

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

Virtual only this month

Wednesday, January 3, 2023 at 10 a.m.

Colorado Bar Association
West 4

<https://cba-cle.zoom.us/j/89554779264?pwd=QWNIT09vRVljUzY2ZHN5V3hWd0lYUT09>

Meeting ID: 895 5477 9264

Passcode: 043692

Call-in: 12532158782

AGENDA

1. Welcome and Introductions
2. Review of Minutes from December 6, 2023.
3. Chair's Report – Tammy Conover and Andrew Rogers
4. Updates/Reports from current committees:
 - a. E-Will Committee – Letty Maxfield
 - b. Wrongful Death Subcommittee – Aaron Evans
 - c. Court Visitor Subcommittee – Aaron Evans
 - d. UPL – Tammy Conover/Susie Germany
 - i. Meeting Friday, January 19th and Friday, February 3rd from 10:30 to 12:30. The meetings will be in person (hybrid available), at the CFPD offices located at 1355 S. Colorado Blvd., Suite 920. Zoom link will be sent out.
 - ii. Let Tammy know if you want to be included in emails/meetings.

- e. Mandatory Mediation and Simplified Procedure in Probate Cases – Spencer Crona
 - i. Updates
 - f. County Bench Bar Meetings – Angela Rockwood
 - i. Schedule will be posted and included in next materials (sorry!)
5. UGCOPPA – Letty Maxfield & Andrew Rogers. Joint T&E, Reporting updates.
6. New Business

NEXT MEETING: February 7, 2023 @ 10 a.m.
Will be back to in person/hybrid

REMINDER: Join the Committee through CBA Membership Department, email tammy@conoverlawllc.com for monthly updates.

Probate Trial and Procedure Committee

Minutes of the December 6, 2023, Meeting

The Probate Trial and Procedure Committee met in-person and virtually through the Colorado Bar Association on December 6, 2023. The meeting was called to order at approximately 10:00 a.m.

The following members were present in person or participated by Zoom:

Lindsay Andrew	Aaron Evans	Brian Reynolds
Eric Apjoke	John Ferguson	Angela Rockwood
Lauren Beversluis	Leah Gates	Tom Rodriguez
Lisa Blattner	Susie Germany	Andrew Rogers
Tim Bounds	David Imbler	Al Sahlstrom
Norv Brasch	Stan Kent	Zach Schlichting
Lynne Bruzzese	Keith Lapuyade	Catherine Seal
Annie Campