23. Miscellaneous/FYI

Elizabeth asked that folks who reserve a room, and then don't use it, be asked to be more considerate in releasing rooms earlier.

24. Adjournment

The meeting was adjourned at or about 5:13 p.m.

Respectfully submitted,

Josie M. Faix

August	YTD	Budget	Variance	%
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Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)
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Trust & Estate Section- General					
Revenue	01-4???-31600	2,880.00	28,875.00		28,875.00
Expenses	01-5???-31600	(573.89)	(1,403.27)		(1,403.27)
Statutory Revisions Committee					
CLE					
Council Notes					
Community & Civic Affairs					
Rules & Forms Committee					
Orange Book Forms					
Local Liaison					
Uniform Trust Code					
Admin. Chair					
Estate Planning Handbook					
Admin Council Dinner					
Legislative Liaison					
Internet Editor					
Technology Committee					
Real Estate Liaison					
Green Book					
The Colorado Lawyer					
Diversity Committee					
Judicial Liaison					
Member Vouchers					
Uniform Trust Code					
Transfer Deposit					
Young Lawyer Society					

Beginning Balance	01-3160-31600		(441.96)		(441.96)
Total Revenue All Sources	01-4???-316??	2,880.00	28,875.00		28,875.00

Total Expenses All Sources	01-5???-316??	(573.89)	(1,403.27)	(1,403.27)
Ending Balance		2,306.11	27,029.77	27,029.77

Trust & Estate

Trust & Estate

For the Two Months Ending August 31, 2017

	August	YTD	Budget	Variance
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01-3160-31600	(\$441.96)	(\$441.96)
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01-4050-31600	2,880.00	28,875.00	28,875.00
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	2,880.00	28,875.00	28,875.00
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01-5304-31600	(0.46)	(0.46)	(0.46)
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01-5412-31600	(78.85)	(78.85)	(78.85)
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01-5491-31600	(334.80)	(334.80)
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01-5494-31600	(494.58)	(989.16)	(989.16)
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	(573.89)	(1,403.27)	(1,403.27)
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CLE					
Revenue					
Revenue Joint CLE					
Revenue CLE Retreat					
Revenue CLE Section Only					
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

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

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		(441.96)	(441.96)
Total Revenue All Sources	01-4???-316??	2,880.00	28,875.00	28,875.00
Total Expense All Sources	01-5???-316??	(573.89)	(1,403.27)	(1,403.27)
Ending Balance		2,306.11	27,029.77	27,029.77

**Council of the Trust and Estate Section
of the Colorado Bar Association
Notice of and Agenda for the November 16, 2017 Meeting**

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

From: Josie M. Faix
Balson & Faix, LLP
7400 E. Caley Ave., #300
Centennial, Colorado 80111
Telephone: (720) 974.6350
Josie@balsonfaix.com

Notice of Meeting

The fourth meeting of the 2017-2018 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Thursday, November 16, 2017, 3:00 p.m.****
Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, Colorado 80203

* or as close as possible to 15 minutes after the end of the Statutory Revisions Committee meeting, if that meeting runs past 3:00 p.m.

Call-In Instructions

Call-in instructions are as follows: 1.855.392.2520
Access Code: 2627690#

Minutes of Previous Meeting, Financial Reports & Attachments

1. Minutes of the October 19, 2017 meeting of the Council
2. Trust and Estate Section Financial Reports as of October 2017
3. T&E Welcome Letter

Matters Likely to be Voted Upon

Please review the Statutory Revisions Committee website at <http://www.cobar.org/For-Members/CBA-Sections/Trust-and-Estate/Statutory-Revisions-Subcommittee-Homepage-> for proposals that may be brought the Statutory Revisions Committee and Council.

Trust and Estate Section Council Agenda
November 16, 2017

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise its 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 19, 2017 meeting of the Council
2. Chair's Report and Administrative Matters (Kelly Dickson Cooper). Kelly will discuss the draft Welcome Letter for new T&E Section members. See attached draft.
3. Secretary/Treasurer's report (Josie M. Faix)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section Liaison (Patrick R. Thiessen)
6. Real Estate Section Liaison (David W. Kirch)
7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)
8. Legislative Liaison (Stephen M. Brainerd)
9. Council Notes (Julia G. McVey/Josie M. Faix)
10. CLE/Estate Planning Retreat (Leia G. Ursery)
11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)
12. Rules and Forms Committee (Jarod Balson)
13. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
14. Diversity Committee (Melissa R. Schwartz)
15. Probate Trial and Procedure Committee (Aaron Evans)
16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)
17. Green Book (David K. Johns)
18. New T&E Lawyers Committee (Lauren da Cunha/Alison Leary)

19. The Colorado Lawyer (David W. Kirch/Constance D. Smith)
20. Communications Representative (Mark D. Masters)
21. Board of Governors Representative (Melissa R. Schwartz)
22. Ambassador Program (Melissa R. Schwartz)
23. GAL Subcommittee (David W. Kirch)
24. Miscellaneous/FYI
25. Adjournment

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

Minutes of the October 2017 Meeting

Council met on Thursday, October 19, 2017, at the Colorado Bar Association offices, 1900 Grant Street, Denver, Colorado. The meeting was called to order at approximately 3:30 p.m.

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

Kelly Dickson Cooper, Chair
Leia G. Ursery, Vice Chair
Josie M. Faix, Secretary/Treasurer
Darla Daniel, Immediate Past Chair
Zachary D. Schlichting, Second Year Member
Nicole Brown, Second Year Member
Peter W. Bullard, First Year Member
Timothy Bounds, First Year Member
Jessica L. Broderick, First Year Member

Also in attendance were: Georgine M. Kryda (Tax Section Liaison); Sandra Sigler (Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections); Elizabeth Meck; Susan Hoyt (CLE); Elizabeth Akalin (CBA); Melissa Schwartz; Patrick Thiessen (Elder Law Liaison); Gene Zuspahn.

1. Approval of Minutes of Prior Meeting

The Minutes of the September 14, 2017 Council meeting were approved unanimously.

2. Chair's Report, Administrative Matters (Kelly Dickson Cooper)

Kelly briefly discussed the proposed flat fee rule, CRPC 1.5. Asked Council for comment because we are more likely to do flat fee work. Darla asked how this would relate to the compensation act, and Kelly said it should not intersect, but the compensation act is explicit that it doesn't prohibit any ways of being paid. Darla said she'd send the proposed Rule to Marc Darling for his comments. But if the Rule prohibited something, the statute would yield to the Rule. Council does not have to comment, but we can. Leia said that if the Rule made changes to the statute, then it is an issue, but if not, then it is not controversial. The general thinking is that Council will not comment.

Kelly then discussed the proposed bylaws changes for the best practices playbook. All sections are asked to review. Kelly has reviewed. To comply, the amendments she drafted would have to be adopted. We have the option to have a ballot or slate election, and Kelly thinks the T&E Section should do the slate. Timing of the election is changed to make easier for CBA staff. T&E would need a nominating committee, with past 3 chairs on it. The playbook emphasizes inclusion of young lawyers, lawyers outside of Denver lawyer, with a focus on diversity. Sections 6 and 7 deal with these issues. The slate is due April 1st. The section must have the ability to nominate their own slate. There has to be 25 section members to propose an alternate slate. Annual meeting will

move to April from May. Section 8 is new in asking sections to look at diversity issues, and preservation of institutional knowledge. Section 9 changes the annual meeting and changing the notice requirements. 21 days, not 30 days, to get things done. Section 10 needs certain representatives, but wants those representatives term limited. Members can make recommendations to Council, and Council will vote. An individual may be reappointed, and multiple people can have the same job, such as the communications representative. Members can serve together and divvy up the tasks. Section 11 allows a Section to appoint additional positions if needed. Section 4 states unexcused absences will result in being removed from Council. Maybe want to get rid of this? Leia thinks we should keep, but change to “may” not “shall” in the bylaw. Section 1, the annual meeting, move to May and the program and order of business by the chair, not council. Remove requirement for an annual report. Council will have to call special meeting for the bylaw change, and need to do it by the 1st of the year. Agreed to hold the special meeting at the same time as Council meets, probably in December. There are no radical changes, but want to give folks time to review before a vote. Gene asked about the duties of the communication representative. Welcome members to the Section, Ambassadors program, social media presence, quarterly newsletter, etc. Gene asked that Council would determine if someone not fulfilling duties, and then Council can act. Any changes or suggestion should be sent to Kelly.

Section leaders got emails about Patrick from the CBA coming to meet with Section leaders, but Kelly declined since he addressed our Section at the Retreat. Also, there will be training for legislative liaison, and Steve is aware. Kelly is working on the sample “welcome letter”, and we will review and discuss next month. Council agreed the welcome letter should be on the website, even if not sent out to new members.

3. Secretary/Treasurer’s Report (Josie M. Faix)

Josie discussed the T&E Section dinner, and list serv cost. Leia discussed an email from Lucy Marsh to discuss funding for the Tribal Wills project. The T&E Section traditionally helps fund this program (\$2000), but Leia told her that we may not be able to help at that level.

4. Tax Section Liaison (Georgine M. Kryda)

Georgine reported the tax section executive council will meet September 28 and will vote on CTC, and no questions or problems are anticipated.

5. Elder Law Section Liaison (Patrick R. Thiessen)

Patrick indicated there is still uncertainty with the “Uniform Guardianship and Protective Proceedings Act” and still don’t know how much time there will be for review.

6. Real Estate Section Liaison (David W. Kirch)

No report.

7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)

Leia said her committee discussed the Public Administrator issues, the “Uniform Guardianship and Protective Proceedings Act”, and the deposit of documents legislation continues to move along with the Secretary of State’s office.

8. Legislative Liaison (Stephen M. Brainerd/Jeremy Schupbach - CBA)

No additional report.

9. Council Notes (Julia G. McVey/Josie M. Faix)

Josie reported working to replace Julie with Sumi Lee. They are always looking for good articles, and plan to ask presenters from the T&E and Elder Law Retreat to consider writing something based on their presentation.

10. CLE/Estate Planning Retreat (Leia G. Ursery/Vincent O’Brien)

Leia reported that she has been very busy planning CLEs. More lunches planned through November, and some for the spring. She is also lining up Retreat speakers and spring updates. Leia listed some of the possible topics. The retreat is in Beaver Creek in 2018, June 7-9. Always wants new topics, and thinking of adding a retreat session for newer T&E lawyers. Folks were open to specialized sessions for them.

11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)

Susie said the committee is still working on premarital agreement form, and that is it still contentious, still problematic. Folks continue to ponder if it is appropriate to a form with a cross over with an other area of law.

12. Rules & Forms Committee (Jarod Balson)

Casey reported via email that Jarod Balson voted in as Chairperson today; Laurence Gendelman will serve as Secretary; effective November 18, 2017. New “checkbox issue” on JDFs—without an official policy statement or administrative rule, this is apparently the compromise between JDFs being totally locked or editable. The committee is gathering Committee Member’s experiences and applications so far with the new box. Casey anticipates the need for a request for a formal rule or policy request on the use. During transition to Jarod and moving forward, the committee is working with Susie on “Standard Operating Procedures” for the Committee, including leadership change timing and submission “steps” for specific projects, as Susie believes it is better to have input from another sections before completing a project, and then another section gets involved.

13. Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections (Sandra Sigler)

Boulder Senior Law Day was good, smaller, but good. There are left over handbooks available, and can be used by individuals and firms. Pitkin county has a small SLD with 125 folks attending.

Mark Masters raised the issue of lawyers being shoved out of the events. The Larimer County event had a lack of transparency regarding finances, and what funds were used for the rest of the year. What enforcement mechanism do we have? Only carrot is to have the handbooks. Fund-raising for the SLH is underway, and the cover is done. Fielder color page with, leaving three color pages left to sell. Grant underway for the Next 50 group, to get funding for the Handbook. They have a full packet ready for folks to use to solicit advertising. Outreach planned to banking, real estate, finance, and the medical communities. Sandra asking for money from the T&E Section. We gave \$2800 the last few years, and they would ask for the same this next year. Elder law often matches us.

14. Diversity Committee (Melissa R. Schwartz)

Melissa said the coffee event was well attended and fun. Three attendees asked for Ambassadors, folks who haven't been in the bar, and now may attend Super Thursday. Trying to get pictures from the event in the CO lawyer, and the event came in under budget. Ruben Hernandez forwarded diversity pledge, and Melissa will circulate.

15. Probate Trial and Procedure Committee (Aaron Evans)

Tim Bounds reported Tim Swanson came and spoke about bankruptcy issues and the intersection with bankruptcy.

16. *Colorado Estate Planning Handbook* (David K. Johns/Constance B. Wood/Julia G. McVey)

No report, but Susie said editor working on the revised edition this year. Made a minor change to titles to make less confusing. Blame Frank!

17. *Green Book* (David K. Johns)

No report, but Susie said David got it to her, and expects it back from the printer in November.

18. New T & E Lawyers Committee (Lauren da Cunha/Alison Leary)

The committee will be planning an event soon. Good turnout today, and next month Kerri Johnson will talk about mandatory reporting for elder abuse. First Tuesday of the month new lawyer study group is being revived. Please forward ideas to Leia regarding ways to target newer attorneys. Perhaps a few CLEs next year and more social events.

19. *Colorado Lawyer* (David W. Kirch/Constance D. Smith)

David said he is looking for articles.

20. Communications Representative (Mark D. Masters)

No report

21. Board of Governors Representative (Melissa R. Schwartz)

Paige attended for Melissa. The issue of the breakfast came up, and Dick Armstrong asked why the breakfast was still going. Last few years, nothing controversial has come up. The CBA pays for the breakfast, but planned by Melissa's office. Lots of focus on what the point of the BOG representative, and last few meetings there were speakers talking about the role of the BOG rep.

22. Ambassador Coordinator (Melissa R. Schwartz)

Melissa stressed the ambassadors are crucial for the development of the new lawyers.

23. GAL Subcommittee (David W. Kirch)

Actively being reviewed, and hoping complete by end of the year.

24. Miscellaneous/FYI

None.

25. Adjournment

The meeting was adjourned at or about 4:27 p.m.

Respectfully submitted,

Josie M. Faix

Welcome to the CBA's [insert section name here]!

Thank you for choosing to join our section. I wanted to take the time to introduce you to some of the great resources the section has to offer. These will allow you to make the most of your section membership.

You can access the [insert section name here] webpage here [insert URL or hyperlink]. Here you will find information about the Section including monthly meeting schedules, newsletters and other professional and educational resources.

Please consider joining the Section's listserv. You can join here [insert URL or hyperlink.] The listserv is very active and a valuable source of information, updates and referrals.

The section's monthly CLE date is [insert date here] at the [insert location and time]. We have lined up some impressive speakers for the year. We would love to see you there.

You will also be hearing from your section ambassador in the next few weeks. [Insert name here] is available to attend events, introduce you to members and answer any section questions you may have.

We look forward to meeting you in person at our next event [insert event date and time or registration link].

Please do not hesitate to contact me with any questions. I am here to help.

Trust & Estate

Trust & Estate

For the Four Months Ending October 31, 2017

		October	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	930.00	31,335.00		31,335.00		26,600.00
Total Revenue Trust & Estate Section		930.00	31,335.00		31,335.00		26,600.00
Expenses							
AWARDS	01-5007-31600						(325.34)
Travel	01-5102-31600						(5.00)
Postage	01-5304-31600	(0.46)	(0.92)		(0.92)		(1.86)
Telephone	01-5412-31600	(76.04)	(231.14)		(231.14)		(248.33)
Internet/E-Mail Access	01-5413-31600	(403.27)	(403.27)		(403.27)		(338.61)
Meals (Not travel related)	01-5491-31600	(500.14)	(1,469.17)		(1,469.17)		(2,670.30)
Administration Fee	01-5494-31600	(494.58)	(1,978.32)		(1,978.32)		(1,960.00)
Grants/Contributions	01-5500-31600	(500.00)	(500.00)		(500.00)		
Total Expenses Trust & Estate Section		(1,974.49)	(4,582.82)		(4,582.82)		(5,549.44)
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	
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					
Expenses					
Admin. Chair					
Revenue					
Expenses					
Estate Planning Handbook					
Revenue					
Expenses					
Admin Council Dinner					
Revenue					
Meal Income	01-4051-31612	880.00	880.00	880.00	1,400.00
Total Revenue Admin Council Dinner		880.00	880.00	880.00	1,400.00
Expenses					
Meals (Not travel related)	01-5491-31612				(5,979.55)

Total Expenses Admin Council Dinner(5,979.55)

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

Expenses

T&E Diversity Committee

Revenue

Expenses

Judicial Liaison					
Revenue					

Expenses					

Member Vouchers					
Expenses					
T&E Young Lawyer Society					
Revenue					

Expenses					
Telephone	01-5412-31629				(9.49)

Total ExpensesT7E YLS					(9.49)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	1,810.00	32,215.00	32,215.00	28,000.00
Total Expense All Sources	01-5???-316??	(1,974.49)	(4,582.82)	(4,582.82)	(11,538.48)

Ending Balance		(164.49)	27,190.22	27,190.22	22,120.41

		October	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section- General							
Revenue	01-4???-31600	930.00	31,335.00		31,335.00		26,600.00
Expenses	01-5???-31600	(1,974.49)	(4,582.82)		(4,582.82)		(5,549.44)
Statutory Revisions Committee							
CLE							
Council Notes							
Community & Civic Affairs							
Rules & Forms Committee							
Orange Book Forms							
Local Liaison							
Uniform Trust Code							
Admin. Chair							
Estate Planning Handbook							
Admin Council Dinner							
Revenue	01-4???-31612	880.00	880.00		880.00		1,400.00
Expenses	01-5???-31612						(5,979.55)
Legislative Liaison							
Internet Editor							
Technology Committee							
Real Estate Liaison							
Green Book							
The Colorado Lawyer							
Diversity Committee							
Judicial Liaison							
Member Vouchers							
Uniform Trust Code							
Transfer Deposit							
Young Lawyer Society							
Expenses	01-5???-31629						(9.49)
Beginning Balance	01-3160-31600		(441.96)		(441.96)		5,658.89

Total Revenue All Sources	01-4???-316??	1,810.00	32,215.00	32,215.00	28,000.00
Total Expenses All Sources	01-5???-316??	(1,974.49)	(4,582.82)	(4,582.82)	(11,538.48)
Ending Balance		(164.49)	27,190.22	27,190.22	22,120.41

**Council of the Trust and Estate Section
of the Colorado Bar Association
Notice of and Agenda for the October 19, 2017 Meeting**

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

From: Josie M. Faix
Balson & Faix LLP
7400 E. Caley Ave., #300
Centennial, Colorado 80111
Telephone: (720) 974.6350
Josie@balsonfaix.com

Notice of Meeting

The third meeting of the 2017-2018 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Thursday, October 19, 2017, 3:00 p.m.****
Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, Colorado 80203

* or as close as possible to 15 minutes after the end of the Statutory Revisions Committee meeting, if that meeting runs past 3:00 p.m.

Call-In Instructions

Call-in instructions are as follows: 1.855.392.2520
Access Code: 2627690#

Minutes of Previous Meeting, Financial Reports & Attachments

1. Minutes of the September 14, 2017 meeting of the Council
2. Trust and Estate Section Financial Reports as of September 2017
3. T&E Section Bylaws, and redline
4. Proposed CRPC 1.5
5. Comments to proposed CRPC 1.5

Matters Likely to be Voted Upon

Please review the Statutory Revisions Committee website at <http://www.cobar.org/For-Members/CBA-Sections/Trust-and-Estate/Statutory-Revisions-Subcommittee-Homepage> for proposals that may be brought the Statutory Revisions Committee and Council.

Trust and Estate Section Council Agenda
October 19, 2017

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise its 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 September 14, 2017 meeting of the Council
2. Chair's Report and Administrative Matters (Kelly Dickson Cooper). Kelly will specifically discuss the new flat fee rule in proposed CRPC 1.5 from the subcommittee of the CO Supreme Court Rules of Professional Conduct committee. See attached draft and comments.
3. Secretary/Treasurer's report (Josie M. Faix)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section Liaison (Patrick R. Thiessen)
6. Real Estate Section Liaison (David W. Kirch)
7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)
8. Legislative Liaison (Stephen M. Brainerd)
9. Council Notes (Julia G. McVey/Josie M. Faix)
10. CLE/Estate Planning Retreat (Leia G. Ursery)
11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)
12. Rules and Forms Committee (Jarod Balson)
13. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
14. Diversity Committee (Melissa R. Schwartz)
15. Probate Trial and Procedure Committee (Aaron Evans)
16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)
17. Green Book (David K. Johns)
18. New T&E Lawyers Committee (Lauren da Cunha/Alison Leary)

19. The Colorado Lawyer (David W. Kirch/Constance D. Smith)
20. Communications Representative (Mark D. Masters)
21. Board of Governors Representative (Melissa R. Schwartz)
22. Ambassador Program (Melissa R. Schwartz)
23. GAL Subcommittee (David W. Kirch)
24. Miscellaneous/FYI
25. Adjournment

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

Minutes of the September 2017 Meeting

Council met on Thursday, September 14, 2017, at the Colorado Bar Association offices, 1900 Grant Street, Denver, Colorado. The meeting was called to order at approximately 3:30 p.m.

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

Kelly Dickson Cooper, Chair
Leia G. Ursery, Vice Chair
Josie M. Faix, Secretary/Treasurer
Darla Daniel, Immediate Past Chair
Zachary D. Schlichting, Second Year Member
Nicole Brown, Second Year Member
Peter W. Bullard, First Year Member
Timothy Bounds, First Year Member

Also in attendance were: Georgine M. Kryda (Tax Section Liaison); Steve Brainerd (Legislative Liaison); Sandra Sigler (Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections); Elizabeth Meck; Kyle Brenton; Jennifer Spitz; Stan Kent; Vince O'Brien (CLE); Susan Hoyt (CLE); Elizabeth Akalin (CBA); Melissa Schwartz.

1. Approval of Minutes of Prior Meeting

The Minutes of the August 17, 2017 Council meeting were approved unanimously.

2. Chair's Report, Administrative Matters (Kelly Dickson Cooper)

Kelly briefly discussed the best practices document. Kelly is going to look at making an amendment and will report next month. Listserv issues continue, and Gene updated council to explain the problems, and how they are working on them. The section summit is September 28 at CBA from 2-5, RSVP to Melissa Nicoletti. Everyone is welcome to attend, and we want T&E represented. The play book will be discussed.

At this point in the meeting, Council diverged from the agenda, and heard from Vince O'Brien, executive director of CLE, to discuss our section's contribution to CLE. We are reviewing the T&E contribution for the Retreat; both the amount and understanding what the contribution is used for and the impact of reducing the amount.

Vince told Council he was a T&E lawyer, and explained he was accustomed to a different model of CLE in MN, which is where he lived before moving to CO. He believes it is very unique to have a retreat in the mountains, and a great opportunity for the section. There is a partnership between CBA/CLE and the T&E section that is critical through the whole year, not just the retreat. He passed out a financial report for the Retreat, and discussed the financial aspects of the event. CLE loses money on the Retreat. But members like the Retreat, and it is successful. Kelly explained that our section is in the red, and we are trying to understand our finances in more detail.

Vince offered to return \$2500 back to the section. Vince feels that the Retreat is worth it, and wants the partnership between CLE and T&E to continue. Vince discussed the finances for CBA/CLE, as they are also in the red. They had to let employees go, and revamp some of the organization, and now on a better track financially. And there will be a move for the organization from the current building. CBA is the main tenant, and CLE is the a subleasee. Darla asked if he knows where the office will go, and Vince described the group looking at the issue. They are hiring a broker next week. Kelly said that if we don't contribute to the Retreat, the cost for members will go up. The T&E section has a 1,000 members, and only a small number attend the retreat, and we need to think of the section as a whole. So we struggle with how much to spend on this one event. Vince suggested a metro Denver one-day event, that might serve more members. Perhaps a different model of education that might get more attendees. Darla asked logistically how it would work. He said that it would be one large venue. He described a possible structure for the classes, to reach more lawyers, and keep the Retreat. Kelly pointed out that the section does a lot already with CLE. Leia said that it might be more efficient if we consolidated our classes, and get broader attendance. Vince mentioned a new lawyer panel, with folks practicing in T&E for less than 10 years. When he did it in MN, lot of new lawyers attended. Kelly asked if other sections lose money on Retreats, but Vince wasn't sure. He said that the retreat is fine, perhaps raise prices a bit and it will be OK. Real estate and family law retreats makes money, but for the elder law retreat, he wasn't sure. Employment law is brand new. Kelly asked how much sections are charging to attend their retreats. T&E is lower than most. Vince thought increase to \$415.

Jennifer explained that not everyone's getting notices for CLEs- we continue to struggle with communicating the programming to the section. Kelly said it's been a consistent problem. Vince said they are purchasing a new email marketing system, INFORM, to better reach out members. INFORM should allow for better communication to the members through email. Leia said that Elizabeth should send out emails to section members directly. It's a hard issue to manage, but they are working on it. Leia asked if we can do an "in case you missed it" email that tells folks about the last two lunches and explains how they can be watched.

3. Secretary/Treasurer's Report (Josie M. Faix)

Josie discussed the T&E Section dinner, and received affirmation that Maggianos is a fine choice. Council agreed to raise the price from \$35 to \$40 per person, to assist with reducing the cost of the dinner. Council also agreed to invite Connie Wood's two children to the dinner as well. All agreed the budget will be an ongoing issue this year, and there are many options in solving the issue.

4. Tax Section Liaison (Georgine M. Kryda)

Georgine reported the tax section executive council will meet Sept 28 and will vote on CTC, and no questions or problems are anticipated.

5. Elder Law Section Liaison (Patrick R. Thiessen)

Patrick indicated the new "Uniform Guardianship and Protective Proceeding Act" may have more time for review, even perhaps a few years. The Elder Law Retreat was successful, and the guest speaker was amazing (he was). Their Retreat will be in Vail for the next two years.

6. Real Estate Section Liaison (David W. Kirch)

No report.

7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)

Leia was happy to report not much happening. The unclaimed property act might be coming back. She will attend the ULC meeting and report back.

8. Legislative Liaison (Stephen M. Brainerd/Jeremy Schupbach - CBA)

Steve said the new uniform guardianship act may not be as easy a process, or have as much time as we had hoped. He is worried the same folks who pushed SB 26 will push this bill too. There may be more prodding on this act, and we should accept the possibility the section will have to react quickly if the legislature takes it up. Steve worried that bill sponsors will decide to bypass the CBA, or come out of left field to prod it forward. The amount of notice is unknown. Not only ULC can run it. It is a HUGE act, and not something we can get through in a few months. Kelly said that she thinks it will get a fiscal note for some of the provisions. She thinks judicial will not like the amount of changes contained in the act. May be possible to get a delayed effective date for a year so we can tinker with it. Darla asked if remote notary is coming back, or wait to see what the SOS working group will do. Steve thinks they will wait. Sen Gardner is one of two commissioners that Jeremy handed the CTC, and asked for support, and they were thrilled to be approached. But depending on what happens in Chicago, might not be a ULC bill. We still want Sen. Gardner to advance the bill if not ULC, but that's a delicate line. Jeremy and Steve have the authority to make the decision on how to run the bill if not run by ULC.

9. Council Notes (Julia G. McVey/Josie M. Faix)

Josie reported that they are working on the Fall 2017 edition. They are always looking for good articles, and plan to ask presenters from the T&E and Elder Law Retreat to consider writing something based on their presentation.

10. CLE/Estate Planning Retreat (Leia G. Ursery/Vincent O'Brien)

Leia reported that she has been very busy planning CLEs. Lunches planned through November, and some for the spring. The fall update brochure went out, focused on estate planning. She only need one or two more topics for the spring update. She is also lining up Retreat speakers. The retreat is in Beaver Creek in 2018, June 7-9.

11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)

Elizabeth reported to Kelly that the Committee is continuing its work on the Pre-Marital/Marital Agreement form. They have a new subcommittee formed to review forms related to retirement benefits. The committee is looking for speakers with experience using the Orange Book forms, at all levels of practice, to speak at the Dec 8 CLE.

12. Rules & Forms Committee (Jarod Balson)

Casey reported that Jarod Balson will be the new committee chair, with Laurence Gendelman as the secretary. Casey said there is no official policy for JDF forms, but there is a new box on forms that must be checked to indicate if the form has been altered. We may see it on all forms. It was the compromise between locking the form, allowing for no customization. So now we see the check box options. She is looking for confirmation that the new box will be the policy going forward. She thought it may be jarring, and is looking for feedback from practitioners. Checking the box can mean anything - any level of changes. Feedback welcome and should be directed to Casey. For the current Rule 16/proposed Rule 62 forms for petition and order, the committee decided that until the new rules are passed, they will take another look, and if they are OK, those will not back to R&F. Stan discussed his experience with the check the box. Kelly said this issue should be raised in Probate and Procedures. Kelly got an order from Denver that said that if the estate is administratively closed, the PR is not off the hook.

13. Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections (Sandra Sigler)

The next Senior Law Day is in Boulder on September 23, and it's the last big one for the year. Sandra discussed the need for more funding for the handbook going forward. Now, both "hard" and "soft" costs must be covered. John Fielder wants to place a color ad in the next edition, which means three other color pages must be sold. She's confident they can raise the money for the next edition. Sandra asked that people reach out to her if they have any contacts that may be able to help.

14. Diversity Committee (Melissa R. Schwartz)

Melissa invited everyone to a coffee event on October 13th, at Maddie's on Evans and Downing. The committee is now doing minutes and an agenda for each month (thanks to law clerk, Brian Davis), and they will have a page on the CBA website. She and Sumi Lee went to CU for a coffee event with the new elder law society.

15. Probate Trial and Procedure Committee (Aaron Evans)

Tim Bounds reported the committee met and discussed Rules 8.8, 16/62, and believes the comment period is until the end of the year (maybe). Jamie gave an update on the bench book for decedent's estates and protective proceedings. They are also looking at other topics. The committee had no position on the proposed unclaimed property act.

16. *Colorado Estate Planning Handbook* (David K. Johns/Constance B. Wood/Julia G. McVey)

No report.

17. *Green Book* (David K. Johns)

No report, but Susie said they might have the earliest Green Book every this year!

18. New T & E Lawyers Committee (Lauren da Cunha/Alison Leary)

The committee will be looking at RUFADA, medical power of attorney basics, and estate planning in divorce. They are working to plan more social events, and attract new law students and T&E ambassadors.

19. Colorado Lawyer (David W. Kirch/Constance D. Smith)

David said he is looking for articles. Louisa Ritsick is working on one regarding intellectual property, based on her CLE at the Retreat this past summer. Another possible topic involves powers of appointment. There was discussion regarding articles about the CTC, from both litigation and planning perspectives. Melissa agreed to do an article about public administrators, gives bar members details on what Pas actually do.

20. Media Liaison (Mark D. Masters)

Mark gave a description as to what this job entails. Often reporters called, but those have dropped off. Once in a while he'll get a radio/TV call, but that about it, and it's rare. Kelly described changing the position to a Communications Representative position to help on-board new lawyers. Mark agreed to stay on with the new title. Melissa asked Mark to attend the section summit, and get a form for new members to receive a "welcome" email or letter. Mark was not sure he could attend, but agreed to help out.

21. Board of Governors Representative (Melissa R. Schwartz)

No report - they meet in October.

22. Ambassador Coordinator (Melissa R. Schwartz)

Melissa is always looking for members to volunteer as an Ambassador, and if you are interested, you should contact Melissa directly.

23. GAL Subcommittee (David W. Kirch)

David reported there was not much feedback from judicial regarding proposed Rule 17. Hopes it will pass by the end of the year.

24. Miscellaneous/FYI

None.

25. Adjournment

The meeting was adjourned at or about 4:41 p.m.

Respectfully submitted,

Josie M. Faix

COMMENT

Reasonableness of Fee and Expenses

[1] Paragraph (a) requires that lawyers charge fees that are reasonable under the circumstances. The factors specified in (1) through (8) are not exclusive. Nor will each factor be relevant in each instance. Paragraph (a) also requires that expenses for which the client will be charged must be reasonable. A lawyer may seek reimbursement for the cost of services performed in-house, such as copying, or for other expenses incurred in-house, such as telephone charges, either by charging a reasonable amount to which the client has agreed in advance or by charging an amount that reasonably reflects the cost incurred by the lawyer.

Basis or Rate of Fee

[2] When the lawyer has regularly represented a client, they ordinarily will have evolved an understanding concerning the basis or rate of the fee and the expenses for which the client will be responsible. In a new client-lawyer relationship, the basis or rate of the fee must be promptly communicated in writing to the client. When the lawyer has regularly represented a client, they ordinarily will have reached an understanding concerning the basis or rate of the fee; but, when there has been a change from their previous understanding, the basis or rate of the fee should be promptly communicated in writing. All contingent fee arrangements must be in writing, regardless of whether the client-lawyer relationship is new or established. See C.R.C.P., Ch. 23.3, Rule 1. When providing legal services pursuant to a flat fee, a lawyer must provide the basis of the flat fee in writing for all funds received in advance pursuant to paragraph (i). A written communication must disclose the basis or rate of the lawyer's fees, but it need not take the form of a formal engagement letter or agreement, and it need not be signed by the client. Moreover, it is not necessary to recite all the factors that underlie the basis of the fee, but only those that are directly involved in its computation. It is sufficient, for example, to state that the basic rate is an hourly charge or a fixed amount or an estimated amount, to identify the factors that may be taken into account in finally fixing the fee, or to furnish the client with a simple memorandum or the lawyer's customary fee schedule. When developments occur during the representation that render an earlier disclosure substantially inaccurate, a revised written disclosure should be provided to the client.

[3] Contingent fees, like any other fees, are subject to the reasonableness standard of paragraph (a) of this Rule. In determining whether a particular contingent fee is reasonable, or whether it is reasonable to charge any form of contingent fee, a lawyer must consider the factors that are relevant under the circumstances. Applicable law may impose limitations on contingent fees, such as a ceiling on the percentage allowable, or may require a lawyer to offer clients an alternative basis for the fee. Applicable law also may apply to situations other than a contingent fee, for example, government regulations regarding fees in certain tax matters.

[3A] Repealed.

Terms of Payment

[4] A lawyer may require advance payment of a fee, but is obliged to return any unearned portion. See Rule 1.16(d). A lawyer may accept property in payment for services, such as an ownership interest in an enterprise, providing this does not involve

acquisition of a proprietary interest in the cause of action or subject matter of the litigation contrary to Rule 1.8(i). However, a fee paid in property instead of money may be subject to the requirements of Rule 1.8(a) because such fees often have the essential qualities of a business transaction with the client.

[5] An agreement may not be made whose terms might induce the lawyer improperly to curtail services for the client or perform them in a way contrary to the client's interest. For example, a lawyer should not enter into an agreement whereby services are to be provided only up to a stated amount when it is foreseeable that more extensive services probably will be required, unless the situation is adequately explained to the client. Otherwise, the client might have to bargain for further assistance in the midst of a proceeding or transaction. However, it is proper to define the extent of services in light of the client's ability to pay. A lawyer should not exploit a fee arrangement based primarily on hourly charges by using wasteful procedures.

[6] No Colorado comment.

Division of Fee

[7] A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between a referring lawyer and a trial specialist. Paragraph (e) permits the lawyers to divide a fee either on the basis of the proportion of services they render or if each lawyer assumes responsibility for the representation as a whole. In addition, the client must agree to the arrangement, including the share that each lawyer is to receive, and the agreement must be confirmed in writing. Contingent fee agreements must be in a writing signed by the client and must otherwise comply with paragraph (c) of this Rule. Joint responsibility for the representation entails financial and ethical responsibility for the representation as if the lawyers were associated in a partnership. A lawyer should refer a matter only to a lawyer who the referring lawyer reasonably believes is competent to handle the matter. See Rule 1.1.

[8] Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.

Disputes over Fees

[9] If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by the bar, the lawyer must comply with the procedure when it is mandatory, and, even when it is voluntary, the lawyer should conscientiously consider submitting to it. Law may prescribe a procedure for determining a lawyer's fee, for example, in representation of an executor or administrator, a class or a person entitled to a reasonable fee as part of the measure of damages. The lawyer entitled to such a fee and a lawyer representing another party concerned with the fee should comply with the prescribed procedure.

Advances of Unearned Fees and Engagement Retainer Fees

[10] The analysis of when a lawyer may treat advances of unearned fees as property of the lawyer must begin with the principle that the lawyer must hold in trust all fees paid by the client until there is a basis on which to conclude that the lawyer has earned the fee; otherwise the funds must remain in the lawyer's trust account because they are not the lawyer's property.

[11] To make a determination of when an advance fee is earned, the written statement of the basis or rate of the fee, when required by Rule 1.5(b), should include a description of the benefit or service that justifies the lawyer's earning the fee, the amount of the advance unearned fee, as well as a statement describing when the fee is earned. In flat fee agreements, the lawyer must describe when or how portions of the flat fee are earned under paragraph (i)(3) unless none of the fee is earned until all of the services have been provided. Whether a lawyer has conferred a sufficient benefit to earn a portion of the advance fee will depend on the circumstances of the particular case. If a portion of an advanced flat fee has been earned pursuant to a written agreement and transferred out of trust, after which the client disputes that it was earned, the lawyer is not required to return the funds to trust. See Rule 1.15A(c). The circumstances under which a fee is earned should be evaluated under an objective standard of reasonableness. Rule 1.5(a).

Rule 1.5(f) Does Not Prohibit Flat Fees

[12] Advances of unearned fees are those funds the client pays for specified legal services that the lawyer has agreed to perform in the future. Pursuant to Rule 1.15, the lawyer must deposit an advance of unearned fees in the lawyer's trust account. The funds may be earned only as the lawyer performs specified legal services or confers benefits on the client as provided for in the written statement of the basis of the fee, if a written statement is required by paragraph (b). Paragraph (i) requires advanced payment under a flat fee agreement to be in writing. See also Restatement (Third) of the Law Governing Lawyers §§ 34, 38 (1998). Rule 1.5 does not prevent a lawyer from entering into these types of arrangements.

[13] For example, the lawyer and client may agree that portions of the advance of unearned fees are deemed earned at the lawyer's hourly rate and become the lawyer's property as and when the lawyer provides legal services.

[14] Alternatively, the lawyer and client may agree to an advance flat fee that will be earned in whole or in part based upon the lawyer's completion of specific tasks or the occurrence of specific events, regardless of the precise amount of the lawyer's time involved. For instance, in a criminal defense matter, a lawyer and client may agree that the lawyer earns portions of the advance flat fee upon the lawyer's entry of appearance, initial advisement, review of discovery, preliminary hearing, pretrial conference, disposition hearing, motions hearing, trial, and sentencing. Similarly, in a trusts and estates matter, a lawyer and client may agree that the lawyer earns portions of the flat fee upon client consultation, legal research, completing the initial draft of testamentary documents, further client consultation, and completing the final documents.

[15] The portions of the advanced flat fee earned as each such event occurs need not be in equal amounts. However, the fees attributed to each event should reflect a reasonable estimate of the proportionate value of the legal services the lawyer provides in completing each designated event to the anticipated legal services to be provided on the entire matter.

[16] " An 'engagement retainer fee' is a fee paid, apart from any other compensation, to ensure that a lawyer will be available for the client if required. An engagement retainer must be distinguished from a flat fee constituting the entire payment for a lawyer's service in a matter and from an advance payment from which fees will be subtracted. A fee is an engagement retainer only if the lawyer is to be additionally compensated for

actual work, if any, performed." Restatement (Third) of the Law Governing Lawyers § 34 Comment e. An engagement retainer fee agreement must comply with Rule 1.5(a), (b), and (g), and should expressly include the amount of the engagement retainer fee, describe the service or benefit that justifies the lawyer's earning the engagement retainer fee, and state that the engagement retainer fee is earned upon receipt. As defined above, an engagement retainer fee will be earned upon receipt because the lawyer provides an immediate benefit to the client, such as forgoing other business opportunities by making the lawyer's services available for a given period of time to the exclusion of other clients or potential clients, or by giving priority to the client's work over other matters.

[17] Because an engagement retainer fee is earned at the time it is received, it must not be commingled with client property. However, it may be subject to refund to the client in the event of changed circumstances.

[18] It is unethical for a lawyer to fail to return unearned fees, to charge an excessive fee, or to characterize any lawyer's fee as nonrefundable. Lawyer's fees are always subject to refund if either excessive or unearned. If all or some portion of a lawyer's fee becomes subject to refund, then the amount to be refunded should be paid directly to the client if there is no further legal work to be performed or if the lawyer's employment is terminated. In the alternative, if there is an ongoing client-lawyer relationship and there is further work to be done, it may be deposited in the lawyer's trust account, to be withdrawn from the trust account as it is earned.

Colorado Bar Association

Trust & Estate

For the Three Months Ending September 30, 2017

		September	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	1,530.00	30,405.00		30,405.00		25,725.00
Total Revenue Trust & Estate Section		1,530.00	30,405.00		30,405.00		25,725.00
Expenses							
AWARDS	01-5007-31600						(325.34)
Postage	01-5304-31600		(0.46)		(0.46)		(1.86)
Telephone	01-5412-31600	(76.25)	(155.10)		(155.10)		(143.83)
Meals (Not travel related)	01-5491-31600	(634.23)	(969.03)		(969.03)		(1,880.28)
Administration Fee	01-5494-31600	(494.58)	(1,483.74)		(1,483.74)		(1,470.00)
Total Expenses Trust & Estate Section		(1,205.06)	(2,608.33)		(2,608.33)		(3,821.31)
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	
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		-----	
Expenses		-----	
Admin. Chair			
Revenue		-----	
Expenses		-----	
Estate Planning Handbook			
Revenue		-----	
Expenses		-----	
Admin Council Dinner			
Revenue			
Meal Income	01-4051-31612		1,400.00
Total Revenue Admin Council Dinner			1,400.00
Expenses			
Meals (Not travel related)	01-5491-31612		(500.00)
Total Expenses Admin Council Dinner			(500.00)
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

Expenses

T&E Diversity Committee
Revenue

Expenses

Judicial Liaison
Revenue

Expenses

Member Vouchers

Expenses

T&E Young Lawyer Society

Revenue

Expenses

Telephone	01-5412-31629				(9.49)
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Total ExpensesT7E YLS					(9.49)
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Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	1,530.00	30,405.00	30,405.00	27,125.00
Total Expense All Sources	01-5???-316??	(1,205.06)	(2,608.33)	(2,608.33)	(4,330.80)
Ending Balance		324.94	27,354.71	27,354.71	28,453.09

10/02/17

11:01 AM

		September	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section- General							
Revenue	01-4???-31600	1,530.00	30,405.00		30,405.00		25,725.00
Expenses	01-5???-31600	(1,205.06)	(2,608.33)		(2,608.33)		(3,821.31)
Statutory Revisions Committee							
CLE							
Council Notes							
Community & Civic Affairs							
Rules & Forms Committee							
Orange Book Forms							
Local Liaison							
Uniform Trust Code							
Admin. Chair							
Estate Planning Handbook							
Admin Council Dinner							
Revenue	01-4???-31612						1,400.00
Expenses	01-5???-31612						(500.00)
Legislative Liaison							
Internet Editor							
Technology Committee							
Real Estate Liaison							
Green Book							
The Colorado Lawyer							
Diversity Committee							
Judicial Liaison							
Member Vouchers							
Uniform Trust Code							
Transfer Deposit							
Young Lawyer Society							
Expenses	01-5???-31629						(9.49)
Beginning Balance	01-3160-31600		(441.96)		(441.96)		5,658.89
Total Revenue All Sources	01-4???-316??	1,530.00	30,405.00		30,405.00		27,125.00
Total Expenses All Sources	01-5???-316??	(1,205.06)	(2,608.33)		(2,608.33)		(4,330.80)
Ending Balance		324.94	27,354.71		27,354.71		28,453.09

Proposed Flat Fee Rule

Colo. RPC 1.5

(a) through (g) [no changes]

(h) A “flat fee” is for specific legal services by a lawyer for which the client agrees to pay a fixed amount for those services, regardless of the time or effort involved or the result obtained.

(i) If a lawyer receives in advance a flat fee or any portion thereof, the basis or rate of the fee shall be communicated in writing before or within a reasonable time after commencing the representation and shall contain the following:

- (1) A description of the services the lawyer agrees to perform;
- (2) A statement of the amount to be paid to the lawyer for the services to be performed;
- (3) A description of when or how portions of the flat fee are deemed earned by the lawyer;
- (4) The amount, if any, of the fees the lawyer is entitled to keep upon termination of the representation before all the specified legal services have been performed.

(j) If a dispute arises about whether the lawyer has earned all or part of a flat fee, the portion of the flat fee in dispute shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the flat fee as to which the interests are not in dispute.

Trust and Estate Section of the Colorado Bar Association Bylaws
Restated as of April 18, 2002, as amended April 2008

ARTICLE I
Name and Purpose

Section 1. The Section shall be known as the Trust and Estate Section of the Colorado Bar Association (sometimes referred to as “Association”).

Section 2. The purposes of this Section shall be to promote the objects of the Colorado Bar Association within the field of trust and estate law and, to that end, promote an interest in trust and estate law among the members of the Bar and other citizens of Colorado, to foster and recommend legislation in this field in the furtherance of public interests and generally to serve the members of the Bar who are interested in trust and estate law.

ARTICLE II
Membership

Section 1. Each member of the Section shall pay to the Colorado Bar Association annual dues of One Dollar or such larger sum consistent with the policies of the Colorado Bar Association as may be fixed by the Section at any meeting thereof or as may be fixed by the Council of the Section. Any member or Associate Member of the Colorado Bar Association, upon request to the Executive Secretary of the Association and upon payment of dues for the current year, shall be enrolled as a member of this Section. Any member of the Section whose annual dues shall be more than six months past due may be dropped from the rolls of the Section.

Section 2. Associate members of the Colorado Bar Association who are members of the Section, but who are not licensed to practice law in the State of Colorado, shall be entitled to attend all meeting of the full Section, including Council and Section committee meetings, and shall receive all Section materials and benefits available to Section members. Further, such associate members shall be entitled to serve on special committees of the Section and to fully participate in, and vote at, such committee meetings and activities; provided, however, that such Associate members shall neither serve as an officer or council member of the Section nor vote at Section meetings.

ARTICLE III
Council

Section 1. The Council of this Section shall consist of the Chair, Vice Chair, Secretary/Treasurer, six Council members, and the Chair of the Section for the preceding year with each of these individuals having one vote. An individual may only serve in one of these positions at a time. The Council shall have general supervision and control of the affairs of the Section, subject to the Constitution and Bylaws of the Colorado Bar Association and the Bylaws of this Section. It shall authorize all commitments or contracts which shall entail the payment of money and shall, by the adoption of a budget or otherwise, authorize the expenditure of all moneys appropriated for the use or benefit of the Section. It shall not, however, authorize

commitments or contracts which entail the payment of money during any fiscal year in excess of the amount which shall have been previously appropriated to the Section for that year.

Section 2. The Council may authorize the Chair to appoint special committees from Section members to perform such duties and exercise such powers as the Council may direct, subject to the limitations of these Bylaws.

Section 3. Each year three members of the Council shall be elected at the annual meeting of the Section for terms of two years, such terms commencing on July 1 of the year of such meeting.

Section 4. If any member of the Council shall fail to attend two successive meetings of the Council, and if his or her absence is not excused by action at either meeting, then the office held by such member shall be deemed to be vacated, provided, however that ten days' notice in writing shall have been given to such member by the Secretary/Treasurer of each such meeting.

Section 5. The Council, during the interim between annual meetings of the Section, may fill vacancies in its membership or in the offices of the Section; provided, however, the office of Chair shall be filled automatically by the Vice Chair.

Section 6. A majority of the Council members and officers shall constitute a quorum for the transaction or business of the Council. The Council, however, may act by the submission to the Council members in writing of proposed action, and on any such submission, the Council may act only by the majority agreement of the whole Council. Meetings of the Council may be called by the Chair on such reasonable notice as circumstances permit.

ARTICLE IV

Officers, Liaisons and Representatives

Section 1. The voting officers of Council shall be the immediate Past Chair, Chair, Vice Chair and Secretary/Treasurer, who shall be nominated and elected at the annual meeting of the Section. Each officer shall serve for a term commencing on July 1 of the year of his or her election and ending on June 30 of the year subsequent to such election or until his or her successor shall have been elected and qualified.

Section 2. Vacancies in the offices of the Section shall be filled for the unexpired term by the Council as hereinafter provided.

Section 3. The Chair shall preside at all meetings of the Section and of the Council. The chair shall perform such other duties as usually pertain to the office of the Chair.

Section 4. Upon the death, resignation, or during the disability, of the Chair, or upon his or her refusal to act, the Vice Chair shall perform the duties of the Chair. The Vice Chair shall coordinate all continuing legal education programs and the Section retreat and perform such other duties as may be assigned to him or her by the Council or the Chair.

Section 5. The Secretary/Treasurer shall be the custodian of all books, papers and other property of the Section except money. The Secretary/Treasurer shall be the fiscal officer of the Section and shall keep an accurate record of all moneys appropriated to and expended for the use of the Section. The Secretary/Treasurer shall keep a true record of the proceedings of all meetings of the Section and the Council. The Secretary/Treasurer shall perform such other duties as usually pertain to his or her office or may be assigned by the Council or by the Chair.

Section 6. Prior to January 15th of each year, the Chair shall appoint a nominating committee consisting of the Chair, the Vice-Chair, the Secretary/Treasurer, the most recent Past Chair, and three other Section members (the “Nominating Committee”). In making his or her selections for the Nominating Committee, the Chair shall consider the inclusion of a young lawyer (age 37 or less or less than five years in the practice of trust and estate law) and an individual from outside the Denver metro area, if possible.

Section 7. The Nominating Committee shall make a call for nominations to the Section membership, which shall include the criteria for nominees for the offices of the Chair, Vice Chair, Secretary/Treasurer, and the Council members whose terms will expire on June 30 of the year of the annual meeting. The deadline for nominations is March 15th of each year. The Nominating Committee shall send a proposed slate to the Section membership for consideration no later than April 1st of each year. Any group of at least 25 Section members may propose an alternate slate for consideration by the Section by delivering the alternate slate, along with the signatures of at least 25 Section members, to the Chair no later than April 15th. The Section’s annual meeting shall be held on the third Thursday of May each year to approve the proposed slate or if necessary, to choose between the proposed slate and the alternate slate. The Chair shall announce the results no later than May 31st.

Section 8. When selecting individuals for the proposed slate, the Nominating Committee shall consider recognized diversity criteria; including ethnicity, age, gender, sexual orientation, area of practice, firm size, years in practice, and geographic location. The Nominating Committee shall also consider the need to preserve institutional knowledge, number of persons per law firm, and prior Section involvement.

Section 9. The Secretary/Treasurer shall cause a notice of the Annual Meeting of the Section to be given to the members of the Section no less than 21 days nor more than 63 days prior to the annual meeting. The notice shall contain a summary of any proposed Bylaw changes recommended by the Council, the proposed slate and any qualifying alternate slates. The notice may be given by mail or email. All elections shall be by voice vote unless otherwise ordered by resolution adopted by the Section at the annual meeting at which the election is held.

Section 10. The Nominating Committee shall also make recommendations to Council for the following positions: Communications Representative, Young Lawyers Representative, Legislative Liaison, and Board of Governors Representative. Each of these positions shall have a one-year term commencing on July 1 of the year of his or her appointment and ending on June 30 of the year subsequent to such appointment. Council shall vote on these appointments at its May meeting each year. An individual may be reappointed to these positions and multiple individuals may split the duties of these appointments.

Section 11. Council may appoint committee chairs and other representatives or liaisons as it deems necessary to conduct Section business.

ARTICLE V Section Meetings

Section 1. The Annual Meeting of the Section shall be held on the third Thursday of May at 3:30 p.m. in the offices of the Colorado Bar Association, with such program and order of business as may be arranged by the Chair.

Section 2. Special meetings of the Section may be called by the Chair upon approval of the Council, at such time and place as the Council may determine.

Section 3. The members of the Section present at any meeting shall constitute a quorum for the transaction of business.

Section 4. All binding action of the Section shall be by a majority vote of the members present.

ARTICLE VI Miscellaneous Provisions

Section 1. The fiscal year of the Section shall be the same as that of the Colorado Bar Association.

Section 2. All bills incurred by the Section, before being forwarded to the Treasurer of the Colorado Bar Association for payment, shall be approved by the Chair or the Secretary/Treasurer, or, if the Council shall so direct, by both of them.

Section 3. No salary or compensation shall be paid to any officer, council member or member of a committee.

Section 4. Any action by this Section must be approved by the Colorado Bar Association before the same becomes effective as the action of the Colorado Bar Association. Any resolution adopted or action taken by this Section may on request of the Section be reported by the Chair of the Section to the annual meeting of the Colorado Bar Association for the Association's action thereon.

Section 5. These Bylaws shall become effective upon the approval thereof upon recommendation of the Board of Governors of the Colorado Bar Association and by this Section.

ARTICLE VII Amendments

These Bylaws may be amended at any annual or special meeting to the Section by a majority vote of the members of the Section present and voting.

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Trust and Estate Section of the Colorado Bar Association Bylaws
Restated as of April 18, 2002, as amended April 2008

ARTICLE I
Name and Purpose

Section 1. The Section shall be known as the Trust and Estate Section of the Colorado Bar Association (sometimes referred to as “Association”).

Section 2. The purposes of this Section shall be to promote the objects of the Colorado Bar Association within the field of trust and estate law and, to that end, promote an interest in trust and estate law among the members of the Bar and other citizens of Colorado, to foster and recommend legislation in this field in the furtherance of public interests and generally to serve the members of the Bar who are interested in trust and estate law.

ARTICLE II
Membership

Section 1. Each member of the Section shall pay to the Colorado Bar Association annual dues of One Dollar or such larger sum consistent with the policies of the Colorado Bar Association as may be fixed by the Section at any meeting thereof or as may be fixed by the Council of the Section. Any member or Associate Member of the Colorado Bar Association, upon request to the Executive Secretary of the Association and upon payment of dues for the current year, shall be enrolled as a member of this Section. Any member of the Section whose annual dues shall be more than six months past due may be dropped from the rolls of the Section.

Section 2. Associate members of the Colorado Bar Association who are members of the Section, but who are not licensed to practice law in the State of Colorado, shall be entitled to attend all meeting of the full Section, including Council and Section committee meetings, and shall receive all Section materials and benefits available to Section members. Further, such associate members shall be entitled to serve on special committees of the Section and to fully participate in, and vote at, such committee meetings and activities; provided, however, that such Associate members shall neither serve as an officer or council member of the Section nor vote at Section meetings.

ARTICLE III
Officers

~~Section 1. The officers of this Section shall be a Chair, Vice Chair and Secretary/Treasurer, who shall be nominated and elected at the annual meeting of the Section. Each officer shall serve for a term commencing on July 1 of the year of his or her election and ending on June 30 of the year subsequent to such election or until his or her successor shall have been elected and qualified.~~

~~Section 2. Vacancies in the offices of the Section shall be filled for the unexpired term by the Council as hereinafter provided.~~

~~Section 3. The Chair shall preside at all meetings of the Section and of the Council. The chair shall present at each annual meeting of the Colorado Bar Association a report of the work of the Section for the past year. The chair shall perform such other duties as usually pertain to the office of the Chair.~~

~~Section 4. Upon the death, resignation, or during the disability, of the Chair, or upon his or her refusal to act, the Vice Chair shall perform the duties of the Chair. The Vice Chair shall perform such other duties as may be assigned to him or her by the Council or the Chair.~~

~~Section 5. The Secretary/Treasurer shall be the custodian of all books, papers and other property of the Section except money. The Secretary/Treasurer shall be the fiscal officer of the Section and shall keep an accurate record of all moneys appropriated to and expended for the use of the Section. The Secretary/Treasurer shall keep a true record of the proceedings of all meetings of the Section and the Council. The Secretary/Treasurer shall perform such other duties as usually pertain to his or her office or may be assigned by the Council or by the Chair.~~

~~Section 6. Prior to the December meeting of the Council, the Chair shall appoint a nominating committee consisting of the Chair and the three most immediate Past Chairs available. The committee shall report to the January meeting of the Council its nominations for the offices of the Chair, Vice Chair, Secretary/Treasurer and Council members whose terms will expire on June 30 of the year of the annual meeting. The Council shall cause a notice of the annual meeting of the Section to be given to the members of the Section no less than 30 days nor more than 60 days prior to the annual meeting. The notice shall contain a summary of any proposed ByLaw changes recommended by the Council and the slate of candidates nominated by the nominating committee. The notice may be given by mail, facsimile or email. Any Section member may make an additional nomination of an officer or Council member to be voted upon at the annual meeting by delivery of said additional nomination to the Chair in writing, at least two weeks prior to the annual meeting. All elections shall be by voice vote unless otherwise ordered by resolution adopted by the Section at the annual meeting at which the election is held.~~

ARTICLE IV

Council

Section 1. The Council of this Section shall consist of the Chair, Vice Chair, Secretary/Treasurer, six Council members, and the Chair of the Section for the preceding year with each of these individuals having one vote. An individual may only serve in one of these positions at a time. The Council shall have general supervision and control of the affairs of the Section, subject to the Constitution and Bylaws of the Colorado Bar Association and the Bylaws of this Section. It shall authorize all commitments or contracts which shall entail the payment of money and shall, by the adoption of a budget or otherwise, authorize the expenditure of all moneys appropriated for the use or benefit of the Section. It shall not, however, authorize commitments or contracts which entail the payment of money during any fiscal year in excess of the amount which shall have been previously appropriated to the Section for that year.

Section 2. The Council may authorize the Chair to appoint special committees from Section members to perform such duties and exercise such powers as the Council may direct, subject to the limitations of these Bylaws.

Section 3. Each year three members of the Council shall be elected at the annual meeting of the Section for terms of two years, such terms commencing on July 1 of the year of such meeting--
~~For the term commencing July 1, 1997, the Council shall elect 4 members. One will serve for a one-year term and three for a two-year term.~~

Section 4. If any member of the Council shall fail to attend two successive meetings of the Council, and if his or her absence is not excused by action at either meeting, then the office held by such member shall be deemed to be vacated, provided, however that **ten days' notice in writing shall have been given to such member by the Secretary/Treasurer of each such meeting.**

Section 5. The Council, during the interim between annual meetings of the Section, may fill vacancies in its membership or in the offices of the Section; provided, however, the office of Chair shall be filled automatically by the Vice Chair.

Section 6. A majority of the Council members and officers shall constitute a quorum for the transaction or business of the Council. The Council, however, may act by the submission to the Council members in writing of proposed action, and on any such submission, the Council may act only by the majority agreement of the whole Council. Meetings of the Council may be called by the Chair on such reasonable notice as circumstances permit.

ARTICLE IV **Officers, Liaisons and Representatives**

Section 1. The voting officers of Council shall be the immediate Past Chair, Chair, Vice Chair and Secretary/Treasurer, who shall be nominated and elected at the annual meeting of the Section. Each officer shall serve for a term commencing on July 1 of the year of his or her election and ending on June 30 of the year subsequent to such election or until his or her successor shall have been elected and qualified.

Section 2. Vacancies in the offices of the Section shall be filled for the unexpired term by the Council as hereinafter provided.

Section 3. The Chair shall preside at all meetings of the Section and of the Council. The chair shall perform such other duties as usually pertain to the office of the Chair.

Section 4. Upon the death, resignation, or during the disability, of the Chair, or upon his or her refusal to act, the Vice Chair shall perform the duties of the Chair. The Vice Chair shall coordinate all continuing legal education programs and the Section retreat and perform such other duties as may be assigned to him or her by the Council or the Chair.

Section 5. The Secretary/Treasurer shall be the custodian of all books, papers and other property of the Section except money. The Secretary/Treasurer shall be the fiscal officer of the Section and shall keep an accurate record of all moneys appropriated to and expended for the use of the Section. The Secretary/Treasurer shall keep a true record of the proceedings of all meetings of the Section and the Council. The Secretary/Treasurer shall perform such other duties as usually pertain to his or her office or may be assigned by the Council or by the Chair.

Section 6. Prior to January 15th of each year, the Chair shall appoint a nominating committee consisting of the Chair, the Vice-Chair, the Secretary/Treasurer, the most recent Past Chair, and three other Section members (the "Nominating Committee"). In making his or her selections for the Nominating Committee, the Chair shall consider the inclusion of a young lawyer (age 37 or less or less than five years in the practice of trust and estate law) and an individual from outside the Denver metro area, if possible.

Section 7. The Nominating Committee shall make a call for nominations to the Section membership, which shall include the criteria for nominees for the offices of the Chair, Vice Chair, Secretary/Treasurer, and the Council members whose terms will expire on June 30 of the year of the annual meeting. The deadline for nominations is March 15th of each year. The Nominating Committee shall send a proposed slate to the Section membership for consideration no later than April 1st of each year. Any group of at least 25 Section members may propose an alternate slate for consideration by the Section by delivering the alternate slate, along with the signatures of at least 25 Section members, to the Chair no later than April 15th. The Section's annual meeting shall be held on the third Thursday of May each year to approve the proposed slate or if necessary, to choose between the proposed slate and the alternate slate. The Chair shall announce the results no later than May 31st.

Section 8. When selecting individuals for the proposed slate, the Nominating Committee shall consider recognized diversity criteria: including ethnicity, age, gender, sexual orientation, area of practice, firm size, years in practice, and geographic location. The Nominating Committee shall also consider the need to preserve institutional knowledge, number of persons per law firm, and prior Section involvement.

Section 9. The Secretary/Treasurer shall cause a notice of the Annual Meeting of the Section to be given to the members of the Section no less than 21 days nor more than 63 days prior to the annual meeting. The notice shall contain a summary of any proposed Bylaw changes recommended by the Council, the proposed slate and any qualifying alternate slates. The notice may be given by mail or email. All elections shall be by voice vote unless otherwise ordered by resolution adopted by the Section at the annual meeting at which the election is held.

Section 10. The Nominating Committee shall also make recommendations to Council for the following positions: Communications Representative, Young Lawyers Representative, Legislative Liaison, and Board of Governors Representative. Each of these positions shall have a one-year term commencing on July 1 of the year of his or her appointment and ending on June 30 of the year subsequent to such appointment. Council shall vote on these appointments at its May meeting each year. An individual may be reappointed to these positions and multiple individuals may split the duties of these appointments.

Section 11. Council may appoint committee chairs and other representatives or liaisons as it deems necessary to conduct Section business.

ARTICLE V Section Meetings

Section 1. The ~~annual meeting at~~ Annual Meeting of the Section shall be held on the third Thursday of ~~April~~ May at 3:30 p.m. in the offices of the Colorado Bar Association, with such program and order of business as may be arranged by the ~~Council~~ Chair.

Section 2. Special meetings of the Section may be called by the Chair upon approval of the Council, at such time and place as the Council may determine.

Section 3. The members of the Section present at any meeting shall constitute a quorum for the transaction of business.

Section 4. All binding action of the Section shall be by a majority vote of the members present.

ARTICLE VI Miscellaneous Provisions

Section 1. The fiscal year of the Section shall be the same as that of the Colorado Bar Association.

Section 2. All bills incurred by the Section, before being forwarded to the Treasurer of the Colorado Bar Association for payment, shall be approved by the Chair or the Secretary/Treasurer, or, if the Council shall so direct, by both of them.

Section 3. No salary or compensation shall be paid to any officer, council member or member of a committee.

Section 4. Any action by this Section must be approved by the Colorado Bar Association before the same becomes effective as the action of the Colorado Bar Association. Any resolution adopted or action taken by this Section may on request of the Section be reported by the Chair of the Section to the annual meeting of the Colorado Bar Association for the Association's action thereon.

Section 5. These Bylaws shall become effective upon the approval thereof upon recommendation of the Board of Governors of the Colorado Bar Association and by this Section.

ARTICLE VII Amendments

These Bylaws may be amended at any annual or special meeting to the Section by a majority vote of the members of the Section present and voting.

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Document comparison by Workshare Compare on Tuesday, October 17, 2017
9:59:42 AM

Input:	
Document 1 ID	interwovenSite://DMS.HOLLANDHART.COM/worksite/10298933/1
Description	#10298933v1<worksite> - CBA T&E Section Bylaws
Document 2 ID	interwovenSite://DMS.HOLLANDHART.COM/worksite/10298933/2
Description	#10298933v2<worksite> - CBA T&E Section Bylaws
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	24
Deletions	18
Moved from	17
Moved to	17
Style change	0
Format changed	0
Total changes	76

**Council of the Trust and Estate Section
of the Colorado Bar Association
Notice of and Agenda for the December 21, 2017 Meeting**

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

From: Josie M. Faix
Balson & Faix, LLP
7400 E. Caley Ave., #300
Centennial, Colorado 80111
Telephone: (720) 974.6350
Josie@balsonfaix.com

Notice of Meeting

The fifth meeting of the 2017-2018 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Thursday, December 21, 2017, 3:00 p.m.****
Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, Colorado 80203

* or as close as possible to 15 minutes after the end of the Statutory Revisions Committee meeting, if that meeting runs past 3:00 p.m.

Call-In Instructions

Call-in instructions are as follows: 1.855.392.2520
Access Code: 2627690#

Minutes of Previous Meeting, Financial Reports & Attachments

1. Minutes of the November 16, 2017 meeting of the Council
2. Trust and Estate Section Financial Reports as of November 2017

Matters Likely to be Voted Upon

Please review the Statutory Revisions Committee website at <http://www.cobar.org/For-Members/CBA-Sections/Trust-and-Estate/Statutory-Revisions-Subcommittee-Homepage> for proposals that may be brought the Statutory Revisions Committee and Council.

**Trust and Estate Section Council Agenda
December 21, 2017**

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise its 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 November 16, 2017 meeting of the Council
2. Chair's Report and Administrative Matters (Kelly Dickson Cooper).
3. Secretary/Treasurer's report (Josie M. Faix)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section Liaison (Patrick R. Thiessen)
6. Real Estate Section Liaison (David W. Kirch)
7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)
8. Legislative Liaison (Stephen M. Brainerd)
9. Council Notes (Julia G. McVey/Josie M. Faix)
10. CLE/Estate Planning Retreat (Leia G. Ursery)
11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)
12. Rules and Forms Committee (Jarod Balson)
13. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
14. Diversity Committee (Melissa R. Schwartz)
15. Probate Trial and Procedure Committee (Aaron Evans)
16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)
17. Green Book (David K. Johns)
18. New T&E Lawyers Committee (Lauren da Cunha/Alison Leary)
19. The Colorado Lawyer (David W. Kirch/Constance D. Smith)

20. Communications Representative (Mark D. Masters)
21. Board of Governors Representative (Melissa R. Schwartz)
22. Ambassador Program (Melissa R. Schwartz)
23. GAL Subcommittee (David W. Kirch)
24. Miscellaneous/FYI
25. Adjournment

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

Minutes of the November 16, 2017 Meeting

Council met on Thursday, November 16, 2017, at the Colorado Bar Association offices, 1900 Grant Street, Denver, Colorado. The meeting was called to order at approximately 2:32 p.m.

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

Kelly Dickson Cooper, Chair
Leia G. Ursery, Vice Chair
Josie M. Faix, Secretary/Treasurer
Darla Daniel, Immediate Past Chair
Zachary D. Schlichting, Second Year Member
Nicole Brown, Second Year Member
Peter W. Bullard, First Year Member
Timothy Bounds, First Year Member
Jessica L. Broderick, First Year Member

Also in attendance were: Sandra Sigler (Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections); Elizabeth Meck; Susan Hoyt (CLE); Elizabeth Akalin (CBA); Melissa Schwartz; and Patrick Thiessen (Elder Law Liaison);

1. Approval of Minutes of Prior Meeting

The Minutes of the October 19, 2017 Council meeting were approved unanimously.

2. Chair's Report, Administrative Matters (Kelly Dickson Cooper)

There was a request from CU law for the Section to participate in CO Legal Community Fair; 1/12 from 3-5; Melissa Schwartz and Sumi Lee will attend as well.

Kelly reported the Bylaw revision was approved by e-mail vote. Josie will send out notice of special meeting of the Section on 12/21 at 3:30 regarding a vote on bylaw changes. There was discussion of the Section welcome letter, intended as a template for welcoming new members to the section. There was discussion of including a description of Super Thursday and the various committees. The letter would be emailed to new members of the Section. Zach Schlichting will edit letter and Council will review his changes in December or January.

3. Secretary/Treasurer's Report (Josie M. Faix)

Josie discussed the T&E Dinner, scheduled for tonight. Because using Maggianos, hoping to be under budget. She explained that some folks complained they were not invited, and that the dinner was held in November. Josie reminded Council there was agreement last year to limit the invitee list, and November was chosen because the Ambler Award winner was out of the country in October.

4. Tax Section Liaison (Georgine M. Kryda)

No report.

5. Elder Law Section Liaison (Patrick R. Thiessen)

Sandra reported the ULC has pushed back the guardianship/conservatorship/protected proceedings act until next year. There was discussion of the flat fee rule; Elder law was not aware so thanks to Council for mentioning

6. Real Estate Section Liaison (David W. Kirch)

No report.

7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)

Leia said her committee went through update on deposit of original docs. The public administrator subcommittee has been transferred to judicial to take lead on statutory revisions. UTC is working on conforming amendments. There was also discussion of the update on the uniform guardian act. Jeremy have an update on upcoming legislative matters; biggest is UTC.

8. Legislative Liaison (Stephen M. Brainerd/Jeremy Schupbach - CBA)

ULC has voted to put UTC into draft; Senators Garnder and Wist are sponsors; conforming amendments due by this month. The bankers have weighed in late, but most of concerns have been addressed already.

9. Council Notes (Julia G. McVey/Josie M. Faix)

Josie reported Kristin Dittus agreed to be the new co-editor of Council Notes. Josie will give a short speech at the T&E Dinner to thank Julie for her time as co-editor.

10. CLE/Estate Planning Retreat (Leia G. Ursery/Vincent O'Brien)

Spring update is done and ready to go. Business interest will be presented instead of oil and gas. Leia wants to emphasize new lawyers in the section; possible topic would be doing "crossover" between estate admin and other issues; getting other lawyers/professionals involved. EP retreat – most topics should be done by Jan 2018; will target new practitioners; still discussing plenary sessions; wants to have bigger reception on Thursday night.

11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)

Elizabeth reported that the CLE on December 8th will cover the new layout and format of the Orange Book new edition. They are still working on the Marital Agreement form. Also working on a trust certification form, raised by the UTC.

12. Rules & Forms Committee (Jarod Balson)

Jarod and Lawrence working with the Bar to use Google Docs to make changes as they go, and it seemed to work today.

13. Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections (Sandra Sigler)

They continue to work on fund-raising for the Senior Law Handbook, and have received positive responses from new advertisers. Marco's firm bought the inside front cover. They are looking at a possible grant from the Next 50 Initiative, and applications are accepted until December 14, and she feels the Handbook fits right into Next 50's mission, and that the short application window will help them as well. The Handbook has \$19,000 of hard costs, and another \$8,000 for CLE staff costs. About a \$30,000 budget going forward, and they are asking for \$10,000 in grant money. She said her committee will ask Council for financial support next month. They are asking for \$2500, as that is what has been given in the past. \$2800 was given last year. She understands T&E has budget issues, and that Elder Law gives what T&E gives. She also mentioned that because there was unpleasantness last year at the Larimer County event, both she and Letty will attend the next one.

14. Diversity Committee (Melissa R. Schwartz)

An emailed report from Melissa:

- We are working on content for our T&E webpage. I hope to have some additional content up and running by the end of the year.
- Magistrate Hernandez had previously raised the possibility of circulating information about a program called Pledge to Diversity, which works on obtaining internships for diverse law students. Once we have all of the relevant information, we intend to discuss circulating that and encouraging the members of our Section to get involved in the program.
- As representatives of our committee, Sumi Lee and I will be attending the Colorado Legal Community Fair at CU on January 12.
- We expect to start working on a spring 2018 event either in December or January.

15. Probate Trial and Procedure Committee (Aaron Evans)

Tim Bounds reported updates were given to the committee on the Uniform Guardian act, the secretary of state/document committee, and the Bench Book, which resembles the Green Book. There was a report regarding oral arguments for the Samstadt case. Letty talked about 723 actions and UTC. She feels 723 needs work and revisions. Herb gave an update on the Brookoff case. Discussion of the ethics opinions 131 and 132. There may be a possible request from Council, if we object to them. Kelly thought the limitations on drafting attorney testimony can be hard, and the opinions were not favorably received by litigators in the section.

16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)

No report.

17. *Green Book* (David K. Johns)

No report.

18. New T & E Lawyers Committee (Lauren da Cunha/Alison Leary)

Lauren reported Kerri Johnson will be talking about elder abuse. They have a happy hour planned for December 8, after the Orange Book CLE. They also want to plan an event in Boulder.

19. *Colorado Lawyer* (David W. Kirch/Constance D. Smith)

No report.

20. Communications Representative (Mark D. Masters)

No report.

21. Board of Governors Representative (Melissa R. Schwartz)

No report.

22. Ambassador Coordinator (Melissa R. Schwartz)

Always looking for Ambassadors for the new lawyers.

23. GAL Subcommittee (David W. Kirch)

No report.

24. Miscellaneous/FYI

None.

25. Adjournment

The meeting was adjourned at or about 3:15 p.m.

Respectfully submitted,

Josie M. Faix

Trust & Estate

Trust & Estate

For the Five Months Ending November 30, 2017

01-3160-31600		(\$441.96)	(\$441.96)
01-4050-31600	330.00	31,665.00	31,665.00
	330.00	31,665.00	31,665.00
01-5007-31600	(223.02)	(223.02)	(223.02)
01-5102-31600			
01-5304-31600		(0.92)	(0.92)
01-5412-31600	(76.90)	(308.04)	(308.04)
01-5413-31600		(403.27)	(403.27)
01-5491-31600	(500.00)	(1,969.17)	(1,969.17)
01-5494-31600	(494.58)	(2,472.90)	(2,472.90)
01-5500-31600		(500.00)	(500.00)
	(1,294.50)	(5,877.32)	(5,877.32)

Exp. Uniform Trust Code		
Telephone	01-5412-31625	(19.87)
Total Expenses Statutory Revisions Committee		(19.87)
CLE		
Revenue		
Revenue Joint CLE		
Revenue CLE Retreat		
Revenue CLE Section Only		
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					
Expenses					
Admin. Chair					
Revenue					
Expenses					
Estate Planning Handbook					
Revenue					
Expenses					
Admin Council Dinner					
Revenue					
Meal Income	01-4051-31612	840.00	1,720.00	1,720.00	1,400.00
Total Revenue Admin Council Dinner		840.00	1,720.00	1,720.00	1,400.00
Expenses					

Meals (Not travel related)

01-5491-31612

(5,979.55)

Total Expenses Admin Council Dinner

(5,979.55)

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

Expenses

T&E Diversity Committee

Revenue

Expenses					
Meals (Not travel related)	01-5491-31628				(158.80)
Total Expenses Diversitiy Comm.					(158.80)
Judicial Liaison					
Revenue					
Expenses					
Member Vouchers					
Expenses					
T&E Young Lawyer Society					
Revenue					
Expenses					
Telephone	01-5412-31629				(9.49)
Total ExpensesT7E YLS					(9.49)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	1,170.00	33,385.00	33,385.00	28,275.00
Total Expense All Sources	01-5???-316??	(1,294.50)	(5,877.32)	(5,877.32)	(13,810.42)
Ending Balance		(124.50)	27,065.72	27,065.72	20,123.47

		November	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section- General							
Revenue	01-4???-31600	330.00	31,665.00		31,665.00		26,875.00
Expenses	01-5???-31600	(1,294.50)	(5,877.32)		(5,877.32)		(7,642.71)
Statutory Revisions Committee							
Expenses	015???3160...						(19.87)
CLE							
Council Notes							
Community & Civic Affairs							
Rules & Forms Committee							
Orange Book Forms							
Local Liaison							
Uniform Trust Code							
Admin. Chair							
Estate Planning Handbook							
Admin Council Dinner							
Revenue	01-4???-31612	840.00	1,720.00		1,720.00		1,400.00
Expenses	01-5???-31612						(5,979.55)
Legislative Liaison							
Internet Editor							
Technology Committee							
Real Estate Liaison							
Green Book							
The Colorado Lawyer							
Diversity Committee							
Expenses	01-5???-31628						(158.80)
Judicial Liaison							
Member Vouchers							
Uniform Trust Code							
Expenses	01-5???-31625						(19.87)
Transfer Deposit							

Young Lawyer Society					
Expenses	01-5???-31629				(9.49)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	1,170.00	33,385.00	33,385.00	28,275.00
Total Expenses All Sources	01-5???-316??	(1,294.50)	(5,877.32)	(5,877.32)	(13,810.42)
Ending Balance		(124.50)	27,065.72	27,065.72	20,123.47

**Council of the Trust and Estate Section
of the Colorado Bar Association
Notice of and Agenda for the January 18, 2018 Meeting**

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

From: Josie M. Faix
Balson & Faix, LLP
7400 E. Caley Ave., #300
Centennial, Colorado 80111
Telephone: (720) 974.6350
Josie@balsonfaix.com

Notice of Meeting

The fifth meeting of the 2017-2018 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Thursday, January 18, 2018 , 3:00 p.m.****
Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, Colorado 80203

* or as close as possible to 15 minutes after the end of the Statutory Revisions Committee meeting, if that meeting runs past 3:00 p.m.

Call-In Instructions

Call-in instructions are as follows: 1.855.392.2520
Access Code: 2627690#

Minutes of Previous Meeting, Financial Reports & Attachments

1. Minutes of the December 21, 2017 meeting of the Council
2. Trust and Estate Section Financial Reports as of December 2017

Matters Likely to be Voted Upon

Please review the Statutory Revisions Committee website at <http://www.cobar.org/For-Members/CBA-Sections/Trust-and-Estate/Statutory-Revisions-Subcommittee-Homepage> for proposals that may be brought the Statutory Revisions Committee and Council.

Trust and Estate Section Council Agenda
January 18, 2018

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise its 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 December 21, 2017 meeting of the Council
2. Chair's Report and Administrative Matters (Kelly Dickson Cooper).
3. Secretary/Treasurer's report (Josie M. Faix)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section Liaison (Patrick R. Thiessen)
6. Real Estate Section Liaison (David W. Kirch)
7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)
8. Legislative Liaison (Stephen M. Brainerd)
9. Council Notes (Julia G. McVey/Josie M. Faix)
10. CLE/Estate Planning Retreat (Leia G. Ursery)
11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)
12. Rules and Forms Committee (Jarod Balson)
13. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
14. Diversity Committee (Melissa R. Schwartz)
15. Probate Trial and Procedure Committee (Aaron Evans)
16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)
17. Green Book (David K. Johns)
18. New T&E Lawyers Committee (Lauren da Cunha/Alison Leary)
19. The Colorado Lawyer (David W. Kirch/Constance D. Smith)

20. Communications Representative (Mark D. Masters)
21. Board of Governors Representative (Melissa R. Schwartz)
22. Ambassador Program (Melissa R. Schwartz)
23. GAL Subcommittee (David W. Kirch)
24. Miscellaneous/FYI
25. Adjournment

**Council of the Trust and Estate Section of the Colorado Bar Association
Minutes of the December 21, 2017 Meeting**

Council met on Thursday, December 21, 2017, at the Colorado Bar Association offices, 1900 Grant Street, Denver, Colorado. The meeting was called to order at approximately 2:32 p.m.

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

Kelly Dickson Cooper, Chair (phone)
Leia G. Urserly, Vice Chair
Josie M. Faix, Secretary/Treasurer
Darla Daniel, Immediate Past Chair
Zachary D. Schlichting, Second Year Member
Peter W. Bullard, First Year Member (phone)
Timothy Bounds, First Year Member
Jessica L. Broderick, First Year Member (phone)

Also in attendance were: Elizabeth Akalin (CBA); David Kirch (Real Estate Section Liaison); Georgine Kryda (Tax Section Liaison); and Patrick Thiessen (Elder Law Liaison);

1. Approval of Minutes of Prior Meeting

The Minutes of the November 16, 2017 Council meeting were approved unanimously.

2. Chair's Report, Administrative Matters (Kelly Dickson Cooper)

A notice of special meeting of the Section was sent out for a meeting today regarding a vote on bylaw changes.

Zach Schlichting reported he is working on a Section welcome letter, intended as a template for welcoming new members to the section. The letter would be emailed to new members of the Section. Mark Masters is reviewing it. Also discussed creation of two minute videos on various topics.

3. Secretary/Treasurer's Report (Josie M. Faix)

Josie discussed the T&E Dinner, which came in under budget. There was discussion of when the yearly budget is approved, and Josie said she would reach out to committees with for budget requests.

4. Tax Section Liaison (Georgine M. Kryda)

No report.

5. Elder Law Section Liaison (Patrick R. Thiessen)

Patrick reported that Elder Law passed new bylaws and approved the UTC.

6. Real Estate Section Liaison (David W. Kirch)

David reported the section is considering a review of bargain and sale deeds. The issues may turn into a CO Lawyer article. The section is thinking of addressing the issues through statute and/or title standards. Not a concern from title companies' perspective. DORA is in the process of defining "family" to address the issues of parents and grandparents being excluded from the regulations that apply to lenders. Some title companies won't issue title for places where marijuana is grown. David also mentioned issues with title companies and fraud related to wire transfers. Pays to be diligent! The RE section asked if the UTC included business trusts, and it does not.

7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)

Leia reported they are working on the deposit of original documents with the secretary of state's office; they insist the custodian is the certifier and destroyer of the documents. They also want to limit the document type and the age of the document to curb the SOS's worry about the volume of documents. UTC continues to move along, and hoping the bill is ready in January

8. Legislative Liaison (Stephen M. Brainerd/Jeremy Schupbach - CBA)

Jeremy said UTC is moving along. He said there may be a bill on mandatory arbitration, but that issue is quiet for now.

SPECIAL MEETING. At this point in the meeting, Kelly called a special meeting, stating that last month and last week notice went out to all of the section asking members to attend this meeting to approve the changes to the section bylaws. Changes were circulated. There were no members who wished to engage in discussion. There was a motion to approve the bylaw changes, and none opposed. Elizabeth was asked to post the changes to the website.

9. Council Notes (Julia G. McVey/Josie M. Faix)

Josie reported the Winter issue went out, and there are a number of articles for the next few issues ready to go.

10. CLE/Estate Planning Retreat (Leia G. Ursery/Vincent O'Brien)

Leia reported that lunches are planned and there will not be a January lunch. The spring update is ready, and will focus on administration. For the Retreat, five seminars are confirmed, she is still thinking about a 9th break out session for new lawyers.

11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)

Elizabeth reported working on marital agreement and Gene presented on Trust Certification form, and he'll head up a subcommittee.

12. Rules & Forms Committee (Jarod Balson)

No report.

13. Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections (Sandra Sigler)

Sandra reported the grant application to Next 50 went in by the deadline. Thinks SLH fits into the parameters of their grants. Curious about use of technology to bring the SLH information to this demographic - taking the SLH and tweaking to making it available via another platform. Maybe a webpage; she'd love to hear ideas. Fund-raising going well and lots of good response from members. Asking for contributions. If anyone can think of events this year where the SLH might be a good addition, that would help in terms of numbers of copies produced. Sandra said we can push to next month - council voted to push vote until next month. Want \$2,500. Grant application was for \$7,500.

14. Diversity Committee (Melissa R. Schwartz)

No report.

15. Probate Trial and Procedure Committee (Aaron Evans)

Tim Bounds reported the event was great at University Club went well and Ann Gushurst talked about elder divorce. Bench law handbook deadline in the spring, and still looking for authors for section on decedent's estates. Letty gave an update for remote notary bill. Zach and Jody will look at statute 723 in 2018. Reports from the bench re Samstadt hearing. Herb said the court didn't address no contest, but if the toolbox will apply to a joint owner of an account. Discussed the two ethics opinions 131 and 132 - will continue discussions and ask for clarifications. Looking for guidance.

Updates were given to the committee on the Uniform Guardian act, the secretary of state/document committee, and the Bench Book, which resembles the Green Book. There was a report regarding oral arguments for the Samstadt case. Letty talked about 723 actions and UTC. She feels 723 needs work and revisions. Herb gave an update on the Brookoff case. Discussion of the ethics opinions 131 and 132. There may be a possible request from Council, if we object to them. Kelly thought the limitations on drafting attorney testimony can be hard, and the opinions were not favorably received by litigators in the section.

16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)

No report.

17. Green Book (David K. Johns)

No report.

18. New T & E Lawyers Committee (Lauren da Cunha/Alison Leary)

no report.

19. *Colorado Lawyer* (David W. Kirch/Constance D. Smith)

David reported he is working with Dennis regarding UTC articles if it passes. He is also communicating with Doug Hoak and the proposed Denver Estate Planning Council competition for an article in the CO Lawyers. Maybe an article re decanting. Lauren DeCunha wanted to do a CO Lawyer article - maybe about Bene Deeds naming a testamentary trust.

20. Communications Representative (Mark D. Masters)

No report.

21. Board of Governors Representative (Melissa R. Schwartz)

No report.

22. Ambassador Coordinator (Melissa R. Schwartz)

No report.

23. GAL Subcommittee (David W. Kirch)

David reported they didn't meet because waiting to hear from three commissioners; Family Law, Juvenile Law and CO TLA. Working on a new rule re fees.

24. Miscellaneous/FYI

None.

25. Adjournment

The meeting was adjourned at or about 3:15 p.m.

Respectfully submitted,

Josie M. Faix

Welcome to the CBA's Trust & Estate Section!

Thank you for choosing to join our section. I'm writing to introduce you to some of the great resources the section has to offer. These will allow you to make the most of your section membership.

You can access the Trust & Estate Section webpage [at this link](#). Here you will find information about the Section including monthly meeting schedules, newsletters and other professional and educational resources.

Please consider joining the Section's listserv. You can join by following the instructions [at this link](#). The listserv is very active and a valuable source of information, updates and referrals.

As your section ambassador, I am available to attend events, introduce you to members and answer any section questions you may have.

The Section has a number of committees and is very active. Links to the websites for each committee are available [at this link](#). Committees generally meet on "Super Thursday," which occurs on the third Thursday of each month during the spring, fall and winter. A calendar of upcoming committee meetings is available [at this link](#).

If you are new to the field of T&E (even if you've been in practice for a while) the section has a committee just for you: the New Lawyers committee. Run by lawyers also new to T&E, this committee features educational presentations geared to the new practitioner, an opportunity to network, and the chance to talk over basic questions in this interdisciplinary but fascinating area of law. Additional information about the New Lawyers committee is available [at this link](#).

Finally, the Section also hosts CLE events, and an annual retreat. A list of upcoming events is available [at this link](#).

We look forward to meeting you in person at our next event.

Please do not hesitate to contact me with any questions. I am here to help.

Cordially,

Mark D. Masters

Colorado Bar Association

Trust & Estate

For the Six Months Ending December 31, 2017

		December	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	210.00	31,875.00		31,875.00		26,975.00
Total Revenue Trust & Estate Section		210.00	31,875.00		31,875.00		26,975.00
Expenses							
AWARDS	01-5007-31600		(223.02)		(223.02)		(325.34)
Travel	01-5102-31600	(1.00)	(1.00)		(1.00)		(912.07)
Postage	01-5304-31600		(0.92)		(0.92)		(2.32)
Telephone	01-5412-31600	(68.74)	(376.78)		(376.78)		(436.53)
Internet/E-Mail Access	01-5413-31600	(368.91)	(772.18)		(772.18)		(338.61)
Meals (Not travel related)	01-5491-31600	(3,821.24)	(5,790.41)		(5,790.41)		(3,898.76)
Administration Fee	01-5494-31600	(494.58)	(2,967.48)		(2,967.48)		(2,940.00)
Grants/Contributions	01-5500-31600		(500.00)		(500.00)		
Total Expenses Trust & Estate Section		(4,754.47)	(10,631.79)		(10,631.79)		(8,853.63)
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		
Telephone	01-5412-31625	(19.87)

Total Expenses Statutory Revisions Committee		(19.87)
CLE		
Revenue		
Revenue Joint CLE		
Revenue CLE Retreat		
Revenue CLE Section Only		

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		
Grants/Contributions	01-5500-31601	(7,500.00)
Total Expenses Uniform Trust Code		(7,500.00)
Transfer Deposits		
Revenue		
Expenses		
Telephone	01-5412-31605	(20.28)
Meals (Not travel related)	01-5491-31605	(196.40)
Total Expenses Transfer Deposits		(216.68)
Admin. Chair		
Revenue		
Expenses		
Estate Planning Handbook		
Revenue		
Expenses		
Admin Council Dinner		
Revenue		

Meal Income	01-4051-31612	1,720.00	1,720.00	1,400.00
Total Revenue Admin Council Dinner		1,720.00	1,720.00	1,400.00
Expenses				
Meals (Not travel related)	01-5491-31612			(5,979.55)
Total Expenses Admin Council Dinner				(5,979.55)
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				
Expenses				

T&E Diversity Committee					
Revenue					
Expenses					
Meals (Not travel related)	01-5491-31628				(158.80)
Total Expenses Diversitiy Comm.					(158.80)
Judicial Liaison					
Revenue					
Expenses					
Member Vouchers					
Expenses					
T&E Young Lawyer Society					
Revenue					
Expenses					
Telephone	01-5412-31629				(9.49)
Total Expenses T7E YLS					(9.49)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	210.00	33,595.00	33,595.00	28,375.00
Total Expense All Sources	01-5???-316??	(4,754.47)	(10,631.79)	(10,631.79)	(22,738.02)
Ending Balance		(4,544.47)	22,521.25	22,521.25	11,295.87

		December	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section- General							
Revenue	01-4???-31600	210.00	31,875.00		31,875.00		26,975.00
Expenses	01-5???-31600	(4,754.47)	(10,631.79)		(10,631.79)		(8,853.63)
Statutory Revisions Committee							
Expenses	015???3160...						(19.87)
CLE							
Council Notes							
Community & Civic Affairs							
Rules & Forms Committee							
Orange Book Forms							
Local Liaison							
Uniform Trust Code							
Expenses	01-5???-31601						(7,500.00)
Admin. Chair							
Estate Planning Handbook							
Admin Council Dinner							
Revenue	01-4???-31612		1,720.00		1,720.00		1,400.00
Expenses	01-5???-31612						(5,979.55)
Legislative Liaison							
Internet Editor							
Technology Committee							
Real Estate Liaison							
Green Book							
The Colorado Lawyer							
Diversity Committee							
Expenses	01-5???-31628						(158.80)
Judicial Liaison							
Member Vouchers							
Uniform Trust Code							
Expenses	01-5???-31625						(19.87)
Transfer Deposit							

Expenses	01-5???-31605				(216.68)
Young Lawyer Society					
Expenses	01-5???-31629				(9.49)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	210.00	33,595.00	33,595.00	28,375.00
Total Expenses All Sources	01-5???-316??	(4,754.47)	(10,631.79)	(10,631.79)	(22,738.02)
Ending Balance		(4,544.47)	22,521.25	22,521.25	11,295.87

**Council of the Trust and Estate Section of the Colorado Bar Association
Notice of and Agenda for the February 15, 2018 Meeting**

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

From: Josie M. Faix
Balson & Faix, LLP
7400 E. Caley Ave., #300
Centennial, Colorado 80111
Telephone: (720) 974.6350
Josie@balsonfaix.com

Notice of Meeting

The seventh meeting of the 2017-2018 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Thursday, February 15, 2018 , 3:00 p.m.****
Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, Colorado 80203

* or as close as possible to 15 minutes after the end of the Statutory Revisions Committee meeting, if that meeting runs past 3:00 p.m.

Call-In Instructions

Call-in instructions are as follows: 1.855.392.2520
Access Code: 2627690#

Minutes of Previous Meeting, Financial Reports & Attachments

1. Minutes of the January 18, 2017 meeting of the Council
2. Minutes from a Special Meeting on January 31, 2018 of Council, and attached memo
3. Trust and Estate Section Financial Reports as of January 2018
4. Ethics opinions 130, 131, and 132, and related email from the Chair of the Ethics Committee
5. Final Public Administrators Recommendations
6. Email from David Kirch discussions with DORA regarding intra-family loans
7. Potential YouTube Channel/short informational videos. Click [Here](#) to look at the videos that have already been put together.

Please review the Statutory Revisions Committee website at <http://www.cobar.org/For-Members/CBA-Sections/Trust-and-Estate/Statutory-Revisions-Subcommittee-Homepage-> for proposals that may be brought the Statutory Revisions Committee and Council.

Trust and Estate Section Council Agenda
February 15, 2018

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise its 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 January 18, 2018 meeting of the Council
2. Chair's Report and Administrative Matters (Kelly Dickson Cooper).
3. Secretary/Treasurer's report (Josie M. Faix)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section Liaison (Patrick R. Thiessen)
6. Real Estate Section Liaison (David W. Kirch)
7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)
8. Legislative Liaison (Stephen M. Brainerd)
9. Council Notes (Josie M. Faix/Kristin Dittus)
10. CLE/Estate Planning Retreat (Leia G. Ursery)
11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)
12. Rules and Forms Committee (Jarod Balson)
13. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
14. Diversity Committee (Melissa R. Schwartz)
15. Probate Trial and Procedure Committee (Aaron Evans)
16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)
17. Green Book (David K. Johns)
18. New T&E Lawyers Committee (Lauren da Cunha/Alison Leary)
19. The Colorado Lawyer (David W. Kirch/Constance D. Smith)

- 20. Communications Representative (Mark D. Masters)
- 21. Communications Representative/Ambassador Program (Melissa R. Schwartz)
- 22. Board of Governors Representative (Melissa R. Schwartz)
- 23. GAL Subcommittee (David W. Kirch)
- 24. Miscellaneous/FYI
- 25. Adjournment

**Council of the Trust and Estate Section of the Colorado Bar Association
Minutes of the January 18, 2018 Meeting**

Council met on Thursday, January 18, 2018, at the Colorado Bar Association offices, 1900 Grant Street, Denver, Colorado. The meeting was called to order at approximately 2:43 p.m.

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

Kelly Dickson Cooper, Chair (phone)
Leia G. Ursery, Vice Chair
Josie M. Faix, Secretary/Treasurer
Darla Daniel, Immediate Past Chair (phone)
Zachary D. Schlichting, Second Year Member
Nicole E. Brown, Second Year Member (phone)
Peter W. Bullard, First Year Member
Jessica L. Broderick, First Year Member

Also in attendance were: Elizabeth Akalin (CBA) Steve Brainerd, Jeremy Schubach; Georgine Kryda (Tax Section Liaison); and Patrick Thiessen (Elder Law Liaison).

1. Approval of Minutes of Prior Meeting

The Minutes of the December 21, 2017 Council meeting were approved unanimously.

2. Chair's Report, Administrative Matters (Kelly Dickson Cooper)

Council approved the expense from the new lawyer's happy hour.

Kelly discussed the issues related to a report from David K about the Ethics opinions and possible CO Lawyer articles.

Zach Schlichting reported he is working on a Section welcome letter, intended as a template for welcoming new members to the section. Also discussed creation of two minute videos on various topics. He talked to folks from the young lawyers group to discuss what might be helpful; for example, videos on style, creating tables of content, formatting, etc. They did a few sample videos, to see if helpful to launch a YouTube channel to hold those videos. More about technical skills to start. Later might include videos of other things. Bars across the country are doing various things. Will forward links to Council to review. Might be best run by the new lawyers committee.

Section bylaw changes have to be approved the CBA exec council, Kelly doesn't have to attend. Not final yet. Elizabeth said to go ahead and work elections with the new process, even though not approved.

3. Secretary/Treasurer's Report (Josie M. Faix)

Josie said she will reach out to committees with for budget requests.

4. Tax Section Liaison (Georgine M. Kryda)

No report. She asked about Ethics opinion - if family asks if there was a will, do we have to get a court order respond? Kelly said ethics opinions are advisory, and although you may need a court order to answer her question.

5. Elder Law Section Liaison (Patrick R. Thiessen)

Patrick reported that Elder Law list serv based on opting out is going great. Discussed bill for advanced directive and creating location for medical powers of attorney to be recorded somewhere. Seen a draft, but very vague. Not sure how it would work.

6. Real Estate Section Liaison (David W. Kirch)

See Chair's report.

7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)

Leia reported that Pete Bullard said they are working on the deposit of original documents with the secretary of state's office; the SOS insists the custodian is the certifier and destroyer of the documents, not the SOS's office. The SOS also wants to limit the document type and the age of the document to curb the SOS's worry about the volume of documents. UTC continues to move along, and hoping the bill is almost ready. Remote notary is coming back this legislative session.

8. Legislative Liaison (Stephen M. Brainerd/Jeremy Schupbach - CBA)

Steve reported UTC is slated for LPC on Feb 2 or 9; Darla, Connie and Steve will be there. LPC on agenda tomorrow, to set the stage for the February meeting. Running start for what will come. Jeremy added that trying to make sure no surprises in February. Kelly asked if anything needed from Council? Steve said no. Trying to make it easy, Jeremy said. Steve said not inserting directed trustee and other sections into UTC - we can do that later. Leia said those members that care about UTC are already reading the bill. Jeremy said we may get caught up with other bills, but nothing on the horizon right now. Council bantered thoughts about the new guardian bill, and how to approach.

9. Council Notes (Josie M. Faix/Kristin Dittus)

Josie reported she will readh out in February for the Spring Issue. Excited to work with Kristin.

10. CLE/Estate Planning Retreat (Leia G. Ursery/Vincent O'Brien)

Leia reportedfor For the Retreat, five seminars are confirmed. Ted Atlss witll do overoview of tax act, the UTC session. Will be a 9th break out session for new lawyers. Issues that are missed in estate admin , and planning with ret assets. Will be a party/dinner the first night, hopefully, with a silent auction. Help bring the section together, and give the non-metro lawyers, new lawyers, and lesser know lawyers a way to feel included.

11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)

Elizabeth reported they are working on marital agreement Making good Progress.

12. Rules & Forms Committee (Jarod Balson)

No report. Approved Certificate of Service, and fees in a probate matter.

13. Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections (Sandra Sigler)

Sandra reported Fund-raising for Senior Law Handbook going well. Convinced both members and outside businesses to contribute. Graphics for the SLH are due 2/14, and last day to add a participant. Hoping to know in by mid February if the Next 50 grant given to the SLH. Multi-year application due in the summer with Next 50, might include innovative technologies. Several requests from smaller places to hold an event, and a request for a few hundred books - not just a Denver resource. Know a few SLH events in Grand Junction first week in May; June 2 in Adams County fair grounds. Jeffco might be the same day - looking for a new venue. July 28 for Denver, and Arapahoe County is Sept 15.

14. Diversity Committee (Melissa R. Schwartz)

No report.

15. Probate Trial and Procedure Committee (Aaron Evans)

Aaron reported by phone that the committee reviewed ethics opinion 130, which prevents the disclosure of public documents. Gary Claxton is on the Ethics Committee, and you can write a letter to the committee asking for more guidance. Kelly said we'd discuss in February, but this issue is troublesome. There was general discussion of specifics that concern attorneys. Kelly wondered how the section would respond to the Ethics Committee.

16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)

No report.

17. Green Book (David K. Johns)

No report.

18. New T & E Lawyers Committee (Lauren da Cunha/Alison Leary)

No report.

19. Colorado Lawyer (David W. Kirch/Constance D. Smith)

No report.

20. Communications Representative (Mark D. Masters)

No report.

21. Communications Representative/Ambassador Coordinator (Melissa R. Schwartz)

No report.

22. Board of Governors Representative (Melissa R. Schwartz)

No report.

23. Ambassador Coordinator (Melissa R. Schwartz)

No report.

24. GAL Subcommittee (David W. Kirch)

No report.

25. Miscellaneous/FYI

The meeting was adjourned at or about 4:39 p.m.

Respectfully submitted,

Josie M. Faix

**Council of the Trust and Estate Section of the Colorado Bar Association
Minutes of the Special Meeting on January 31, 2018 Meeting**

Council held a Special Meeting on January 31, 2018, via phone. The meeting was called to order at approximately 4:00 p.m.

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

Kelly Dickson Cooper, Chair
Leia G. Ursery, Vice Chair
Darla Daniel, Immediate Past Chair
Zachary D. Schlichting, Second Year Member
Nicole E. Brown, Second Year Member
Casey L. Williams, Second Year Member
Peter W. Bullard, First Year Member
Jessica L. Broderick, First Year Member

Also in attendance were: Frank Hill, member of the CBA working group, and Steve Brainerd, Legislative Liaison.

Discussion Regarding Remote Notarization Working Group and New Remote Notary Bill

Frank had circulated a memorandum regarding the concerns of the working group regarding the remote notarization bill recently introduced. Frank provided us with further background regarding the efforts of the working group, the stakeholders involved in the working group, and the efforts to get to a bill that was acceptable to everyone. The remote notarization bill is being pushed by a group called Notarize. The Deputy AG was part of the working group and worked closely with the working group and was supportive of the CBA representatives' input and recommendations in the initial drafts of the bill. The final bill did not include the concerns expressed by the CBA representatives' input.

There was a motion and a second to oppose the bill unless the concerns in the unofficial memo (attached) are addressed via amendment to the current bill. Council discussed and the motion passed. Steve Brainerd will inform Jeremy of the Section's decision.

Council adjourned the special meeting at 4:19pm.

Memo attached

Respectfully submitted,

Josie M. Faix

Colorado Bar Association

Trust & Estate

For the Seven Months Ending January 31, 2018

		January	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	120.00	31,995.00		31,995.00		27,087.50
Total Revenue Trust & Estate Section		120.00	31,995.00		31,995.00		27,087.50
Expenses							
AWARDS	01-5007-31600	(133.76)	(356.78)		(356.78)		(325.34)
Travel	01-5102-31600		(1.00)		(1.00)		(912.07)
Postage	01-5304-31600		(0.92)		(0.92)		(2.32)
Telephone	01-5412-31600	(106.12)	(482.90)		(482.90)		(529.99)
Internet/E-Mail Access	01-5413-31600		(772.18)		(772.18)		(679.34)
Meals (Not travel related)	01-5491-31600	(2,950.26)	(8,740.67)		(8,740.67)		(4,672.53)
Administration Fee	01-5494-31600	(494.58)	(3,462.06)		(3,462.06)		(3,430.00)
Grants/Contributions	01-5500-31600		(500.00)		(500.00)		
Total Expenses Trust & Estate Section		(3,684.72)	(14,316.51)		(14,316.51)		(10,551.59)
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		
Telephone	01-5412-31625	(19.87)
Total Expenses Statutory Revisions Committee		(19.87)
CLE		
Revenue		
Revenue Joint CLE		
Revenue CLE Retreat		
Revenue CLE Section Only		
Expenses		
Grants/Contributions	01-5500-31611	(7,500.00)
Expenses Joint CLE		
Expenses CLE Retreat		
Expenses CLE Section Only		
Total Expenses CLE		(7,500.00)
Council Notes		
Revenue		
Expenses		
Community & Civic Affairs		
Revenue		
Expenses		
Rules & Forms Committee		
Revenue		
Expenses		

Orange Book Forms

Revenue		
Expenses		
AWARDS	01-5007-31607	(200.00)
Total Expenses Orange Book Forms		(200.00)

Local Liaison

Revenue		
Expenses		

Uniform Trust Code

Revenue		
Expenses		

Transfer Deposits

Revenue		
Expenses		
Telephone	01-5412-31605	(64.88)
Meals (Not travel related)	01-5491-31605	(196.40)
Total ExpensesTransfer Deposits		(261.28)

Admin. Chair

Revenue		
Expenses		

Estate Planning Handbook

Revenue		
Expenses		

Admin Council Dinner				
Revenue				
Meal Income	01-4051-31612	1,720.00	1,720.00	1,400.00
		-----	-----	-----
Total Revenue Admin Council Dinner		1,720.00	1,720.00	1,400.00
Expenses				
Meals (Not travel related)	01-5491-31612			(5,979.55)
		-----	-----	-----
Total Expenses Admin Council Dinner				(5,979.55)
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				
		-----	-----	-----

Expenses					
T&E Diversity Committee					
Revenue					
Expenses					
Meals (Not travel related)	01-5491-31628				(158.80)
Total Expenses Diversitiy Comm.					(158.80)
Judicial Liaison					
Revenue					
Expenses					
Member Vouchers					
Expenses					
T&E Young Lawyer Society					
Revenue					
Expenses					
Telephone	01-5412-31629				(16.64)
Total ExpensesT7E YLS					(16.64)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	120.00	33,715.00	33,715.00	28,487.50
Total Expense All Sources	01-5???-316??	(3,684.72)	(14,316.51)	(14,316.51)	(24,687.73)
Ending Balance		(3,564.72)	18,956.53	18,956.53	9,458.66

		January	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section- General							
Revenue	01-4???-31600	120.00	31,995.00		31,995.00		27,087.50
Expenses	01-5???-31600	(3,684.72)	(14,316.51)		(14,316.51)		(10,551.59)
Statutory Revisions Committee							
Expenses	015???3160...						(19.87)
CLE							
Expenses	015???3161...						(7,500.00)
Council Notes							
Community & Civic Affairs							
Rules & Forms Committee							
Orange Book Forms							
Expenses	01-5???-31607						(200.00)
Local Liaison							
Uniform Trust Code							
Admin. Chair							
Estate Planning Handbook							
Admin Council Dinner							
Revenue	01-4???-31612		1,720.00		1,720.00		1,400.00
Expenses	01-5???-31612						(5,979.55)
Legislative Liaison							
Internet Editor							
Technology Committee							
Real Estate Liaison							
Green Book							
The Colorado Lawyer							
Diversity Committee							
Expenses	01-5???-31628						(158.80)
Judicial Liaison							
Member Vouchers							
Uniform Trust Code							
Expenses	01-5???-31625						(19.87)

Transfer Deposit					
Expenses	01-5???-31605				(261.28)
Young Lawyer Society					
Expenses	01-5???-31629				(16.64)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	120.00	33,715.00	33,715.00	28,487.50
Total Expenses All Sources	01-5???-316??	(3,684.72)	(14,316.51)	(14,316.51)	(24,687.73)
Ending Balance		(3,564.72)	18,956.53	18,956.53	9,458.66

130**ONLINE POSTING AND SHARING OF
MATERIALS RELATED TO THE
REPRESENTATION OF A CLIENT**

Approved April 3, 2017

I. INTRODUCTION AND SCOPE

The Internet has made sharing many forms of information easier. It is easy, for example, for lawyers to post video clips from depositions, share responses to common motions or deposition transcripts of often-used experts, or publish recent court orders. The practice of sharing litigation materials, including deposition transcripts, briefs, and discovery responses, allows lawyers to assist one another in representing their respective clients. A comment to Rule 3.6 of the Colorado Rules of Professional Conduct (Colo. RPC or the Rules) reminds lawyers that “there are vital social interests served by the free dissemination of information about events having legal consequences and about legal proceedings themselves.” Colo. RPC 3.6, cmt. [3].

Despite the strong interest in allowing the free flow of information, including through various electronic media, lawyers must be mindful of and adhere to various provisions of the Rules when sharing or posting information online. Lawyers must be particularly vigilant about client confidentiality when revealing information relating to the representation of a client. In addition, lawyers must be mindful of their duty of candor and other obligations flowing from court orders and rules. Although some of the Rules do not apply when a lawyer is not representing a client, most of the Rules relevant to

posting or sharing materials obtained or generated during representation apply generally to a lawyer regardless of whether the lawyer posts or shares the materials as part of the representation of a client. These rules also generally apply even after the representation has concluded.

This opinion focuses on posting or sharing materials electronically, through various forms of online media, but the conclusions in this opinion apply to dissemination in any form. For instance, the principles underlying this opinion would apply to a lawyer showing a video deposition to a live audience or distributing written materials at a CLE presentation.

II. LAWYER’S DUTY TO MAINTAIN CLIENT CONFIDENCES

A. Confidential Client Information

A deposition transcript in which an expert admits to lacking certain qualifications might be helpful for other lawyers to review before preparing a response to a summary judgment motion or preparing to examine the same expert in a deposition or at trial. A video of a deposition in which a government official admits to public corruption might be valuable for the public to watch. When a lawyer obtains these materials in connection with representing a client, however, Colo. RPC 1.6 is implicated.

Colo. RPC 1.6(a) prohibits a lawyer from revealing “information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure” meets one of a few specific and narrowly drafted exceptions in Colo. RPC 1.6(b). There is no

exception for revealing information for educational purposes, to assist another lawyer, or because the information is “newsworthy.”

Similarly, Colo. RPC 1.8(b) provides “[a] lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules.” Comment 5 to Rule 1.8 explains this prohibition applies even when “information is used to benefit either the lawyer or a third person, such as another client or business associate of the lawyer.” The Comment clarifies, however, that Rule 1.8(b) “does not prohibit uses that do not disadvantage the client.”

The scope of what is confidential under Rule 1.6 is much broader than the evidentiary attorney-client privilege. “The confidentiality rule . . . applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source.” Colo. RPC 1.6, cmt. [3]. The Colorado Supreme Court broadly interprets “client information.” *People v. Hohertz*, 102 P. 3d 1019, 1022 (Colo. 2004).

Information relating to the representation of a client often exists in public records. Because a client may not understand that many records, like court filings, are available to the public, a lawyer should advise the client that certain tasks necessary to the representation of the client will result in information about the client, even sensitive information, becoming public.

Information in public records that relates to the representation of a current client is “information related to the representation of a client” that is covered by the Rules. There is no exception for disclosing information in public records. *In re Anonymous*, 654

N.E.2d 1128, 1129 (Ind. 1995) (disclosure of client information that “was readily available from public sources and not confidential in nature” violated Rule 1.6); *Lawyer Disciplinary Bd. v. McGraw*, 194 W.Va. 788, 461 S.E.2d 850, 860 (W.Va. 1995) (“The ethical duty of confidentiality is not nullified by the fact that the information is part of a public record or by the fact that someone else is privy to it.”). Nor is there an exception for information that is otherwise publicly available. For example, without informed consent, a lawyer may not disclose information relating to the representation of a client even if the information has been in the news.

When materials contain information relating to the representation of a client, regardless of the source of the information, a lawyer must obtain the client’s informed consent to post or share them. “‘Informed consent’ denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.” Colo. RPC 1.0(e). The information a lawyer seeking informed consent should provide to the client will vary depending on the circumstances. At a minimum, the lawyer should ensure the client understands exactly what information the lawyer proposes to publish, the manner of publication, to whom the information will be available, and the foreseeable ramifications to the client and the client’s case. A lawyer must consider and advise the client that once the lawyer discloses the information, those receiving the information may distribute it further. The lawyer should also clarify that the client may withhold consent. If the lawyer’s purpose in posting information obtained in the course of representing a client is unrelated to the client’s legal matter, the lawyer should disclose that unrelated purpose to the client.

B. The “Generally Known” Exception for Former Clients

Colo. RPC 1.9(c)(2), relating to duties to former clients, prohibits a “lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter” from revealing information relating to the representation subject to the same exceptions that apply to representation of a current client. Colo. RPC 1.9(c)(1), however, permits a lawyer to “use information relating to the representation to the disadvantage of the former client . . . when the information has become generally known.” Comment 8 to Rule 1.9 further provides that “the fact that a lawyer has once served a client does not preclude the lawyer from using generally known information about that client when later representing another client.”

As of the issuance of this opinion, no Colorado appellate decision has interpreted the phrase “generally known” as used in Rule 1.9(c)(1). Courts in other jurisdictions have varied in their interpretations. In *In re Anonymous*, 932 N.E.2d 671, 674 n.2 (Ind. 2010), the Indiana Supreme Court suggested that the fact that a divorce had been filed—information a lawyer had learned during the course of representing a client—was not necessarily generally known. In *Pallon v. Roggio*, 2006 WL 2466854 (D.N.J., Aug. 23, 2006), the court, applying New Jersey law and professional rules, held that generally known “does not only mean that the information is of public record.” *Id.* at 7. Rather, the information “must be within the basic understanding and knowledge of the public.” *Id.* In *Wood’s Case*, 634 A.2d 1340 (N.H. 1993), the court concluded that a lawyer violated New Hampshire’s equivalent to Rule 1.9 by revealing to a reporter a former client’s intention to construct a mall in connection with the lawyer’s public opposition to

attempts by the former client to obtain re-zoning of certain property because that information was more specific than was generally known to the public.

Other jurisdictions have construed the term “generally known” more broadly. In *Statewide Grievance Committee v. Heghmann*, 2004 WL 3130568 (Conn. Super. Ct. Dec. 20, 2004) (unpublished), the court held that there was not clear and convincing evidence that a lawyer violated Connecticut’s version of Rule 1.9 by advising others involved in disputes with the lawyer’s former clients that the former clients had certain tendencies in litigation, *e.g.*, personally attacking their opponents’ character, litigating cases in the media, and engaging in “vendetta-type tactics.” *Id.* at 2-3. Although the court found that the lawyer’s communications revealed information relating to the representation of a former client, the court was unpersuaded to the requisite degree of proof that the information was not “generally known.” *Id.* at 3. In *State v. McKinley*, 860 N.W.2d 874, 883 (Iowa 2015), the court concluded that matters of public record, such as felony convictions, are generally known within the meaning of a substantially similar Iowa disciplinary rule. Other courts have reached similar conclusions. *E.g.*, *State v. Mark*, 238, 231 P.3d 478, 511 (Haw. 2010) (information regarding the prior conviction of a lawyer’s former client was generally known); *State ex rel. Youngblood v. Sanders*, 575 S.E.2d 864, 871 (W.Va. 2002) (information contained in police reports was generally known); *Janas v. Janas*, 2004 WL 3167959, at *1 (Conn. Super. Ct. Dec. 14, 2004) (unpublished) (in dissolution action, denying husband’s motion to disqualify wife’s lawyer on the basis that the lawyer had learned husband’s psychological and medical history while previously representing husband in a personal injury case: finding that the history was known to husband’s treating physicians and, therefore, generally known).

Because of the varying interpretations of this key phrase, and the lack of direction from courts in Colorado, a Colorado lawyer should exercise caution when posting or sharing information learned during the representation of a former client, even when the lawyer believes the information is “generally known.”

C. Redaction as a Potential Protective Measure

When a client has not provided informed consent to share or post litigation materials, a lawyer may be able to redact the materials sufficiently to share or post the materials in compliance with Colo. RPC 1.6(a) and 1.9(c). The redactions must be sufficient to ensure that the disclosure no longer provides “information relating to the representation of a client.” Colo. RPC 1.6(a).

The Committee agrees with the Standing Committee on Ethics and Professional Responsibility of the State Bar of Nevada, which concluded that the confidentiality rule “is intended to strongly caution the lawyer to give consideration to the rule of client confidentiality - and whether the informed consent of the client should be obtained - whenever the lawyer makes any verbal, written[,] or electronic communication relating to the client.” Nevada Formal Op. No. 41 (2009). Similarly, the Committee agrees with the Alaska Bar Association’s Ethics Committee, which opined that Rule 1.6 “does not prohibit informal communication or the exchange of public documents between counsel,” but that “a cautious lawyer should delete from documents and discussions all information that might identify the client and that is not relevant for purposes of the disclosure.” Alaska Ethics Op. No. 95-1, “Propriety of Shop Talk and Courtesy Copies Under ARPC 1.6” (1994).

Merely redacting the client's name is usually insufficient to comply with Colo. RPC 1.6(a) and 1.9(c). When the client has not given informed consent to the dissemination of the client's information, the lawyer must, at a minimum, redact all information that identifies the client or connects the non-redacted information to the client. This includes redacting all information that could lead to the identification of the client, such as addresses and other personal details about the client. This also includes redacting all information that could connect the non-redacted information to the client or show that the information is related to the client, including dates, locations, and specific descriptions of events. A comment to Rule 1.6 explains:

Paragraph (a) prohibits a lawyer from revealing information relating to the representation of a client. This prohibition also applies to disclosures by a lawyer that do not in themselves reveal protected information but could reasonably lead to the discovery of such information by a third person. A lawyer's use of a hypothetical to discuss issues relating to the representation is permissible so long as there is no reasonable likelihood that the listener will be able to ascertain the identity of the client or the situation involved.

Colo. RPC 1.6, cmt. [4].

A lawyer should take care to redact all information that would enable a person viewing the materials to conduct outside research to learn the client's identity or connect the non-redacted information to the client. A lawyer also should redact information that would enable a person who knows the client's identity from a different source to connect the non-redacted information to the client. In some circumstances, such as when the facts are highly unusual and involve a public figure, it may be extremely difficult to protect confidentiality with any level of redacting.

When sharing or posting a summary judgment brief, for example, a lawyer may need to remove paragraphs from the statement of facts, the names of exhibits, and other

information specific to the representation of the client. When posting a deposition transcript, a lawyer may need to redact all but a few questions and answers that do not reveal information related to the client or the specific matter litigated, depending on the circumstances.

Although a lawyer should broadly interpret the information covered by Colo. RPC 1.6(a) and 1.9(c), the Committee believes that some information never needs to be redacted to comply with these rules. For instance, legal citations, non-legal research from treatises, and curriculum vitae for disclosed experts may generally be shared without obtaining the client's informed consent, as long as the materials do not contain any other information that, if shared without informed consent, would violate these rules.

III. OTHER RESTRICTIONS ON SHARING OR POSTING LITIGATION MATERIALS.

In some circumstances, even when sharing or posting the information does not violate Rule 1.6 or 1.9, other Rules may preclude a lawyer from revealing information relating to the representation of the client.

For example, even if a lawyer has obtained the client's consent to share information, court orders may prevent disclosure of the information. Colo. RPC 3.4(c) prohibits a lawyer from "knowingly disobey[ing] an obligation under the rules of a tribunal." A lawyer may violate this rule by, for instance, sharing discovery responses or specific documents that are subject to a protective order. In some cases, courts may have entered orders concerning trial publicity, or may have directed that all filings in a case be suppressed. Before posting any information obtained in the course of litigation, a lawyer must consider the scope of any orders entered in the case. A lawyer who is concerned

about the potential that an opposing party or lawyer might widely disseminate sensitive information concerning the lawyer's client should consider seeking an appropriate protective order.

Additionally, Colo. RPC 3.6 prohibits a "lawyer who is participating or has participated in the investigation or litigation of a matter" from making "an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter." Colo. RPC 3.6(b) permits a lawyer to make statements or post materials about certain specific subjects and Colo. RPC 3.6(c) permits a lawyer to post materials "that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client." Even when the public statements or posting of materials is allowed under Colo. RPC 3.6(b) or (c), a lawyer must comply with Colo. RPC 1.6 and 1.9 when the statements or posting would reveal information related to the representation of a client or former client.

The Committee, like the drafters, recognizes that a lawyer may have an interest in free expression related to these matters. *See* Colo. RPC 3.6, cmt. [1] ("It is difficult to strike a balance between protecting the right to a fair trial and safeguarding the right of free expression."). Analyzing this balance fully involves consideration of legal issues, including those arising under the First Amendment to the United States Constitution, that are beyond the scope of this opinion.

Even with informed client consent, sharing edited or misleading litigation materials may violate the Rules. Under Colo. RPC 8.4(c), a lawyer may not "engage in conduct

involving dishonesty, fraud, deceit or misrepresentation.” A lawyer would likely violate this rule, for example, by posting only an edited portion of a video deposition that presents information in a false or misleading light. Similarly, other discovery materials or recorded information could be misleading if presented out of context or in a manipulated fashion. This is particularly true when an answer to a particular question posed during a deposition or through some other form of discovery is placed immediately after a question to which the answer was not intended to respond.

When “representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person.” Colo. RPC 4.4(a). Materials obtained concerning an opposing party in litigation may be of a highly personal and sensitive nature. Sharing such information could be extremely embarrassing to parties involved in the litigation process. Similarly, sensitive information learned during the course of representation can be embarrassing to a lawyer’s former client if revealed in connection with a subsequent dispute with the former client. Lawyers who contemplate publishing materials, even when not precluded from doing so by any direct court order, must carefully consider whether there is a legitimate purpose for making the material generally available.

In some circumstances, a lawyer may wish to post information and materials obtained or generated in the course of representing a client in connection with the lawyer’s marketing efforts. Use of such materials in marketing is beyond the scope of this opinion. However, a lawyer contemplating use of information or materials obtained in the course of representing a client for marketing purposes must carefully consider the Rules discussed in this opinion and any other applicable Rules.

Colo. RPC 8.4(a) prohibits a lawyer from violating the Rules through another and knowingly assisting or inducing another to violate the Rules. Therefore, a lawyer may not encourage a client to post litigation materials when the lawyer's posting of the same materials would violate the Rules—for instance, by encouraging a client with a large social media following from distributing edited video deposition clips that the lawyer knows will substantially prejudice an upcoming trial. But this rule does not prohibit a lawyer from advising a client regarding action the client is legally entitled to take. Thus, a lawyer may advise a client about posting litigation materials online as long as the lawyer does not assist or induce the client to post the materials if the lawyer would be precluded from doing so directly.

IV. CONCLUSION.

In many situations, making information obtained in the course of representing a client public is helpful, either to other lawyers or to educate the public. But client confidences must be respected. When a client gives informed consent to a lawyer's posting or sharing of materials, or the lawyer redacts client identifying information, a lawyer does not violate Rules 1.6 or 1.9. However, even where the Rules on client confidentiality permit a lawyer to post or otherwise share client information, the lawyer must nevertheless be careful to adhere to other Rules, including those requiring adherence to court orders, prohibiting communications that are dishonest, deceitful, or substantially likely to materially prejudice the administration of justice, and governing advertising.

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REPRESENTING CLIENTS WITH DIMINISHED CAPACITY WHERE THE SUBJECT OF THE REPRESENTATION IS THE CLIENT'S DIMINISHED CAPACITY

Adopted September 13, 2017

Scope

This opinion addresses the representation of clients where the subject of the representation is an adult protective proceeding (guardianship and conservatorship). It also encompasses ethical issues when the lawyer is acting as a *guardian ad litem* in an adult protective proceeding or when the lawyer represents an allegedly incapacitated person. While lawyers are appointed as *guardians ad litem* in the majority of adult protective proceedings, non-lawyers may also be appointed.

The Colorado Bar Association (CBA) has issued a separate formal ethics opinion that addresses representing clients with diminished capacity where the presence of diminished capacity is incidental to the lawyer's representation. See CBA Formal Op. 126, "Representing the Adult Client With Diminished Capacity" (2015). This opinion does not cover representation of individuals who are minors or who may have a mental incapacity in addition to their incapacity due to their minority.

Syllabus

A lawyer may become involved in adult protective proceedings in a variety of ways. The lawyer may have a long-term lawyer-client relationship with a client who, over the course of the representation, develops diminished capacity and becomes the

subject of an adult protective proceeding. Perhaps more commonly, the lawyer may become involved in the adult protective proceeding because the individual alleged to have diminished capacity, or an adult child of the allegedly incapacitated person, retains the lawyer for the purpose of representing the allegedly incapacitated person in the adult protective proceeding. In another common scenario, the lawyer may be appointed by the court as counsel for the allegedly incapacitated person. Still other lawyers may be appointed by the court as *guardians ad litem* in the adult protective proceeding.

Whether the lawyer acting as counsel in an adult protective proceeding had a preexisting lawyer-client relationship with the allegedly incapacitated person, is retained to represent that person for the first time as a result of a protective proceeding, or is court-appointed counsel, the controlling ethical rule is Rule 1.14 of the Colorado Rules of Professional Conduct (Colo. RPC or the Rules).

However, Rule 1.14's application to the lawyer in an adult protective proceeding differs from the application of Rule 1.14 when the discovery of diminished capacity is incidental to the legal representation. The lawyer representing the allegedly incapacitated person in an adult protective proceeding is subject to the same considerations relative to lawyer-client privilege and confidentiality under Rule 1.6 that apply to any other lawyer.

If the allegedly incapacitated person's alleged incapacity is so severe that the lawyer cannot form or continue a lawyer-client relationship, the lawyer should decline or withdraw from representation, and if the lawyer has entered an appearance in the protective proceeding, he or she should seek to withdraw from the representation. If

there is no *guardian ad litem* in the protective proceeding when the lawyer seeks to withdraw, the withdrawing lawyer should inform the court of the lawyer's inability to form or continue the lawyer-client relationship and should request the appointment of a *guardian ad litem*. Colo. RPC 1.14, cmt. [7]; see also C.R.S. § 15-14-305 (preliminaries to hearing), C.R.S. § 15-14-309 (right to a lawyer post-adjudication).

Guardians Ad Litem

A lawyer serving as a *guardian ad litem* in an adult protective proceeding has certain different responsibilities and ethical issues. In *People v. Gabriesheski*, 262 P.3d 653 (Colo. 2011), the Colorado Supreme Court ruled that a *guardian ad litem* is an independent officer of the court and the minor is not the *guardian ad litem*'s client.¹ *Gabriesheski* involved a minor, not an adult protective proceeding. But, to the extent the role of the *guardian ad litem* for a minor may be similar to the role of the *guardian ad litem* in an adult protective proceeding, *Gabriesheski* may provide some insight. In a dependency and neglect case, the *guardian ad litem* is tasked with investigating, reporting, and representing the child's best interest. As there is no lawyer-client relationship in the traditional sense, the child has no expectation of privacy for communications with the *guardian ad litem*. This part of *Gabriesheski* is the traditional

¹ In *L.A.N. v. L.M.B.*, 292 P.3d, 942 (Colo. 2013) the Colorado Supreme Court ruled that the "GAL's 'client' is the 'best interest of the child,'" *id.* at 949 (citing C.R.S. § 19-3-203(3) (a section of the Colorado Children's Code), & Chief Justice Directive 04-06, "Court Appointments Through the Office of the Child's Representative"). The cited authorities apply only to *guardians ad litem* representing minors. To date, no Colorado

interpretation of the role of a *guardian ad litem* in adult protective proceedings, and is the generally accepted interpretation of how *Gabriesheski* applies in adult protective proceedings.

As an independent actor in protective proceedings, the *guardian ad litem* has no client, and therefore, except to the extent that the Rules apply to all Colorado lawyers, Rule 1.14 and Rule 1.6 are not directly implicated. Rather, because the allegedly incapacitated person is not the *guardian ad litem*'s client, the *guardian ad litem* also has no lawyer-client privilege with regard to any information he or she obtains, concerning the allegedly incapacitated person, including information from that person.

Maintaining a Normal Lawyer-client Relationship

The lawyer's effective and efficient representation of any client depends on the client's ability to receive, analyze, and process information and advice received from the lawyer, and to accurately inform the lawyer regarding information relevant to the representation. CBA Formal Op. 126. When the lawyer represents an allegedly incapacitated person, this ability is compromised. The question becomes to what extent the ability to form and maintain a lawyer-client relationship is compromised. Colo. RPC 1.14(a) is implicated in representation of an allegedly incapacitated person. Rule 1.14(a) mandates that the lawyer, "as far as reasonably possible, maintain a normal lawyer-client relationship with the client." Despite the client's diminished capacity, the client retains the right to determine the goals and objectives of the representation and to

appellate court has opined on the question of who is the *guardian ad litem*'s client in an adult protective proceeding

consult with the lawyer concerning the means by which the objectives are obtained. Colo. RPC 1.2(a). Thus, the lawyer must consult with the client and respect and be guided by the client's assessment and direction. Colo. RPC 1.14, cmt. [1]. Still, the lawyer should remain cognizant of the client's limited capacity and how that impacts the client's ability to effectively communicate his or her true intentions.

However, because the lawyer representing the allegedly incapacitated person begins the representation knowing of the alleged incapacity, Rule 1.14(b) applies only in a limited way to permit the lawyer to seek professional assistance in determining how to communicate with the allegedly incapacitated person. In this circumstance, Rule 1.14 would not appear to extend to steps the lawyer would normally take, including "consulting with individuals or entities that have the ability to take actions to protect the client," since the very situation that led to the representation is the incapacity, which the lawyer was aware of at the outset. The first sentence of Rule 1.14(c) applies in that situation, and the lawyer is subject to Rule 1.6. However, the implied exception of the second sentence of Rule 1.14(c) does not apply to the lawyer for the allegedly incapacitated person in an adult protective proceeding, as the lawyer representing the allegedly incapacitated person in such a proceeding represents the client's interests as expressed to the lawyer by the client. The protective proceeding permitted under Rule 1.14(b) is already in progress, and therefore the lawyer may not reveal confidential information, as the reason for this sentence (the right to reveal information so as to pursue appropriate protective proceedings) has already occurred.

Absent a lawyer-client relationship, the *guardian ad litem* should be guided by the

Rules but need not follow the goals and objectives of the allegedly incapacitated person. Rather, the *guardian ad litem* should be guided by what he or she believes, in his or her professional opinion, is in the best interests of the allegedly incapacitated person. The *guardian ad litem* is appointed by the court and is directed by the court to advise the court and act in the best interests of the allegedly incapacitated person, regardless of whether the advice and actions of the *guardian ad litem* are consistent with the goals and objectives of the allegedly incapacitated person.²

The primary difference between representing a fully competent client and an allegedly incapacitated client concerns communication. A lawyer representing an allegedly incapacitated person, should adjust his or her interview and communication style so that the allegedly incapacitated client can understand the information provided by the lawyer to the fullest extent possible. This may require the lawyer to modify and simplify language so that the client can understand and internalize it in order to make an informed decision. See Roberta K. Flowers & Rebecca C. Morgan, “Ethics in the Practice of Elder Law,” Am. Bar Ass’n, 2013. Such a modification in communication style is similar to the adjustment in language a lawyer might use with a less educated client, compared to the language the lawyer might use with a highly educated client or

² For guardians (as distinguished from *guardians ad litem*), the standard under Colorado law is known as “substituted judgment,” C.R.S. § 15-14-314(1); “best interests” is the standard only if the desires and personal values of the allegedly incapacitated person

one who has expertise in the subject matter of the litigation.

The lawyer also may adjust his or her communication technique by accepting the assistance of a third party who enjoys the special confidence of the allegedly incapacitated person. Such person is typically an adult child or other relative of the allegedly incapacitated person, but may be any person in whom the allegedly incapacitated person places special confidence.

While normally the presence of a third party destroys the lawyer-client privilege, this is generally not so if the presence of the third party is necessary to assist in the representation. Colo. RPC 1.14 cmt. [3]. However, the lawyer should be cognizant that in all circumstances, the lawyer's duty is to follow the client's objectives and goals, not to defer to the goals or objectives of the third party assisting the client in communicating with the lawyer. Colo. RPC 1.14, cmt [3].

The lawyer also may communicate with an allegedly incapacitated person using written memoranda to summarize conversations or requesting the client to explain what the lawyer has just stated. This type of interaction between lawyer and client may enable the lawyer to gain a better sense of the client's capacity to grasp, interpret, and retain information.

Another step the lawyer should consider in his or her attempt to maintain a normal lawyer-client relationship includes scheduling meetings with the client at a time of day when the client has the greatest level of capacity, such as early in the day,

cannot be established. *Id.* By contrast, the "best interests" standard always applies to *guardians ad litem*. See C.R.S. § 15-14-314.

immediately after the client has eaten, or after the client has rested.

Requests for Representation by Others Seeking Protective Proceedings

Where the lawyer has had a prior lawyer-client relationship with the allegedly incapacitated person, and an adult relative (typically an adult child or other trusted relative) or others approach the lawyer to commence a protective proceeding against the former client, the lawyer must decline the representation. Colo. RPC 1.9. In the typical situation, the lawyer will have created an estate plan for the allegedly incapacitated person, including creating powers of attorney naming the relative who has approached the lawyer as an agent under the power of attorney, and that agent now wishes the lawyer to commence a protective proceeding against the client. In this situation, the lawyer most likely has obtained confidential information concerning the allegedly incapacitated person that may directly or indirectly impact any protective proceeding. The lawyer may recommend to the agent or relative other lawyers qualified in protective proceedings who might represent the agent or relative, but the lawyer cannot provide information to the referred lawyer concerning the reason for the referral. Colo. RPC 1.6. Note also that the lawyer must not provide referrals to other lawyers in his or her law firm, since all members of the firm are disqualified from accepting representation if one member is disqualified. *Liebnow v. Boston Enterprises, Inc.*, 2013 CO 8, 296 P. 3d 108, 118; see also Colo. RPC 1.10(a).

Most available guidance for *guardians ad litem* is written in terms of, and applies to appointments in dependency and neglect cases, in which the *guardian ad litem* must act in the minor's best interests. The only existing guidance for *guardians ad litem* in

adult protective proceedings is Chief Justice Directive 04-05, Section VII, “Duties of *Guardians Ad Litem* and Court Visitors Appointed on Behalf of Wards or Impaired Persons.” Under that directive, the court appointing the *guardian ad litem* determines the scope of the *guardian ad litem*’s duties. The *guardian ad litem* should request clarification of the court’s appointing directive as necessary for the *guardian ad litem* to accomplish his or her role in the protective proceeding.

Confusion Among Roles Between Counsel for Allegedly Incapacitated Persons and Guardians *Ad Litem*

Ethical issues frequently arise when a lawyer for an allegedly incapacitated person or a *guardian ad litem* loses sight of his or her role in the legal process. This often occurs when the lawyer continues to represent a client whose capacity has decreased to the point where it is impossible to maintain a meaningful lawyer-client relationship. If the lawyer reasonably believes the client is unable to act in his or her own interests, the lawyer should consider seeking appointment of a *guardian ad litem*. See *In re Sorensen*, 166 P.3d 254 (Colo. App. 2007); Colo. RPC 1.14; CBA Formal Op. 126. If the lawyer determines that the client or potential client cannot form a lawyer-client relationship, the lawyer may take steps to withdraw from the representation or the lawyer may petition the court to convert the lawyer’s court appointment to appointment as a *guardian ad litem*. See Restatement (Third) of Agency § 1.01 (Agency Defined); § 3.04 (Capacity to Act as Principal); § 3.06(3) (Termination of Actual Authority - in General); § 3.08(1) (Loss of Capacity); see also Restatement (Third) of the Law Governing Lawyers § 20 (A Lawyer’s Duty to Inform and Consult with a Client); § 31

(Termination of a Lawyer's Authority). If the lawyer seeks appointment as a *guardian ad litem*, the lawyer should remain diligent in protecting confidential or privileged information obtained from the client while the lawyer served in the capacity of lawyer for the allegedly incapacitated person. See Colo. RPC 1.6. Before requesting the court to change the lawyer's role from lawyer to *guardian ad litem*, the lawyer should consider whether such a shift in roles might create a conflict of interest, which might not be waivable by the now-incapacitated client.

However, the lawyer may not continue to act on behalf of a client with whom the lawyer can no longer maintain a lawyer-client relationship. Colo. RPC 1.2 requires the lawyer to act in consultation with the client and to abide by the decision of the client. If the client can no longer provide such guidance or consult with the lawyer, the lawyer may not act on behalf of the client. The obverse problem exists for the *guardian ad litem*, whose role is to act and make recommendations in the best interests of the client. The *guardian ad litem* has the duty to consider, but to act independently of, the desires of the allegedly incapacitated person. When the *guardian ad litem* loses sight of this mandate and falls back into the more familiar role of advocate for the allegedly incapacitated person, the lawyer abdicates his or her role as independent advisor to the court, and becomes a self-appointed counsel for the allegedly incapacitated person, contrary to the appointment order.

Conclusion

Adult protective proceedings are an important and growing area of legal representation. However, there is little ethics guidance on representing a client with

diminished capacity in such proceedings, and even less with regard to the role of the *guardian ad litem*.

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DUTIES OF CONFIDENTIALITY OF WILL DRAFTER UPON DEATH OF TESTATOR

Adopted September 26 2017

A lawyer's duty of confidentiality continues after the death of a client. *Cf.* Colo. RPC 1.6(b) (listing exceptions to requirement of confidentiality, and "death of client" not listed); Colo. RPC 1.6, cmt. [20] (duty of confidentiality continues after the client-lawyer relationship has terminated); Colo. RPC 1.9(c)(2) (lawyer may not reveal information related to representation of former client); *see also Wesp v. Everson*, 33 P.3d 191, 200 (Colo. 2001) (attorney-client privilege continues after death of client).

Accordingly, a lawyer ordinarily should not disclose client information following a client's death. For example, if a family member is disappointed with the gift provided under a will and asks the drafting lawyer questions about the testator's intentions, the lawyer usually may not respond without violating Rule 1.6. *See also* American College of Trust and Estate Counsel, *ACTEC Commentaries on the Model Rules of Professional Conduct*, R. 1.6, at p. 80 (5th ed. 2016) ("ACTEC Commentaries") (lawyer's duty of confidentiality continues after death of client).

If the decedent had authorized the drafting lawyer to make such disclosures or if the deceased client's Personal Representative (who holds the rights to the client information) gives consent, then the lawyer may provide an interested party, including a potential litigant, with client information regarding a deceased client's dispositive instruments and intent. *See id.* This

could include prior instruments and communications relevant to those instruments. *Id.* The disclosure should be no broader than necessary to carry out the decedent's wishes. *Id.*

If neither the client nor the Personal Representative has authorized the disclosure, however, there is a split of authority as to whether the lawyer may disclose client information as a matter of ethics. Some authorities contend that such a disclosure would have been "impliedly authorized" by the testator's mere retention of counsel, under the rationale that the testator presumably wanted his or her wishes followed. *Id.* at 88-91 (collecting conflicting ethics opinions from around the country, including Iowa Op. 98-11 (1998), which concludes that questions related to the decedent's potential implied authorization turn on individual facts, and thus a lawyer should not make such disclosures without a court order). Other authorities reject this analysis. *See ACTEC Commentaries* at 88-91 (citing North Carolina 2002 Op. 7 (2003), which concludes that the lawyer may make such disclosures if consistent with the attorney-client privilege).

There is no case authority in Colorado on this ethical point, as *Wesp* addresses only the privilege question, not the ethical issue. While some other states have held that the act of communicating with a drafting lawyer itself may constitute implied consent under Rule 1.6 to disclosure of client information (to enhance the chances of the testator's wishes being carried out), no Colorado decision so holds. The Colorado Bar Association Ethics Committee is of the opinion that simply retaining a lawyer to draft estate documents, without more, is not sufficient to constitute implied consent for the lawyer to voluntarily provide information protected by Rule 1.6.

Therefore the safer course of action is for the drafter not to provide such information voluntarily without the consent of either the testator or the Personal Representative. If a court

orders the drafting lawyer to disclose information, however, then the lawyer may reveal the information without violating Rule 1.6. *See* Colo. RPC 1.6(b)(8) (lawyer excused from requirement of confidentiality to comply with court order).

In conclusion, a drafting lawyer may ethically provide client information relating to a deceased client's testamentary wishes as necessary to carry out those wishes where: (a) the decedent authorized such disclosure; (b) the Personal Representative authorizes such disclosure; or (c) a court orders such disclosure. If none of those circumstances are present (and no other exception in Rule 1.6 applies), no Colorado authority would allow the drafting attorney to provide client information to third parties, including beneficiaries under the will and other documents.



Kelly Cooper <kelly@kdcpc.com>

CBA Ethics Committee sharing information with CBA Sections and Committees1 message

Melissa Nicoletti <melissan@cobar.org>

Thu, Jan 18, 2018 at 2:54 PM

CBA Section and Committee Chairs –

Happy new year!

I'm writing to introduce myself to all of you – I know many but not all of you and I would like the opportunity to visit with you while I am chair of the CBA Ethics Committee.

As you likely know, the Committee consists of volunteer CBA members appointed by the CBA President. Our roster of approximately 90 CBA members answer hotline calls from lawyers faced with ethical questions; draft informal letter opinions from lawyers concerned about ethical issues they face in their practice; and prepare the more than 100 formal ethics opinions available to all CBA members via the ethics portal on the CBA website. Additionally the Committee maintains a topical list of speakers available to speak to lawyers throughout the state on issues of ethics and professional responsibility. You have a need, we travel!

I'd like to invite you to learn more about the Committee and what we do. I am always more than happy to visit with any of you, one on one, or attend any of your meetings if you believe that will be helpful. Additionally, every summer we accept applications from CBA members interested in serving on the Committee, appointing them in September as we have vacancies. Please encourage members of your sections and committees to consider joining us.

I'm proud of this Committee and the value we bring, and I welcome your thoughts and comments about how we can do it even better. Please feel to reach out to me anytime using the contact information shown below.

Thanks!

Amy

Amy C. DeVan | Ethics, Conflicts, and Resource Counsel

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news

Colorado Judicial Department
Nancy E. Rice, Chief Justice
Christopher T. Ryan, State Court Administrator

FOR IMMEDIATE RELEASE
Jan. 19, 2018

Contact: Robert McCallum or Jon Sarché
720-625-5815
720-625-5811

robert.mccallum@judicial.state.co.us
jon.sarche@judicial.state.co.us

Judicial Department seeks public input on proposed changes to public administrator practices

DENVER – The Colorado Judicial Department announced today it will accept public comments on proposed changes to practices of public administrators in response to a 2017 state audit.

The audit of public administrators appointed by courts in conservatorship and decedents' estate cases may be found at

https://leg.colorado.gov/sites/default/files/documents/audits/1678p_public_administrators_0.pdf.

Following the audit, Chief Justice Nancy E. Rice charged the Probate Advisory Workgroup with recommending improved practices, and the Colorado Judicial Department is seeking public feedback on the group's four recommendations. Comments on the recommendations may be sent to courtservicescommunications@judicial.state.co.us. Comments on the recommendations will be accepted through the next Legislative Audit Committee hearing at 7 a.m. Jan. 30, 2018.

General feedback about the audit may be sent to the Office of the State Auditor (www.colorado.gov/auditor).

The first recommendation would raise the statutory bond amount for public administrators from \$25,000 to \$100,000 to more adequately protect decedents' estates and conservatorships.

Another recommendation would clarify that deputy public administrators are subject to the same statutory requirements as public administrators.

The third recommendation calls for a change in statute to require copies of all fee statements reflecting fees and costs be filed with the court at the same time the statement of account is filed.

Finally, the workgroup recommends another statutory change requiring public administrators to complete the annual report using a standard format as directed by the Chief Justice.

Additional information on the Probate Advisory Workgroup's recommendations may be found at <https://www.courts.state.co.us/Administration/Program.cfm?Program=59>.

**Unofficial Comments of Colorado Bar Association
Section Representatives on LLS No. 18-0115.01**

Representatives of the Business Law, Elder Law, Trust and Estate, and Real Estate Sections of the Colorado Bar Association have been meeting periodically since June 2017 to consider how best to make the convenience of remote notarization available to Colorado residents without exposing them, or individual Colorado notaries and their employers, to unnecessary risks and liabilities. That group (the Bar Group) has reviewed the draft of LLS NO. 18-0115.01, dated January 4, 2018, and has several serious reservations:

- Contrary to earlier drafts, the Secretary of State is not given authority to regulate the terms of contracts between remote notarization systems and notaries or individual signers.
- The draft would require, in situations where the notary does not know the signer and there is no credible witness to identify the signer in real time, the use of two of the specified alternative methods of identifying the signer, rather than only one of those methods, thus effectively requiring notaries to join proprietary systems or subscribe to proprietary sources of information.
- The proposed bill would mandate the creation and long-term retention of an audio-video record of each remote notarization session, exposing signers of documents to an open-ended risk of identity theft and subjecting notaries and their employers to liability if data is either lost or misused.
- The draft would expressly allow personal and confidential information gathered in the course of remote notarization to be used for a variety of purposes unrelated to the notarized document, including any purpose to which the individual signer is deemed to have consented, without any requirement that the consent be knowing or that the signer be conscious of the dangers.
- Although notaries, especially those performing notarial acts remotely, are in a position to recognize signs that an elderly or other at-risk individual is being coerced or exploited for financial gain, the proposed bill does not require them to report their concerns or even protect them against liability if they voluntarily do so.

The Bar Group has previously circulated language that would address these concerns, and will do so again for any group that may be interested in seeing it. If the draft bill addressed these concerns, the Bar Group would be more likely to support it – particularly if this bill or concurrent legislation also accounted for the numerous changes needed in other statutes that currently assume or require notarial acts based on face to face contact between signer and notary.

The draft bill does not address another issue of special concern to lawyers: the exclusion from legal malpractice insurance policies of claims arising out of remote notarization of legal documents. The Bar Group does not suggest that the draft bill should attempt to address that issue, but the existence of the issue heightens our awareness of the need to minimize risks for users of any remote notarization process.

These comments reflect the personal views of the Bar Group, not an official position of the Colorado Bar Association.



Kelly Cooper <kelly@kdcpc.com>

FW: Colorado DORA - Family

1 message

David Kirch <DKirch@dwkpc.net>

Thu, Jan 25, 2018 at 9:57 AM

To: "kelly@kdcpc.com" <kelly@kdcpc.com>, "Chuck Calvin (CCalvin@faegre.com)" <CCalvin@faegre.com>

Cc: dan sweetser <dsweetser@sweetserlaw.com>

Below is the DORA fix to the issue of family members making loans, which our sections had been discussing.

David W. Kirch
Attorney
Kirch Rounds & Bowman PC
3131 S. Vaughn Way, Ste. 200
Aurora, CO 80014
(303) 671-7726
(303) 671-7679 (Fax)

dkirch@dwkpc.netwww.dwkpc.net**CONFIDENTIALITY NOTICE:**

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Colorado Metro Ranking



David W. Kirch

Tier 1 in Elder Law and Tier 2 in Trusts & Estates Law

From: Gerard Deffenbaugh
Sent: Tuesday, January 23, 2018 5:01 PM
To: David Kirch <DKirch@dwkpc.net>
Cc: Gerard Deffenbaugh <GDeffenbaugh@dwkpc.net>
Subject: Colorado DORA - Family

Dave,

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Please see Colorado DORA research summary below. The first excerpt is for the definition of family member. The second excerpt is where the definition of family member is used.

Board Rule 1.39 (4 CCR 725-3) (effective 11/14/2017), which states:

Family Member : A person who is related by blood, marriage, civil union, or adoption

§ 12-61-904, C.R.S. Exemptions – rules (Mortgage Loan Originators) (effective 8/9/17).

(1) Except as otherwise provided in section 12-61-905.5, this part 9 does not apply to the following, unless otherwise determined by the federal bureau of consumer financial protection or the United States department of housing and urban development:

(a) (Deleted by amendment, L. 2010, (HB 10-1141), ch. 280, p. 1289, §10, effective August 11, 2010.)

(b) With respect to a residential mortgage loan:

(I) A person, estate, or trust that provides mortgage financing for the sale of no more than three properties in any twelve-month period to purchasers of such properties, each of which is owned by such person, estate, or trust and serves as security for the loan;

(II) An individual who acts as a mortgage loan originator, without compensation or gain to the mortgage loan originator, in providing loan financing for not more than three residential mortgage loans in any twelve-month period to a family member of the individual. The board shall define “family member” by rule. For purposes of this exemption only, “compensation or gain” excludes any interest paid under the loan financing provided.

Best Regards,

G. Deffenbaugh
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Colorado Metro Ranking

Tier 1 in Elder Law and Tier 2 in Trusts & Estates Law

**Council of the Trust and Estate Section of the Colorado Bar Association
Notice of and Agenda for the March 15, 2018 Meeting**

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

From: Josie M. Faix
Balson & Faix, LLP
7400 E. Caley Ave., #300
Centennial, Colorado 80111
Telephone: (720) 974.6350
Josie@balsonfaix.com

Notice of Meeting

The eighth meeting of the 2017-2018 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Thursday, March 15, 2018 , 3:00 p.m. ****

Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, Colorado 80203

* or as close as possible to 15 minutes after the end of the Statutory Revisions Committee meeting, if that meeting runs past 3:00 p.m.

Call-In Instructions

Call-in instructions are as follows: 1.855.392.2520

Access Code: 2627690#

Minutes of Previous Meeting, Financial Reports & Attachments

1. Minutes of the February 15, 2018 meeting of the Council
2. Trust and Estate Section Financial Reports as of February 2018
4. Email from Gene Zuspann regarding listserv.

Please review the Statutory Revisions Committee website at <http://www.cobar.org/For-Members/CBA-Sections/Trust-and-Estate/Statutory-Revisions-Subcommittee-Homepage-> for proposals that may be brought the Statutory Revisions Committee and Council.

Trust and Estate Section Council Agenda
March 15, 2018

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise its 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 February 15, 2018 meeting of the Council
2. Chair's Report and Administrative Matters (Kelly Dickson Cooper).
3. Secretary/Treasurer's report (Josie M. Faix)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section Liaison (Patrick R. Thiessen)
6. Real Estate Section Liaison (David W. Kirch)
7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)
8. Legislative Liaison (Stephen M. Brainerd)
9. Council Notes (Josie M. Faix/Kristin Dittus)
10. CLE/Estate Planning Retreat (Leia G. Ursery)
11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)
12. Rules and Forms Committee (Jarod Balson)
13. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
14. Diversity Committee (Melissa R. Schwartz)
15. Probate Trial and Procedure Committee (Aaron Evans)
16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)
17. Green Book (David K. Johns)
18. New T&E Lawyers Committee (Lauren da Cunha/Alison Leary)
19. The Colorado Lawyer (David W. Kirch/Constance D. Smith)

20. Communications Representative (Mark D. Masters)
21. Communications Representative/Ambassador Program (Melissa R. Schwartz)
22. Board of Governors Representative (Melissa R. Schwartz)
23. GAL Subcommittee (David W. Kirch)
24. Miscellaneous/FYI
25. Adjournment

Council of the Trust and Estate Section of the Colorado Bar Association
Minutes of the February 15, 2018 Meeting

Council met on Thursday, February 15, 2018, at the Colorado Bar Association offices, 1900 Grant Street, Denver, Colorado. The meeting was called to order at approximately 2:43 p.m.

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

Kelly Dickson Cooper, Chair
Leia G. Ursery, Vice Chair
Josie M. Faix, Secretary/Treasurer
Darla Daniel, Immediate Past Chair (phone)
Zachary D. Schlichting, Second Year Member
Nicole E. Brown, Second Year Member (phone)
Peter W. Bullard, First Year Member
Jessica L. Broderick, First Year Member

Also in attendance were: Elizabeth Akalin (CBA) Steve Brainerd, Jeremy Schubach; Georgine Kryda (Tax Section Liaison); and Patrick Thiessen (Elder Law Liaison).

1. Approval of Minutes of Prior Meeting

The Minutes of the February 15, 2018 Council meeting were approved unanimously.

2. Chair's Report, Administrative Matters (Kelly Dickson Cooper)

Elizabeth Akalin asked for feedback on the section survey, and if we want to add questions about T&E specifically. Leia said we should ask what specialty programming would tie into new lawyers or lawyers new to T&E. Kelly said we have a huge section, and we want to ask about how we can better communicate opportunities to engage in the section. Responses are due to Elizabeth by March 15.

Kelly said Metro Volunteer Lawyers hosts a power of attorney clinic, and want to expand, and they've reached out to T&E and elder law sections. They will have a question about what it entails, and might be civic and community affairs issue.

Bylaw changes were approved by executive council of CBA. Council formed a nominating committee, and the chair can appoint three more members; Stan Kent, Lauren DeCuhna, and Jamie Roth. Going to have phone meetings March 1 or 2, and a slate by April 1. There will be a section wide email with the slate. We will vote on slate at annual meeting in May. This is new, so more transparent.

Video follow up with Amber and Zach. They will present to new lawyers - Amber's video was really visually interesting. Approached book authors to give a quick interview, and committee chairs as well. Circulate Amber's videos, and perhaps interview T&E long time practitioners, and Ambler award winners. Also video for events, like the retreat. Video for litigators with the scripts for rules of evidence. Zach has new draft of new lawyer letter, to discuss later.

DORA proposed fix for family loan issue. David Kirch said there is a definition of “family” which is relatives and blood relatives.

Review final public admin guidelines.

Ethics opinions - we were contacted by the chair of ethics committee regarding how to reach out to her and hear more about the process. Should Council reach out to them, or Kelly reach out to her and discuss how to reach out to the ethics committee? Council agreed to Kelly’s approach. Tim said trial and procedures having separate liaisons to ethics committee from T&E and Elder sections. Do we have one person, or one form each committee?. Should the ethics committee members that are T&E lawyers give an update to council each month? Michael Kirtland and Gary Clextan are on the ethics committee now - don’t have any formal role or responsibility. Perhaps we ask them to report as liaisons

3. Secretary/Treasurer’s Report (Josie M. Faix)

Josie said she will reach out to committees for budget requests.

4. Tax Section Liaison (Georgine M. Kryda)

No requests from the tax section regarding ethics opinions. They are discussing the market sourcing tax bill - this will affect apportionment of income and attorneys. Not sure how proposed bill will effect law firms. CO dept of Revenue said the bill will be neutral. Tax Section is reviewing it now.

5. Elder Law Section Liaison (Patrick R. Thiessen)

Patrick said discussion of remote notary. Elder law opposes. PA bill - voted to support. Arlene will testify at LPC re PA bill. Lots of discussion of gifts, grants and donations for office of public guardian.

6. Real Estate Section Liaison (David W. Kirch)

No report.

7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)

Leia said they voted to support PA bill. Discussed a lot of bills. Preserve family with parents with disabilities, which Kelly will review and report to Steve. HB 1182 advanced directive registry - a potential worry to most of us, ALERT will review. LPC next week or week after. Sen Gardner won’t postpone remote notary, new bill will be widely supported. SB 56, fees adjustment, and no problem. Mike Holder brought up bill HB1152, exempt courts from public records, thinks will be opposed. Council voted to support PA bill.

8. Legislative Liaison (Stephen M. Brainerd/Jeremy Schupbach - CBA)

Added request for lining up witnesses for CTC, divided labor between Marc, Darla, Steve, Connie and Stan Kent.

9. Communications Representative/Council Notes (Josie M. Faix/Kristin Dittus)

Next issue coming out in March. Always looking for articles!

10. CLE/Estate Planning Retreat (Leia G. Ursery/Vincent O'Brien)

Leia reported all done planning programming for the rest of the year. Reviewed topics, including 9th session designed for newer lawyers. Working on the Thursday night party. Working on sponsors, and if we get them, getting auction items.

11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)

Elizabeth worked on the wind lease, and still working on marital agreement - making good progress.

12. Rules & Forms Committee (Jarod Balson)

Jarod reported might put together practitioner forms for child support issues in probate.

13. Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections (Sandra Sigler)

Good news - exceeded fund-raising goal. Needed \$28K, and raised \$28.1K. Can increase number of books produced, back to libraries, and fulfill requests. Next 50 Grant - official declination because of how CBA files taxes. Next 50 still wants to be involved. Possibly designate money for another organization who can give grant - Rose Foundation may be able to do it. If they get that \$7500, can work on a website and explore other options. Jeffco and Adams on June 2 - Jeffco at the court house. Arap/Doug/Elbert on Sept 15, Boulder in Sept - no set date. Several small events across the state. Working on Senior Law Day in a box - for portable events for smaller venues.

14. Diversity Committee (Melissa R. Schwartz)

Melissa reported Bingo night on March 6th at DU Law.

15. Probate Trial and Procedure Committee (Aaron Evans)

Tim reported discussion for Bench Books, got volunteers locked down. Tom, Jamie and Gary will edit before giving to the bar. Tom reported on Remote notary. Zach reported on 723 modification. Discussed ethics opinions.

16. *Colorado Estate Planning Handbook* (David K. Johns/Constance B. Wood/Julia G. McVey)

No report.

17. *Green Book* (David K. Johns)

No report.

18. New T & E Lawyers Committee (Lauren da Cunha/Alison Leary)

Lauren said talking to DU and CU to set up happy hours. Importance of networking and finding clients.

19. *Colorado Lawyer* (David W. Kirch/Constance D. Smith)

David said end to dry spell. Article re powers of appointment. Peggy Gardner and Morgan Weiner going to take materials regarding modification and decanting article, two parts. Frank Hill offered to expand evolution of Orange Book, Patrick article re finality of orders of probate, new ethics opinions article.

20. Communications Representative (Mark D. Masters)

Zach reported new lawyer letter, need current links to committees to the websites.

21. Communications Representative/Ambassador Coordinator (Melissa R. Schwartz)

No report.

22. Board of Governors Representative (Melissa R. Schwartz)

No report.

23. Ambassador Coordinator (Melissa R. Schwartz)

No report.

24. GAL Subcommittee (David W. Kirch)

David said just about ready to take to Supreme court rules committee - concerns from folks this is T&E project and doesn't address family law concerns, but most active members from family law. 15-14-312(3) to get special administrators appointed for certain issues.

25. Miscellaneous/FYI

None.

25. Adjournment

The meeting was adjourned at or about 4:33 p.m.

Respectfully submitted,

Josie M. Faix

From: [Eugene Zuspann](#)
To: ["Kelly Dickson Cooper"; lursery@lathropgag.com; "Josie Faix"; darla@balsonfaix.com](#)
Cc: [Joe Hodges](#)
Subject: T&E Section listserv
Date: Wednesday, March 07, 2018 5:29:34 PM

I am writing to request guidance about the listserv.

Recently, the list has received numerous messages requesting referrals, and a number of messages promoting programs. The messages promoting programs are generally free and are not promotion of a program that generates revenue for anyone on the list.

At one time last week, there were about 12 messages, almost in a row, to 1 discussion of a substantive topic. In searching the messages on my computer, the total number of current messages (those in the last 6 months) is 1264 and of those, 200 are about referrals.

Both of these concern me. I have used the list to request referrals. It is a great resource.

The questions that Joe and I would like guidance on is whether Council feels these messages, especially in volume, are appropriate for the list.

I intend to be at the meeting next week, but have been behind in my work and may not make it. If I cannot be there in person, I will try to call in.

Thanks,

Gene Zuspann

Trust & Estate

For the Eight Months Ending February 28, 2018

	February	YTD	Budget	Variance	%	Last FY
01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
01-4050-31600	360.00	32,355.00		32,355.00		27,162.50
	360.00	32,355.00		32,355.00		27,162.50
01-5000-31600	(100.00)	(100.00)		(100.00)		
01-5007-31600		(356.78)		(356.78)		(325.34)
01-5102-31600		(1.00)		(1.00)		(912.07)
01-5304-31600		(0.92)		(0.92)		(2.32)
01-5412-31600	(97.44)	(580.34)		(580.34)		(656.80)
01-5413-31600		(772.18)		(772.18)		(679.34)
01-5491-31600	462.25	(8,278.42)		(8,278.42)		(4,736.47)
01-5494-31600	(494.58)	(3,956.64)		(3,956.64)		(3,920.00)
01-5500-31600		(500.00)		(500.00)		
	(229.77)	(14,546.28)		(14,546.28)		(11,232.34)
01-5412-31603						(64.88)
01-5491-31603						(196.40)

Exp. Uninform POA Act

Exp. Uniform Trust Code
Telephone 01-5412-31625 (19.87)

Total Expenses Statutory Revisions Committee (281.15)

CLE

Revenue

Revenue Joint CLE

Revenue CLE Retreat

Revenue CLE Section Only

Expenses
Grants/Contributions 01-5500-31611 (7,500.00)

Expenses Joint CLE

Expenses CLE Retreat

Expenses CLE Section Only

Total Expenses CLE (7,500.00)

Council Notes

Revenue

Expenses

Community & Civic Affairs

Revenue

Expenses

Rules & Forms Committee

Revenue

Expenses

Orange Book Forms

Revenue

Expenses

AWARDS 01-5007-31607 (200.00)

Total Expenses Orange Book Forms

(200.00)

Local Liaison

Revenue

Expenses

Uniform Trust Code

Revenue

Expenses

Transfer Deposits

Revenue

Expenses

Admin. Chair

Revenue

Expenses

Estate Planning Handbook

Revenue

Expenses

Admin Council Dinner				
Revenue				
Meal Income	01-4051-31612	1,720.00	1,720.00	1,400.00
		-----	-----	-----
Total Revenue Admin Council Dinner		1,720.00	1,720.00	1,400.00
Expenses				
Meals (Not travel related)	01-5491-31612			(5,979.55)
		-----	-----	-----
Total Expenses Admin Council Dinner				(5,979.55)
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				
		-----	-----	-----

Expenses					
T&E Diversity Committee					
Revenue					
Expenses					
Meals (Not travel related)	01-5491-31628				(158.80)
Grants/Contributions	01-5500-31628				(210.00)
Total Expenses Diverstiy Comm.					(368.80)
Judicial Liaison					
Revenue					
Expenses					
Member Vouchers					
Expenses					
T&E Young Lawyer Society					
Revenue					
Expenses					
Telephone	01-5412-31629				(18.67)
Total Expenses T7E YLS					(18.67)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	360.00	34,075.00	34,075.00	28,562.50
Total Expense All Sources	01-5???-316??	(229.77)	(14,546.28)	(14,546.28)	(25,580.51)
Ending Balance		130.23	19,086.76	19,086.76	8,640.88

		February	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section- General							
Revenue	01-4???-31600	360.00	32,355.00		32,355.00		27,162.50
Expenses	01-5???-31600	(229.77)	(14,546.28)		(14,546.28)		(11,232.34)
Statutory Revisions Committee							
Expenses	015???3160...						(281.15)
CLE							
Expenses	015???3161...						(7,500.00)
Council Notes							
Community & Civic Affairs							
Rules & Forms Committee							
Orange Book Forms							
Expenses	01-5???-31607						(200.00)
Local Liaison							
Uniform Trust Code							
Admin. Chair							
Estate Planning Handbook							
Admin Council Dinner							
Revenue	01-4???-31612		1,720.00		1,720.00		1,400.00
Expenses	01-5???-31612						(5,979.55)
Legislative Liaison							
Internet Editor							
Technology Committee							
Real Estate Liaison							
Green Book							
The Colorado Lawyer							
Diversity Committee							
Expenses	01-5???-31628						(368.80)
Judicial Liaison							
Member Vouchers							
Uniform Trust Code							
Expenses	01-5???-31625						(19.87)

Transfer Deposit					
Young Lawyer Society					
Expenses	01-5???-31629				(18.67)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	360.00	34,075.00	34,075.00	28,562.50
Total Expenses All Sources	01-5???-316??	(229.77)	(14,546.28)	(14,546.28)	(25,580.51)

Ending Balance		130.23	19,086.76	19,086.76	8,640.88

**Council of the Trust and Estate Section of the Colorado Bar Association
Notice of and Agenda for the April 19, 2018 Meeting**

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

From: Josie M. Faix
Balson & Faix, LLP
7400 E. Caley Ave., #300
Centennial, Colorado 80111
Telephone: (720) 974.6350
Josie@balsonfaix.com

Notice of Meeting

The ninth meeting of the 2017-2018 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: *Thursday, April 19, 2018 , 3:00 p.m. **

Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, Colorado 80203

* or as close as possible to 15 minutes after the end of the Statutory Revisions Committee meeting, if that meeting runs past 3:00 p.m.

Call-In Instructions

Call-in instructions are as follows: 1.855.392.2520

Access Code: 2627690#

Minutes of Previous Meeting, Financial Reports & Attachments

1. Minutes of the March 15, 2018 meeting of the Council
2. Trust and Estate Section Financial Reports as of March 2018
3. Review language for on-line video disclaimer.
4. Review changes to the bylaws from the Board of Governors.
5. Review T&E Section website home page.

Please review the Statutory Revisions Committee website at <http://www.cobar.org/For-Members/CBA-Sections/Trust-and-Estate/Statutory-Revisions-Subcommittee-Homepage-> for proposals that may be brought the Statutory Revisions Committee and Council.

Trust and Estate Section Council Agenda
April 19, 2018

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise its 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 March 15, 2018 meeting of the Council
2. Chair's Report and Administrative Matters (Kelly Dickson Cooper).
3. Secretary/Treasurer's report (Josie M. Faix)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section Liaison (Patrick R. Thiessen)
6. Real Estate Section Liaison (David W. Kirch)
7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)
8. Legislative Liaison (Stephen M. Brainerd)
9. Council Notes (Josie M. Faix/Kristin Dittus)
10. CLE/Estate Planning Retreat (Leia G. Ursery)
11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)
12. Rules and Forms Committee (Jarod Balson)
13. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
14. Diversity Committee (Melissa R. Schwartz)
15. Probate Trial and Procedure Committee (Aaron Evans)
16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)
17. Green Book (David K. Johns)
18. New T&E Lawyers Committee (Lauren da Cunha/Alison Leary)
19. The Colorado Lawyer (David W. Kirch/Constance D. Smith)

- 20. Communications Representative (Mark D. Masters)
- 21. Communications Representative/Ambassador Program (Melissa R. Schwartz)
- 22. Board of Governors Representative (Melissa R. Schwartz)
- 23. GAL Subcommittee (David W. Kirch)
- 24. Miscellaneous/FYI
- 25. Adjournment

**Council of the Trust and Estate Section of the Colorado Bar Association
Minutes of the March 15, 2018 Meeting**

Council met on Thursday, March 15, 2018, at the Colorado Bar Association offices, 1900 Grant Street, Denver, Colorado. The meeting was called to order at approximately 2:50 p.m.

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

Kelly Dickson Cooper, Chair
Josie M. Faix, Secretary/Treasurer
Zachary D. Schlichting, Second Year Member
Nicole E. Brown, Second Year Member (phone)
Peter W. Bullard, First Year Member
Jessica L. Broderick, First Year Member

Also in attendance were: Elizabeth Akalin (CBA); Georgine Kryda (Tax Section Liaison); and Patrick Thiessen (Elder Law Liaison).

1. Approval of Minutes of Prior Meeting

The Minutes of the February 15, 2018 Council meeting were approved unanimously.

2. Chair's Report, Administrative Matters (Kelly Dickson Cooper)

Kelly reported that we cannot have a liaison to the ethics committee because of a confidentiality rule, so no liaison. But discussed more t&e members on the ethics committee. Next ethics meeting is in April, and if agenda brings up issues in which we have an interest, we can let the committee chair know. If an opinion is legally wrong, they will review or retract. Confidential because mission from the CBA requires it. Most work of the ethics committee is done in subcommittee. Must be a committee member to be on a subcommittee. About 90 members currently, trying to shrink.

MVL wants to do more power of attorney clinics, notice went out in Council Notes. Kelly reminded committee chairs they need to check their webpages for needed updates.

Kelly is talking to Leia re: expectations for a committee chair and putting together a short description, and will discuss next month.

Gene talked about listserv, and wondering if folks concerned that used too often for referrals. Sometimes ads for programs. No one raised any concerns, and no one bothered.

Zach and Amber discussed the videos for the website. Interviews have started, and Amber presented the video project that will be on a you tube channel. Two videos shown.

YouTube - don't want comments, anyone can access. Darla concerned with trolls. Amber will look into it. Council discussed the issue disclaimers. Council voted to approve moving forward with a You Tube channel.

Facebook - free platform, can be closed, not a public page. Sandra was concerned. Baby steps. Council voted to approve moving forward with Facebook.

3. Secretary/Treasurer's Report (Josie M. Faix)

Asked for budget requests, and received \$500 from SRC and \$750 from New Lawyers, and \$500 from the Diversity committees.

4. Tax Section Liaison (Georgine M. Kryda)

Georgine reported nothing from tax, and will ask if Tax wants to joint subcommittee for UPIA

5. Elder Law Section Liaison (Patrick R. Thiessen)

Patrick reported via email regarding committee discussions.

6. Real Estate Section Liaison (David W. Kirch)

No report.

7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)

Council voted on advanced directive act - to oppose unless amend to satisfaction of ALERT group. Council voted to approve SRC vote. Pete said CO digital preservation of estate planning docs act. Two subcommittees; one changing ethics rule and one working on legislation language. Mike Kirkland said plan is to add a 10 year old documents exception to the rule, and would include certain original estate planning documents. Plan is to have Herb draft modification to rule 1.6, the ethics rule re destruction of client files. Michael will talk to ethics committee folks, including Melissa on supreme court rules committee. Hoping ethics committee will give it approval, and Supreme Court will also approve.

8. Legislative Liaison (Stephen M. Brainerd/Jeremy Schupbach - CBA)

CUTC out of the senate and in the house soon. No opposing testimony.

9. Communications Representative/Council Notes (Josie M. Faix/Kristin Dittus)

Newest edition going out today.

10. CLE/Estate Planning Retreat (Leia G. Ursery/Vincent O'Brien)

Leia reported all done planning programming for the rest of the year. Working on getting sponsors set for the Thursday dinner, and brochure going to press next week,

11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)

Susie reported still working on marital agreement - making good progress.

12. Rules & Forms Committee (Jarod Balson)

Susie reported Pat Mellen came to committee re: issue of child support in probate. Pat talked to Judge Leith and she does not want to do anything to change probate rules. Because she doesn't like to change child support at all. She want the committee to work with family law to find solutions. Council thought might need to seek help from SRC, not rules and forms.

13. Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections (Sandra Sigler)

See Senior Law Day list from Sandra. All turned in to Lisa and Laurie. Grand Junction changed to August 17, gives more time to get book printed and out. Thinks working with MVL is a great fit with the committee.

14. Diversity Committee (Melissa R. Schwartz)

Melissa reported good meeting and ways to re-energize committee. How do we get more diversity, a constant question. Susie talked about real estate law section discussion about outreach, going to other bars. Sandra suggested diversity in the You Tube videos.

15. Probate Trial and Procedure Committee (Aaron Evans)

Aaron reported Bill Fender spoke re: prudent investor act and his experience in representing fiduciaries.

16. *Colorado Estate Planning Handbook* (David K. Johns/Constance B. Wood/Julia G. McVey)

No report.

17. *Green Book* (David K. Johns)

No report.

18. New T & E Lawyers Committee (Lauren da Cunha/Alison Leary)

No report.

19. *Colorado Lawyer* (David W. Kirch/Constance D. Smith)

David said he and an associate are drafting article re: ethics opinions 130 and 131. Herb will review. Looking forward to articles on CUTC, and Susan Boothby came back with ideas for powers of appointment article. Patrick will do article on finality of judgements. Spencer will submit article. Perhaps a bankruptcy article too.

20. Communications Representative (Mark D. Masters)

No report.

21. Communications Representative/Ambassador Coordinator (Melissa R. Schwartz)

No update, but only one male ambassador. Need more guys!

22. Board of Governors Representative (Melissa R. Schwartz)

No report.

23. GAL Subcommittee (David W. Kirch)

David said juvenile committee told them there is a statute for GAL appointment, and the conservator must be the GAL. Passed May 25th last year. Committee members missed it. But nothing in the rule conflicts with the statute, and if so, statute controls.

25. Miscellaneous/FYI

None.

25. Adjournment

The meeting was adjourned at or about 4:33 p.m.

Respectfully submitted,

Josie M. Faix

On-Line Video Disclaimer

The information in this video is provided for general informational purposes only. No information contained in this video should be construed as legal advice from the Trust & Estate Section of the Colorado Bar Association or the individual author, nor is it intended to be a substitute for legal counsel on any subject matter. No attorney/client relationship is established by either the release of this video or by watching the video.

Trust & Estate Section – Intro page

Addresses the interests and problems of both specialists and general practitioners in the area of wills, trusts, guardianships, conservatorships, and estates. Members can always find a place on one of the section's many active committees, including a speakers bureau, publication of a quarterly newsletter for members, preparation of forms for the Orange Book (wills and trusts), Estate and Trust Forum column in The Colorado Lawyer, technology, judicial liaison, and community outreach. Standing committees on statutory revisions and probate rules and forms work to improve the laws, forms and rules that are applicable in the field. Members of the section work closely with the CBA's Elder Law Forum Committee in areas of mutual concern and also hold topical luncheons with the Tax, Real Estate, Business and other sections. The section has prepared and made available to its members a series of pamphlets explaining fiduciary arrangements and responsibilities.

Suggested addition to Executive Council Page

The Executive Council is made up of four officers and six members. These ten Section members are responsible for the management of the Section and the coordination of the Section's efforts, both internally and with other Sections of the CBA. A nominating process is conducted each spring to fill these positions.

Trust and Estate Section of the Colorado Bar Association Bylaws
Restated as of April 18, 2002, as amended April 2008

ARTICLE I
Name and Purpose

Section 1. The Section shall be known as the Trust and Estate Section of the Colorado Bar Association (sometimes referred to as “Association”).

Section 2. The purposes of this Section shall be to promote the objects of the Colorado Bar Association within the field of trust and estate law and, to that end, promote an interest in trust and estate law among the members of the Bar and other citizens of Colorado, to foster and recommend legislation in this field in the furtherance of public interests and generally to serve the members of the Bar who are interested in trust and estate law.

ARTICLE II
Membership

Section 1. Each member of the Section shall pay to the Colorado Bar Association annual dues of One Dollar or such larger sum consistent with the policies of the Colorado Bar Association as may be fixed by the Section at any meeting thereof or as may be fixed by the Council of the Section. Any member or Associate Member of the Colorado Bar Association, upon request to the Executive Secretary of the Association and upon payment of dues for the current year, shall be enrolled as a member of this Section. Any member of the Section whose annual dues shall be more than six months past due may be dropped from the rolls of the Section.

Section 2. Associate members of the Colorado Bar Association who are members of the Section, but who are not licensed to practice law in the State of Colorado, shall be entitled to attend all ~~meeting~~meetings of the full Section, including Council and Section committee meetings, and shall receive all Section materials and benefits available to Section members. Further, such associate members shall be entitled to serve on special committees of the Section and to fully participate in, and vote at, such committee meetings and activities; provided, however, that such Associate members shall neither serve as an officer or ~~council~~Council member of the Section nor vote at Section meetings.

ARTICLE III
Council

Section 1. The Council of this Section shall consist of the Chair, Vice Chair, Secretary/Treasurer, six Council members, and the Chair of the Section for the preceding year with each of these individuals having one vote. An individual may only serve in one of these positions at a time. The Council shall have general supervision and control of the affairs of the Section, subject to the Constitution and Bylaws of the Colorado Bar Association and the Bylaws of this Section. It shall authorize all commitments or contracts which shall entail the payment of money and shall, by the adoption of a budget or otherwise, authorize the expenditure of all moneys appropriated for the use or benefit of the Section. It shall not, however, authorize

commitments or contracts which entail the payment of money during any fiscal year in excess of the amount which shall have been previously appropriated to the Section for that year.

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Section 2. The Council may authorize the Chair to appoint special committees from Section members to perform such duties and exercise such powers as the Council may direct, subject to the limitations of these Bylaws.

Section 3. Each year three members of the Council shall be elected at the annual meeting of the Section for terms of two years, such terms commencing on July 1 of the year of such meeting.

Section 4. If any member of the Council shall fail to attend two successive meetings of the Council, then the remaining members of the Council shall have the right to vote to remove such member from office, but such a vote is not required for that member to remain in office.

Section 5. The Council, during the interim between annual meetings of the Section, may fill vacancies in its membership or in the offices of the Section; provided, however, the office of Chair shall be filled automatically by the Vice Chair.

Section 6. A majority of the Council members and officers shall constitute a quorum for the transaction ~~or of~~ business of the Council at a meeting, held in person or electronically. The Council, however, may act by the submission to the Council members in writing of proposed action, and on any such submission, the Council may act only by the majority agreement of the whole Council ~~-(whether present or not)~~. Meetings of the Council may be called by the Chair on such reasonable notice as circumstances permit.

ARTICLE IV Officers, Liaisons and Representatives

Section 1. The voting officers of Council shall be the immediate Past Chair, Chair, Vice Chair and Secretary/Treasurer, who shall be nominated and elected at the annual meeting of the Section. Each officer shall serve for a term commencing on July 1 of the year of his or her election and ending on June 30 of the year subsequent to such election or until his or her successor shall have been elected and qualified.

Section 2. Vacancies in the offices of the Section shall be filled for the unexpired term by the Council as hereinafter provided.

Section 3. The Chair shall preside at all meetings of the Section and of the Council. The chair shall perform such other duties as usually pertain to the office of the Chair.

Section 4. Upon the death, resignation, or during the disability of the Chair, or upon his or her refusal to act, the Vice Chair shall perform the duties of the Chair. The Vice Chair shall coordinate all continuing legal education programs and the Section retreat and perform such other duties as may be assigned ~~to him or her~~ by the Council or the Chair.

Section 5. The Secretary/Treasurer shall be the custodian of all books, papers and other property of the Section except money. The Secretary/Treasurer shall be the fiscal officer of the Section and shall keep an accurate record of all moneys appropriated to and expended for the use of the Section. The Secretary/Treasurer shall keep a true record of the proceedings of all meetings of the Section and the Council. The Secretary/Treasurer shall perform such other duties as usually pertain to ~~his or her~~that office or may be assigned by the Council or by the Chair.

Section 6. Prior to January 15th of each year, the Chair shall appoint a nominating committee consisting of the Chair, the Vice-Chair, the Secretary/Treasurer, the most recent Past Chair, and three other Section members (the "Nominating Committee"). In making ~~his or her~~ selections for the Nominating Committee, the Chair shall consider the inclusion of a young lawyer (age 37 or less or less than five years in the practice of trust and estate law) and an individual from outside the Denver metro area, if possible.

Section 7. The Nominating Committee shall make a call for nominations to the Section membership, which shall include the criteria for nominees for the offices of ~~the~~ Chair, Vice Chair, Secretary/Treasurer, and the Council members whose terms will expire on June 30 of the year of the annual meeting. The deadline for nominations is March 15th of each year. The Nominating Committee shall send a proposed slate to the Section membership for consideration no later than April 1st of each year. Any group of at least 25 Section members may propose an alternate slate for consideration by the Section by delivering the alternate slate, along with the signatures of at least 25 Section members, to the Chair no later than April 15th. The Section's annual meeting shall be held on the third Thursday of May each year to approve the proposed slate or if necessary, to choose between the proposed slate and ~~the~~an alternate slate. The Chair shall announce the results no later than May 31st.

Section 8. When selecting individuals for the proposed slate, the Nominating Committee shall consider recognized diversity criteria; including ethnicity, age, gender, sexual orientation, area of practice, firm size, years in practice, and geographic location. The Nominating Committee shall also consider the need to preserve institutional knowledge, number of persons per law firm, and prior Section involvement.

Section 9. The Secretary/Treasurer shall cause a notice of the Annual Meeting of the Section to be given to the members of the Section no less than 21 days nor more than 63 days prior to the annual meeting. The notice shall contain a summary of any proposed Bylaw changes recommended by the Council, the proposed slate and any qualifying alternate slates. The notice may be given by mail or email. All elections shall be by voice vote unless otherwise ordered by resolution adopted by the Section at the annual meeting at which the election is held.

Section 10. The Nominating Committee shall also make recommendations to Council for the following positions: Communications Representative;~~;~~ Young Lawyers Representative;~~;~~ Legislative Liaison;~~;~~ and Board of Governors Representative. Each of these positions shall have a one-year term commencing on July 1 of the year of ~~his or her~~the appointment and ending on June 30 of the year subsequent to such appointment. Council shall vote on these appointments at its May meeting each year. An individual may be reappointed to these positions and multiple individuals may split the duties of these appointments.

Section 11. Council may appoint committee chairs and other representatives or liaisons as it deems necessary to conduct Section business.

ARTICLE V Section Meetings

Section 1. The Annual Meeting of the Section shall be held on the third Thursday of May at 3:30 p.m. in the offices of the Colorado Bar Association, with such program and order of business as may be arranged by the Chair. The members of the Section present at the Annual Meeting shall constitute a quorum for the transaction of business and voting shall be by a simple majority of all Section members that are present, in person or by electronic means.

Section 2. Special meetings of the Section may be called by the Chair upon majority approval of the whole Council, at such time and place as the ~~Council~~Chair may determine.

~~**Section 3.** The members of the Section present at any special meeting shall constitute a quorum for the transaction of business.~~

~~**Section 4.** All binding action of the Section and voting shall be by a simple majority ~~vote~~ of ~~the all Section~~ members that are present, in person or by electronic means.~~

ARTICLE VI Miscellaneous Provisions

Section 1. The fiscal year of the Section shall be the same as that of the Colorado Bar Association.

Section 2. All bills incurred by the Section, before being forwarded to the Treasurer of the Colorado Bar Association for payment, shall be approved by the Chair or the Secretary/Treasurer, or, if the Council shall so direct, by both of them.

Section 3. No salary or compensation shall be paid to any officer, council member or member of a committee.

Section 4. Any action by this Section must be approved by the Colorado Bar Association before the same becomes effective as the action of the Colorado Bar Association. Any resolution adopted or action taken by this Section may, on request of the Section, be reported by the Chair of the Section to the ~~annual meeting~~Executive Council of the Colorado Bar Association for the Association's action thereon.

Section 5. These Bylaws shall become effective upon the approval thereof ~~upon recommendation by the majority of the Board of Governors~~Section members voting thereon and upon approval by the Executive Council of the Colorado Bar ~~Association and by this Section~~Association's Board of Governors.

ARTICLE VII
Amendments

These Bylaws may be amended at any ~~annual~~Annual Meeting or special meeting ~~to~~of the Section by a majority vote of the members of the Section present and voting.

Colorado Bar Association

Trust & Estate

For the Nine Months Ending March 31, 2018

		March	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	235.00	32,590.00		32,590.00		27,212.50
Total Revenue Trust & Estate Section		235.00	32,590.00		32,590.00		27,212.50
Expenses							
Other Expense	01-5000-31600		(100.00)		(100.00)		
AWARDS	01-5007-31600		(356.78)		(356.78)		(325.34)
Travel	01-5102-31600		(1.00)		(1.00)		(912.07)
Postage	01-5304-31600		(0.92)		(0.92)		(2.32)
Telephone	01-5412-31600	(115.31)	(695.65)		(695.65)		(767.08)
Internet/E-Mail Access	01-5413-31600	(445.24)	(1,217.42)		(1,217.42)		(1,026.59)
Meals (Not travel related)	01-5491-31600	(817.29)	(9,095.71)		(9,095.71)		(4,736.47)
Administration Fee	01-5494-31600	(494.58)	(4,451.22)		(4,451.22)		(4,410.00)
Grants/Contributions	01-5500-31600		(500.00)		(500.00)		(2,800.00)
Total Expenses Trust & Estate Section		(1,872.42)	(16,418.70)		(16,418.70)		(14,979.87)
Statutory Revisions Committee							
Revenue							
Rev. Elderlaw Joint Task Force							
Rev. Uninform POA Act							
Rev. Uniform Trust Code							
Expenses							
Telephone	01-5412-31603						(64.88)
Meals (Not travel related)	01-5491-31603						(196.40)
Exp. Elderlaw Joint Task Force							

Exp. Uninform POA Act			
Exp. Uniform Trust Code			
Telephone	01-5412-31625		(19.87)
Total Expenses Statutory Revisions Committee			(281.15)
CLE			
Revenue			
Revenue Joint CLE			
Revenue CLE Retreat			
Revenue CLE Section Only			
Expenses			
Grants/Contributions	01-5500-31611		(7,500.00)
Expenses Joint CLE			
Expenses CLE Retreat			
Expenses CLE Section Only			
Total Expenses CLE			(7,500.00)
Council Notes			
Revenue			
Expenses			
Community & Civic Affairs			
Revenue			
Expenses			
Rules & Forms Committee			
Revenue			

Expenses

Orange Book Forms

Revenue

Expenses

AWARDS 01-5007-31607

(200.00)

Total Expenses Orange Book Forms

(200.00)

Local Liaison

Revenue

Expenses

Uniform Trust Code

Revenue

Expenses

Transfer Deposits

Revenue

Expenses

Admin. Chair

Revenue

Expenses

Estate Planning Handbook

Revenue

Expenses

Admin Council Dinner				
Revenue				
Meal Income	01-4051-31612	1,720.00	1,720.00	1,400.00
		-----	-----	-----
Total Revenue Admin Council Dinner		1,720.00	1,720.00	1,400.00
Expenses				
Meals (Not travel related)	01-5491-31612			(5,979.55)
		-----	-----	-----
Total Expenses Admin Council Dinner				(5,979.55)
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				
		-----	-----	-----

Expenses					
T&E Diversity Committee					
Revenue					
Expenses					
Meals (Not travel related)	01-5491-31628				(158.80)
Grants/Contributions	01-5500-31628				(210.00)
Total Expenses Diverstiy Comm.					(368.80)
Judicial Liaison					
Revenue					
Expenses					
Member Vouchers					
Expenses					
T&E Young Lawyer Society					
Revenue					
Expenses					
Telephone	01-5412-31629				(19.65)
Total Expenses T7E YLS					(19.65)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	235.00	34,310.00	34,310.00	28,612.50
Total Expense All Sources	01-5???-316??	(1,872.42)	(16,418.70)	(16,418.70)	(29,329.02)
Ending Balance		(1,637.42)	17,449.34	17,449.34	4,942.37

04/02/18
09:44 AM

		March	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section- General							
Revenue	01-4???-31600	235.00	32,590.00		32,590.00		27,212.50
Expenses	01-5???-31600	(1,872.42)	(16,418.70)		(16,418.70)		(14,979.87)
Statutory Revisions Committee							
Expenses	015???3160...						(281.15)
CLE							
Expenses	015???3161...						(7,500.00)
Council Notes							
Community & Civic Affairs							
Rules & Forms Committee							
Orange Book Forms							
Expenses	01-5???-31607						(200.00)
Local Liaison							
Uniform Trust Code							
Admin. Chair							
Estate Planning Handbook							
Admin Council Dinner							
Revenue	01-4???-31612		1,720.00		1,720.00		1,400.00
Expenses	01-5???-31612						(5,979.55)
Legislative Liaison							
Internet Editor							
Technology Committee							
Real Estate Liaison							
Green Book							
The Colorado Lawyer							
Diversity Committee							
Expenses	01-5???-31628						(368.80)
Judicial Liaison							
Member Vouchers							
Uniform Trust Code							
Expenses	01-5???-31625						(19.87)

Transfer Deposit					
Young Lawyer Society					
Expenses	01-5???-31629				(19.65)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	235.00	34,310.00	34,310.00	28,612.50
Total Expenses All Sources	01-5???-316??	(1,872.42)	(16,418.70)	(16,418.70)	(29,329.02)
<hr/>					
Ending Balance		(1,637.42)	17,449.34	17,449.34	4,942.37

**Council of the Trust and Estate Section of the Colorado Bar Association
Notice of and Agenda for the May 17, 2018 Meeting**

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

From: Josie M. Faix
Balson & Faix, LLP
7400 E. Caley Ave., #300
Centennial, Colorado 80111
Telephone: (720) 974.6350
Josie@balsonfaix.com

Notice of Meeting

The tenth meeting of the 2017-2018 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Thursday, May 10, 2018 , 3:00 p.m. ****

Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, Colorado 80203

* or as close as possible to 15 minutes after the end of the Statutory Revisions Committee meeting, if that meeting runs past 3:00 p.m.

Call-In Instructions

Call-in instructions are as follows: 1.855.392.2520

Access Code: 2627690#

Minutes of Previous Meeting, Financial Reports & Attachments

1. Minutes of the April 19, 2018 meeting of the Council
2. Trust and Estate Section Financial Reports as of April 2018
3. Disclaimer language from Civic and Community Affairs.
4. T&E Section website home page.
5. Office of Public Guardian Letter and Fact Sheet
6. Trust & Estate Committee Chair Expectations

Please review the Statutory Revisions Committee website at <http://www.cobar.org/For-Members/CBA-Sections/Trust-and-Estate/Statutory-Revisions-Subcommittee-Homepage-> for proposals that may be brought the Statutory Revisions Committee and Council.

Trust and Estate Section Council Agenda
May 17, 2018

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise its 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 19, 2018 meeting of the Council
2. Chair's Report and Administrative Matters (Kelly Dickson Cooper).
Approval of Appointments and Liaisons
3. Secretary/Treasurer's report (Josie M. Faix)
4. Tax Section Liaison (Georgine M. Kryda)
5. Elder Law Section Liaison (Patrick R. Thiessen)
6. Real Estate Section Liaison (David W. Kirch)
7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)
8. Legislative Liaison (Stephen M. Brainerd)
9. Council Notes (Josie M. Faix/Kristin Dittus)
10. CLE/Estate Planning Retreat (Leia G. Ursery)
11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)
12. Rules and Forms Committee (Jarod Balson)
13. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
14. Diversity Committee (Melissa R. Schwartz)
15. Probate Trial and Procedure Committee (Aaron Evans)
16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)
17. Green Book (David K. Johns)
18. New T&E Lawyers Committee (Lauren da Cunha/Alison Leary)

19. The Colorado Lawyer (David W. Kirch/Constance D. Smith)
20. Communications Representative (Mark D. Masters)
21. Communications Representative/Ambassador Program (Melissa R. Schwartz)
22. Board of Governors Representative (Melissa R. Schwartz)
23. GAL Subcommittee (David W. Kirch)
24. Miscellaneous/FYI
25. Adjournment

Trust and Estate Section of the Colorado Bar Association Bylaws
Restated as of April 18, 2002, as amended April 2008

ARTICLE I
Name and Purpose

Section 1. The Section shall be known as the Trust and Estate Section of the Colorado Bar Association (sometimes referred to as “Association”).

Section 2. The purposes of this Section shall be to promote the objects of the Colorado Bar Association within the field of trust and estate law and, to that end, promote an interest in trust and estate law among the members of the Bar and other citizens of Colorado, to foster and recommend legislation in this field in the furtherance of public interests and generally to serve the members of the Bar who are interested in trust and estate law.

ARTICLE II
Membership

Section 1. Each member of the Section shall pay to the Colorado Bar Association annual dues of One Dollar or such larger sum consistent with the policies of the Colorado Bar Association as may be fixed by the Section at any meeting thereof or as may be fixed by the Council of the Section. Any member or Associate Member of the Colorado Bar Association, upon request to the Executive Secretary of the Association and upon payment of dues for the current year, shall be enrolled as a member of this Section. Any member of the Section whose annual dues shall be more than six months past due may be dropped from the rolls of the Section.

Section 2. Associate members of the Colorado Bar Association who are members of the Section, but who are not licensed to practice law in the State of Colorado, shall be entitled to attend all ~~meeting~~meetings of the full Section, including Council and Section committee meetings, and shall receive all Section materials and benefits available to Section members. Further, such associate members shall be entitled to serve on special committees of the Section and to fully participate in, and vote at, such committee meetings and activities; provided, however, that such Associate members shall neither serve as an officer or ~~council~~Council member of the Section nor vote at Section meetings.

ARTICLE III
Council

Section 1. The Council of this Section shall consist of the Chair, Vice Chair, Secretary/Treasurer, six Council members, and the Chair of the Section for the preceding year with each of these individuals having one vote. An individual may only serve in one of these positions at a time. The Council shall have general supervision and control of the affairs of the Section, subject to the Constitution and Bylaws of the Colorado Bar Association and the Bylaws of this Section. It shall authorize all commitments or contracts which shall entail the payment of money and shall, by the adoption of a budget or otherwise, authorize the expenditure of all moneys appropriated for the use or benefit of the Section. It shall not, however, authorize

commitments or contracts which entail the payment of money during any fiscal year in excess of the amount which shall have been previously appropriated to the Section for that year.

Section 2. The Council may authorize the Chair to appoint special committees from Section members to perform such duties and exercise such powers as the Council may direct, subject to the limitations of these Bylaws.

Section 3. Each year three members of the Council shall be elected at the annual meeting of the Section for terms of two years, such terms commencing on July 1 of the year of such meeting.

Section 4. If any member of the Council shall fail to attend two successive meetings of the Council, then the remaining members of the Council shall have the right to vote to remove such member from office, but such a vote is not required for that member to remain in office.

Section 5. The Council, during the interim between annual meetings of the Section, may fill vacancies in its membership or in the offices of the Section; provided, however, the office of Chair shall be filled automatically by the Vice Chair.

Section 6. A majority of the Council members and officers shall constitute a quorum for the transaction ~~or of~~ business of the Council at a meeting, held in person or electronically. The Council, however, may act by the submission to the Council members in writing of proposed action, and on any such submission, the Council may act only by the majority agreement of the whole Council. Meetings of the Council may be called by the Chair on such reasonable notice as circumstances permit.

ARTICLE IV

Officers, Liaisons and Representatives

Section 1. The voting officers of Council shall be the immediate Past Chair, Chair, Vice Chair and Secretary/Treasurer, who shall be nominated and elected at the annual meeting of the Section. Each officer shall serve for a term commencing on July 1 of the year of his or her election and ending on June 30 of the year subsequent to such election or until his or her successor shall have been elected and qualified.

Section 2. Vacancies in the offices of the Section shall be filled for the unexpired term by the Council as hereinafter provided.

Section 3. The Chair shall preside at all meetings of the Section and of the Council. The chair shall perform such other duties as usually pertain to the office of the Chair.

Section 4. Upon the death, resignation, or during the disability of the Chair, or upon his or her refusal to act, the Vice Chair shall perform the duties of the Chair. The Vice Chair shall coordinate all continuing legal education programs and the Section retreat and perform such other duties as may be assigned ~~to him or her~~ by the Council or the Chair.

Section 5. The Secretary/Treasurer shall be the custodian of all books, papers and other property of the Section except money. The Secretary/Treasurer shall be the fiscal officer of the Section and shall keep an accurate record of all moneys appropriated to and expended for the use of the Section. The Secretary/Treasurer shall keep a true record of the proceedings of all meetings of the Section and the Council. The Secretary/Treasurer shall perform such other duties as usually pertain to ~~his or her~~that office or may be assigned by the Council or by the Chair.

Section 6. Prior to January 15th of each year, the Chair shall appoint a nominating committee consisting of the Chair, the Vice-Chair, the Secretary/Treasurer, the most recent Past Chair, and three other Section members (the "Nominating Committee"). In making ~~his or her~~ selections for the Nominating Committee, the Chair shall consider the inclusion of a young lawyer (age 37 or less or less than five years in the practice of trust and estate law) and an individual from outside the Denver metro area, if possible.

Section 7. The Nominating Committee shall make a call for nominations to the Section membership, which shall include the criteria for nominees for the offices of ~~the~~ Chair, Vice Chair, Secretary/Treasurer, and the Council members whose terms will expire on June 30 of the year of the annual meeting. The deadline for nominations is March 15th of each year. The Nominating Committee shall send a proposed slate to the Section membership for consideration no later than April 1st of each year. Any group of at least 25 Section members may propose an alternate slate for consideration by the Section by delivering the alternate slate, along with the signatures of at least 25 Section members, to the Chair no later than April 15th. The Section's annual meeting shall be held on the third Thursday of May each year to approve the proposed slate or if necessary, to choose between the proposed slate and ~~the~~an alternate slate. The Chair shall announce the results no later than May 31st.

Section 8. When selecting individuals for the proposed slate, the Nominating Committee shall consider recognized diversity criteria; including ethnicity, age, gender, sexual orientation, area of practice, firm size, years in practice, and geographic location. The Nominating Committee shall also consider the need to preserve institutional knowledge, number of persons per law firm, and prior Section involvement.

Section 9. The Secretary/Treasurer shall cause a notice of the Annual Meeting of the Section to be given to the members of the Section no less than 21 days nor more than 63 days prior to the annual meeting. The notice shall contain a summary of any proposed Bylaw changes recommended by the Council, the proposed slate and any qualifying alternate slates. The notice may be given by mail or email. All elections shall be by voice vote unless otherwise ordered by resolution adopted by the Section at the annual meeting at which the election is held.

Section 10. The Nominating Committee shall also make recommendations to Council for the following positions: Communications Representative; Young Lawyers Representative; Legislative Liaison; and Board of Governors Representative. Each of these positions shall have a one-year term commencing on July 1 of the year of ~~his or her~~the appointment and ending on June 30 of the year subsequent to such appointment. Council shall vote on these appointments at its May meeting each year. An individual may be reappointed to these positions and multiple individuals may split the duties of these appointments.

Section 11. Council may appoint committee chairs and other representatives or liaisons as it deems necessary to conduct Section business.

ARTICLE V

Section Meetings

Section 1. The Annual Meeting of the Section shall be held on the third Thursday of May at 3:30 p.m. in the offices of the Colorado Bar Association, with such program and order of business as may be arranged by the Chair. The members of the Section present at the Annual Meeting shall constitute a quorum for the transaction of business and voting shall be by a simple majority of all Section members who are present, in person or by electronic means.

Section 2. Special meetings of the Section may be called by the Chair upon majority approval of the whole Council, at such time and place as the ~~Council~~Chair may determine.

~~**Section 3.** The members of the Section present at any special meeting shall constitute a quorum for the transaction of business.~~

~~**Section 4.** All binding action of the Section and voting shall be by a simple majority ~~vote~~ of ~~the all~~ Section members that are present, in person or by electronic means.~~

ARTICLE VI

Miscellaneous Provisions

Section 1. The fiscal year of the Section shall be the same as that of the Colorado Bar Association.

Section 2. All bills incurred by the Section, before being forwarded to the Treasurer of the Colorado Bar Association for payment, shall be approved by the Chair or the Secretary/Treasurer, or, if the Council shall so direct, by both of them.

Section 3. No salary or compensation shall be paid to any officer, council member or member of a committee.

Section 4. Any action by this Section must be approved by the Colorado Bar Association before the same becomes effective as the action of the Colorado Bar Association. Any resolution adopted or action taken by this Section may, on request of the Section, be reported by the Chair of the Section to the ~~annual meeting~~Executive Council of the Colorado Bar Association for the Association's action thereon.

Section 5. These Bylaws shall become effective upon the approval thereof ~~upon recommendation by the majority of the Board of Governors~~Section members voting thereon and upon approval by the Executive Council of the Colorado Bar ~~Association and by this Section~~Association's Board of Governors.

ARTICLE VII

Amendments

| These Bylaws may be amended at any ~~annual~~Annual Meeting or special meeting ~~to~~of the Section by a majority vote of the members of the Section present and voting.

Civic and Community Affairs Committee
Public Education Brochures Subcommittee

*As of January 19, 2017

“Disclaimer” Language for All Public Education Brochures:

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 (DATE OF (RE)PUBLICATION). 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.

Colorado Office of Public Guardianship

Commissioners

Shari Caton, Chair
Deb Bennett Woods, Vice Chair
Marco Chayet
Kelsey Lesco
Karen Kelley



1300 Broadway, Suite 1250
Denver, CO 80203

(720) 625-5130
OPGCommission@gmail.com

April 20, 2018

c/o Kelly Dickson Cooper, Esq.
COBAR Trust and Estate Section
555 17th St #3200
Denver, CO 80202

Re: The Office of Public Guardianship Pilot Project

Dear **Kelly Dickson Cooper, Esq.:**

On June 5, 2017, Governor Hickenlooper signed HB 17-1087 creating the Office of Public Guardianship Pilot Program. This Office, once funded, will provide guardianship services to indigent and incapacitated adults who:

- have no responsible family members or friends who are available and appropriate to serve as a guardian; and
- lack adequate resources to compensate a private guardian and pay the costs and fees associated with an appointment proceeding.

The pilot project is limited to serving incapacitated and indigent adults in the Second, Seventh and Sixteenth Judicial Districts. At the end of the three-year pilot, the Office will provide a report to the General Assembly quantifying Colorado's unmet need for public guardianship services, the average annual cost of providing these services, and the net cost or benefit to the state that may result from providing these needed services. Ultimately, the Office will assess whether an independent statewide office of public guardianship is needed.

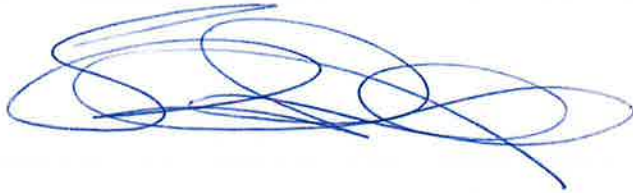
You have been identified as a potential stakeholder in this project. Your ongoing interest and involvement are important for the success of the pilot project. As required by the legislation, a five-member Public Guardianship Commission has been appointed. We welcome your participation and patience as we continue to establish the groundwork for the project. To date, the Commission has executed a

Memorandum of Understanding with the Judicial Branch, and promulgated By-Laws, Public Comment Policy, Document Retention Policy, and Interim Fundraising Guidelines. Most importantly, the Commissioners have been working to secure spending authority and exploring funding sources, and are actively fundraising to secure the funds necessary to appoint a Director for the Office.

A more detailed fact sheet is included with this letter. Please feel free to share this information widely with interested parties. Commissioners are also willing, upon invitation, to attend informational meetings in the targeted districts to answer questions and solicit your input. The Commission may be contacted via voicemail or email at (720) 625-5130 or OPGCommission@gmail.com.

We look forward to building a cooperative community network so that this pilot program may achieve success.

Sincerely,
FOR THE OPG COMMISSION

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Shari Caton, Chair

Colorado Office of Public Guardianship

Commissioners

Shari Caton, Chair
Deb Bennett Woods, Vice Chair
Marco Chayet
Kelsey Lesco
Karen Kelley



1300 Broadway, Suite 1250
Denver, CO 80203

(720) 625-5130
OPGCommission@gmail.com

Fact Sheet

SUMMARY OF THE PILOT PROGRAM

The pilot program will provide legal guardianship services for incapacitated and indigent adults in the Second, Seventh and Sixteenth Judicial Districts. The pilot is contingent upon the receipt of sufficient gifts, grants, or donations totaling approximately \$1.7 million per year for fiscal years 2018-2019 and 2019-2020. A director must be appointed within 30 days of receipt of the initial \$1.7 million and services must begin within 5 months.

Services to be provided (within established fiscal constraints):

- Review of referrals and adoption of eligibility criteria and prioritization of individuals with the greatest need;
- Appointment of guardian-designees, to include recruitment, training and oversight;
- Independent office and fiscal management;
- Relationships with stakeholder agencies, nonprofit organizations, companies, individual care managers, and direct care providers necessary to provision of services;
- Relationships with local, state and federal agencies providing public benefits on behalf of clients; and
- Public education and outreach.

HISTORY AND TIMELINE

- 2012: Elder Abuse Task Force releases its final report which includes a recommendation to create an office of public guardianship (OPG).
- 2014: The Public Guardianship Advisory Committee releases two reports to the Chief Justice affirming the need for an OPG and proposing a pilot project to gather data needed to support its establishment.

2017: HB 17-1087 directs the establishment of a pilot project within the Judicial Department.

The Public Guardianship Commission is appointed and charged with initial fundraising and appointment of a Director.

2021: A final report is due and the program will be continued, discontinued, or expanded at the discretion of the General Assembly.

PUBLIC GUARDIANSHIP COMMISSION

Shari Caton, Esq., Chair

Kelsey Lesco, Esq.

Deb Bennett-Woods, Vice Chair

Karen Kelley

Marco Chayet, Esq.

- The Commission meets monthly at the Ralph L. Carr Colorado Judicial Center.
- Meetings are publicly noticed and members of the public are welcome and encouraged to attend.
- Minutes and other Commission documents are available on the OPG temporary web page <https://www.courts.state.co.us/opgcommission/>.
- The Commission welcomes comments via telephone, email, and at its public meetings.

CURRENT STATUS

The Initial Memorandum of Understanding with the Judicial Branch has been executed and critical operating documents including By-Laws and Interim Fundraising Guidelines are promulgated. Commissioners are actively seeking funding sources and preparing for a director search as soon as adequate funds are secured. It is anticipated that the OPG will begin to offer services by the end of 2018.

REQUEST FOR GIFTS, GRANTS, DONATIONS

Gifts/donations can be made to any Commission member in the form of cash, credit card, or check made payable to the Office of Public Guardianship Cash Fund.

Acknowledgment by donor of required disclosures is necessary.

Referrals to potential donors are welcome.

Trust & Estate Section – Intro page

The Trust & Estate Section addresses the interests and problems of both specialists and general practitioners in the area of wills, trusts, estates, guardianships, conservatorships. Members can always find a place on one of the Section's many active committees, including the planning and preparation of CLE programming, writing for Council Notes (quarterly newsletter for members), preparing forms for the Orange Book (wills and trusts), writing for the Estate and Trust column in The Colorado Lawyer, working on legislative issues and changes in the Statutory Revisions Committee and its many subcommittees, addressing issues relating to probate rules and procedure, giving back to the community through Senior Law Day and other projects of the Civic and Community Affairs Committee, or growing your network and learning with our New Lawyers Committee. Members of the Section work closely with the CBA's Elder Law Section in areas of mutual concern and also hold topical luncheons and regularly work with the Tax, Real Estate, Business and Family Law Sections.

Suggested addition to Executive Council Page

The Executive Council is made up of four officers and six members. These ten Section members are responsible for the management of the Section and the coordination of the Section's efforts, both internally and with other Sections of the CBA. A nominating process is conducted each spring to fill these positions. For more information, please contact the Chair of the Section.

**Trust & Estate Section
of the Colorado Bar Association**

Chair Expectations

1. Preparation for Committee Meetings

- a. For regular monthly meetings (3rd Thursday of each month - August through May):
 - i. prepare agenda and minutes for prior monthly meeting; and
 - ii. send notice, agenda, minutes for prior monthly meeting and any other attachments to CBA Liaison for circulation to Committee members and website publication at least two days prior to monthly meeting.
- b. For any special meetings, generally use the same steps for regular monthly meeting except send notice, agenda and any other attachments to CBA Liaison for circulation to Committee members and website publication as soon as possible, but at least two days, prior to special meeting.
- c. If you have to cancel any meeting, notify Committee members and CBA Liaison as far in advance as possible.
- d. You should collaborate with the Committee's Vice Chair or Secretary to share responsibilities, as needed.

2. Regular Attendance at Committee Meetings

- a. Plan to attend all regular monthly meetings. If you will be absent, be sure to make arrangements to have someone (e.g. Vice Chair or Secretary) run the meeting in your place.
- b. Welcome and acknowledge new members or visitors.
- c. Take measure to ensure that work is spread out fairly and evenly among the Committee members.
- d. Respectfully control the comments and questions among the Committee members to ensure that the meetings are not dominated by only a few members.

3. Regular Attendance at Executive Council meetings

- a. Plan to attend all Executive Council meetings to report on the efforts and work-product of your Committee and to allow necessary coordination among Chairs of other Committees.
- b. Keep the Section Chair informed of any difficult or unique issues that may arise in your Committee as soon as possible.

4. Other Duties:

- a. Communicate with other Committee Chairs regarding your Committee's work outside of Executive Council meetings, as needed.
- b. Assist other Committee Chairs as needed on joint projects or efforts requiring coordination or collaboration.
- c. By March of each year, recruit an appropriate successor for your Committee's leadership (e.g. next year's Co-Chair, Chair-Elect, Secretary, etc.). The successor should not be another member of the Chair's law firm or organization, subject to very limited exceptions.
- d. Review your Committee's webpage by August of each year to ensure that it is up-to-date. Thereafter, periodically review to ensure that no further changes are required.
- e. Keep a current list of Committee members (either individually or through the CBA liaison).
- f. Keep a sense of humor!

**Trust & Estate Section Executive Council
Notice of the May 17, 2018 Annual Meeting and Agenda**

To: All Members of the Trust and Estate Section

From: Josie M. Faix
Balson & Faix LLP
7400 E. Caley Avenue, #300
Centennial, Colorado 80111
720-974-6350
Josie@balsonfaix.com

NOTICE OF ANNUAL MEETING

The annual meeting of the Trust & Estate Section will be held:

Date and time: Thursday, May 17, 2018 at 3:30pm
Place: Colorado Bar Association
1900 Grant Street, Suite 900
Denver, CO 80203

Call-In instructions are as follows:

Phone Number: 1-855-392-2520
Access Code: 2627690#

AGENDA

The following matters are scheduled for discussion and voting at the Annual Meeting:

1. Proposed revisions to the Section's Bylaws (as requested by the Executive Council of the CBA and approved by Section's Executive Council). A redline showing the revisions is attached to this Notice.
2. Proposed slate recommended by the Nominating Committee for First Year Members of the Executive Council*
3. Nominations for Chair of the Section*
4. Nominations for Vice Chair of the Section*
5. Nominations for Secretary/Treasurer of the Section*

*The formal announcement of the slate was sent to the Section on March 30, 2018 and is attached to this Notice.

**Council of the Trust and Estate Section of the Colorado Bar Association
Minutes of the April 19, 2018 Meeting**

Council met on Thursday, April 19, 2018, at the Colorado Bar Association offices, 1900 Grant Street, Denver, Colorado. The meeting was called to order at approximately 3:05 p.m.

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

Kelly Dickson Cooper, Chair
Leia G. Ursery, Vice-Chair
Darla Daniel, Immediate Past Chair
Nicole E. Brown, Second Year Member
Casey L. Williams, Second Year Member (phone)
Timothy Bounds, First Year Member
Jessica L. Broderick, First Year Member
Peter W. Bullard, First Year Member

Also in attendance were: Elizabeth Akalin (CBA); Georgine Kryda (Tax Section Liaison); Patrick Thiessen (Elder Law Liaison); Jarod Balson (Rules & Form Committee); Sandra Sigler (Civic and Community Affairs Joint Committee); Aaron Evans (Probate Trial and Procedure Committee) (phone); Spencer Crona; and John DeBruyn.

1. Approval of Minutes of Prior Meeting

The Minutes of the March 15, 2018 Council meeting were approved unanimously subject to one correction. The sixth line of Section 7 – Statutory Revisions Committee is revised as follows: “Plan is to have Herb draft modification to rule 1.16, the ethics rule re destruction of client files.”

2. Chair’s Report, Administrative Matters (Kelly Dickson Cooper)

Kelly sent out an email to Committee and Subcommittee chairs asking that announcements be made concerning the upcoming slate for the Executive Council, which will be voted upon at the annual Section meeting on May 17, 2018, the new format for Thursday night at the Estate Planning Retreat; and the potential presence on Facebook and YouTube.

The Nominating Committee completed its work and Kelly summarized the recommendations to Council. The deadline for alternative slates was April 16, 2018 and none were submitted. The slate will be up for approval at the annual meeting in May 2018. Kelly contacted those who expressed interest in serving but who were not selected and explored other options of increasing their involvement and participation in the Section. Kelly will request that Council adopt the recommendations of the Nominating Committee at the May Council meeting.

The discussion concerning Committee Chair expectations was tabled until the next meeting in May 2018.

The CBA Executive Council asked our Section to make a few more revisions to our recently amended By-Laws. The proposed revisions were circulated. Kelly will arrange for a special meeting in May 2018 in hopes of approving the same.

Elizabeth Akalin indicated that some of the Committees had responded to Kelly's request that website pages be updated. Kelly plans to pursue "public shaming" for those Committees who have not yet submitted updates.

As part of the website review, Kelly reviewed the Executive Council page and the Section's introductory page and proposed revised language to the Council for those pages. There were a few suggested revisions, which Kelly will make and then send to Elizabeth to update those two pages.

Amber Marchlowska submitted proposed disclaimer language for use on the potential Facebook and YouTube materials. Sandra offered the disclaimer language used for the various information pamphlets for Senior Law Day. Kelly will review with Amber in hopes of presenting at the May 2018 meeting.

With respect to the potential Facebook and YouTube materials, we will have to go through the CBA for a certain approval process. However, the CBA is in the process of building its own social media platform, which may be a better venue. Elizabeth will help arrange a call between Amber, Zachary Schlichting and the new CBA Communications Director to discuss this possibility further.

3. Secretary/Treasurer's Report (Josie M. Faix)

Kelly reported on Josie's behalf. The monthly financials were provided as handouts in the meeting materials. Council discussed this year's contribution for the Estate Planning Retreat and unanimously approved a \$5,000.00 contribution.

4. Tax Section Liaison (Georgine M. Kryda)

Georgine did not have a specific report from the Tax Section. She summarized an interesting presentation by the Office of Attorney Regulation Counsel (OARC) that covered Facebook and other similar postings. The focus was on how to ethically respond if someone leaves a negative review or comment. OARC emphasized that attorneys have to cause to ensure that privilege and confidentiality concerns are not implicated and suggested that the best response would be: "I'd like to discuss this with you offline."

5. Elder Law Section Liaison (Patrick R. Thiessen)

Patrick had to leave for another meeting but provided notes to Tim Bounds on the following:

- The Section approved a \$1,000.00 contribution to the Office of Public Guardian.
- The Elder Law Retreat will take place in Vail on August 23-25, 2018.
- The Medicaid Subcommittee is in the process of getting back on track after John Campbell's passing. Claire Dineen will be serving as the new Chair.

6. Real Estate Section Liaison (David W. Kirch)

No report.

7. Statutory Revisions Committee (Leia G. Ursery/Tim Bounds)

Leia indicated that a majority of the meeting was spent getting updates from the various Subcommittees. The remaining time was focused on late and pending legislation.

The Colorado Uniform Trust Code passed in both the Senate and House and is ready for the Governor's signature.

The most concerning was HB1390, which pertains to a non-profit attempting to provide alternatives to families in crisis. It provides for a new power of attorney mechanism for parents and adds the legislation to § 15-14-105, C.R.S., which concerns the delegation of parental authority. The Committee was extremely concerned that such placement would force a Probate Court to handle disputes in those situations and felt that such provisions likely needed to be in Title 14 or 19. A motion to oppose passed unanimously.

SB252 concerned an additional exception from mandatory reporting for lawyers and related staff involved with area agencies on aging. While the Committee did not oppose the concept, John DeBruyn and Stan Kent will help to refine the language of the proposed statute.

8. Legislative Liaison (Stephen M. Brainerd/Jeremy Schupbach - CBA)

No further report.

9. Communications Representative/Council Notes (Josie M. Faix/Kristin Dittus)

No report.

10. CLE/Estate Planning Retreat (Leia G. Ursery/Vincent O'Brien)

The Estate Planning Retreat appears to be in great shape. The brochures have gone out and we already have 77 people registered, which is high for this point. Everyone seems excited for the programming. The last issue to work out will be the silent auction; Leia needs to see if the Colorado Bar Foundation is willing to be the recipient for donations with all net proceeds earmarked for Senior Law Day and Tribal Wills Project.

11. Orange Book Forms Committee (Elizabeth T. Meck/Kim Raemdonck)

The Committee did not work on the marital agreement form today as it spent time discussing the potential for ADR provisions. The Committee approved the concept so language will now be drafted for consideration and approval. The Committee will continue its work on the marital agreement and work on retirement benefit language.

12. Rules & Forms Committee (Jarod Balson)

Jarod reported that the Committee had been asked by CBA-CLE to review the Bradford forms and it agreed.

Mike Holder suggested that the Committee be disbanded as it no longer served its original purpose, which pertained to guardianship issues. There was limited discussion and no vote. Council members expressed their desire to keep the Committee in place, recognizing it may have slow periods when there is not much to handle. The Committee can still submit suggest revisions for JDF forms and it may end up with a larger role again in the future.

During today's meeting, there was a discussion as to a new trend in conservatorships. Specifically, auditors are regularly asking that financial plans be updated to reflect substantial changes. The Committee is trying to determine a better way to address the concerns of the auditors that would be more efficient.

On June 27, 2018, a public comment hearing is scheduled on the new rules and forms.

13. Civic and Community Affairs Joint Committee of the Elder Law and T&E Sections (Sandra Sigler)

Sandra updated Council on the scheduled Senior Law Days; an additional session may be added in Boulder. The handbooks have been ordered and they should be ready by mid-May 2018; the Committee rented a storage unit to hold the handbooks until they can be picked up. Fundraising efforts have been great this year and the Committee received a \$7,500.00 grant from NextFifty Initiative, which will help it move forward with a website. The Committee continues to seek speakers; Kelly suggested that Sandra contact the New Lawyers Committee.

14. Diversity Committee (Melissa R. Schwartz)

No report.

15. Probate Trial and Procedure Committee (Aaron Evans)

Aaron reported that the Committee spent time this morning discussing Sandstead and the issue noted above concerning auditors' request for amended financial plans. The Committee also discussed the "Uniform Guardianship, Conservatorship and Other Protective Arrangements Act," its lack of provisions on compensation and the desire to have the toolbox provisions to apply to such proceedings. At the end of the year, Aaron will be stepping down as Chair and Zachary Schlichting and Jody Pilmer will be taking over as co-Chairs.

16. Colorado Estate Planning Handbook (David K. Johns/Constance B. Wood/Julia G. McVey)

No report.

17. *Green Book* (David K. Johns)

No report.

18. New T & E Lawyers Committee (Lauren da Cunha/Alison Leary) No report.

Lauren reported that the Committee was enjoying a nuts-and-bolts presentation by Mark Masters on estate planning engagements. She is also in conversations with the CU Elder Law Society about a speed networking event; Leia and Kelly suggested a location between Denver and Boulder and scheduling the same on after Super Thursday so that attorneys could carpool up to the event if desired.

19. *Colorado Lawyer* (David W. Kirch/Constance D. Smith)

No report.

20. Communications Representative (Mark D. Masters)

No report.

21. Communications Representative/Ambassador Coordinator (Melissa R. Schwartz)

No report.

22. Board of Governors Representative (Melissa R. Schwartz)

No report.

23. GAL Subcommittee (David W. Kirch)

No report

24. Miscellaneous/FYI

None.

25. Adjournment

The meeting was adjourned at or about 4:05 p.m.

Respectfully submitted,

Leia G. Ursery on behalf of Josie M. Faix

Trust & Estate

April	YTD	Budget	Variance	%	Last FY
	(\$441.96)		(\$441.96)		\$5,658.89

Trust & Estate Section				
Revenue				
Dues Income Section	01-4050-31600	180.00	32,770.00	27,262.50
Total Revenue Trust & Estate Section		180.00	32,770.00	27,262.50
Expenses				
Other Expense	01-5000-31600		(100.00)	(100.00)
AWARDS	01-5007-31600		(356.78)	(325.34)
Travel	01-5102-31600		(1.00)	(912.07)
Postage	01-5304-31600		(0.92)	(2.32)
Telephone	01-5412-31600	(108.45)	(804.10)	(845.68)
Internet/E-Mail Access	01-5413-31600		(1,217.42)	(1,026.59)
Meals (Not travel related)	01-5491-31600	(742.23)	(9,837.94)	(4,736.47)
Administration Fee	01-5494-31600	(494.58)	(4,945.80)	(4,900.00)
Grants/Contributions	01-5500-31600		(500.00)	(2,800.00)
Total Expenses Trust & Estate Section		(1,345.26)	(17,763.96)	(15,548.47)
Statutory Revisions Committee				
Revenue				
Rev. Elderlaw Joint Task Force				
Rev. Uninform POA Act				
Rev. Uniform Trust Code				
<hr/>				
Expenses				
Telephone	01-5412-31603			(64.88)
Meals (Not travel related)	01-5491-31603			(196.40)
Exp. Elderlaw Joint Task Force				

Exp. Uninform POA Act			
Exp. Uniform Trust Code			
Telephone	01-5412-31625		(19.87)
Total Expenses Statutory Revisions Committee			(281.15)
CLE			
Revenue			
Revenue Joint CLE			
Revenue CLE Retreat			
Revenue CLE Section Only			
Expenses			
Grants/Contributions	01-5500-31611		(7,500.00)
Expenses Joint CLE			
Expenses CLE Retreat			
Expenses CLE Section Only			
Total Expenses CLE			(7,500.00)
Council Notes			
Revenue			
Expenses			
Community & Civic Affairs			
Revenue			
Expenses			
Rules & Forms Committee			
Revenue			

Expenses		
Orange Book Forms		
Revenue		
Expenses		
AWARDS	01-5007-31607	(200.00)
Total Expenses Orange Book Forms		(200.00)
Local Liaison		
Revenue		
Expenses		
Uniform Trust Code		
Revenue		
Expenses		
Transfer Deposits		
Revenue		
Expenses		
Admin. Chair		
Revenue		
Expenses		
Estate Planning Handbook		
Revenue		
Expenses		

Admin Council Dinner				
Revenue				
Meal Income	01-4051-31612	1,720.00	1,720.00	1,400.00
		-----	-----	-----
Total Revenue Admin Council Dinner		1,720.00	1,720.00	1,400.00
Expenses				
Meals (Not travel related)	01-5491-31612			(5,979.55)
		-----	-----	-----
Total Expenses Admin Council Dinner				(5,979.55)
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				
		-----	-----	-----

Expenses					
T&E Diversity Committee					
Revenue					
Expenses					
Meals (Not travel related)	01-5491-31628				(158.80)
Grants/Contributions	01-5500-31628				(210.00)
Total Expenses Diverstiy Comm.					(368.80)
Judicial Liaison					
Revenue					
Expenses					
Member Vouchers					
Expenses					
T&E Young Lawyer Society					
Revenue					
Expenses					
Telephone	01-5412-31629				(26.19)
Total Expenses T7E YLS					(26.19)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	180.00	34,490.00	34,490.00	28,662.50
Total Expense All Sources	01-5???-316??	(1,345.26)	(17,763.96)	(17,763.96)	(29,904.16)
Ending Balance		(1,165.26)	16,284.08	16,284.08	4,417.23

		April	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		(\$441.96)		(\$441.96)		\$5,658.89
Trust & Estate Section- General							
Revenue	01-4???-31600	180.00	32,770.00		32,770.00		27,262.50
Expenses	01-5???-31600	(1,345.26)	(17,763.96)		(17,763.96)		(15,548.47)
Statutory Revisions Committee							
Expenses	015???3160...						(281.15)
CLE							
Expenses	015???3161...						(7,500.00)
Council Notes							
Community & Civic Affairs							
Rules & Forms Committee							
Orange Book Forms							
Expenses	01-5???-31607						(200.00)
Local Liaison							
Uniform Trust Code							
Admin. Chair							
Estate Planning Handbook							
Admin Council Dinner							
Revenue	01-4???-31612		1,720.00		1,720.00		1,400.00
Expenses	01-5???-31612						(5,979.55)
Legislative Liaison							
Internet Editor							
Technology Committee							
Real Estate Liaison							
Green Book							
The Colorado Lawyer							
Diversity Committee							
Expenses	01-5???-31628						(368.80)
Judicial Liaison							
Member Vouchers							
Uniform Trust Code							
Expenses	01-5???-31625						(19.87)

Transfer Deposit					
Young Lawyer Society					
Expenses	01-5???-31629				(26.19)
Beginning Balance	01-3160-31600		(441.96)	(441.96)	5,658.89
Total Revenue All Sources	01-4???-316??	180.00	34,490.00	34,490.00	28,662.50
Total Expenses All Sources	01-5???-316??	(1,345.26)	(17,763.96)	(17,763.96)	(29,904.16)
Ending Balance		(1,165.26)	16,284.08	16,284.08	4,417.23



Kelly Cooper <kelly@kdcpc.com>

Trust and Estate Slate Announcement

2 messages

Elizabeth Akalin <eakalin@cobar.org>
Reply-To: Elizabeth Akalin <eakalin@cobar.org>
To: Kelly Cooper <kelly@kdcpc.com>

Fri, Mar 30, 2018 at 10:14 AM



Proposed Slate of New Council Members

The Nominating Committee for the Trust and Estate Section has duly considered all nominations and proposes the following slate for Council Members to serve a two-year term, beginning on July 1, 2018:

Peggy Gardner
Elizabeth Meck
Lauren Da Cunha

The Nominating Committee also plans to make the following nominations for officers of the Section for the 2018-2019 year at the Section's Annual Meeting on May 17, 2018:

Secretary/Treasurer – Spencer Crona

Vice Chair – Josie Faix

Chair – Leia Ursery

As the current Chair of the section, Kelly Cooper, will serve as the Immediate Past Chair for the 2018-2019 year.

Per the Section's Bylaws, the Nominating Committee will make recommendations to the current Council regarding appointments to certain leadership positions for the Section for the 2018-2019 year at Council's April meeting, with a vote on those recommendations at Council's May meeting.

The deadline for submission of an alternate slate of Council members is April 15, 2018 and it requires signatures of at least 25 Section members. Any such alternate slate must be delivered to the Section Chair Kelly Cooper.

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TO UNSUBSCRIBE: Email ITDepartment@cobar.org

Kelly Cooper <kelly@kdcpc.com>
To: Peter Bullard <pete@estate-planning-help.com>

Thu, Apr 19, 2018 at 8:38 AM

Here is the slate announcement. Thanks - Kelly

[Quoted text hidden]

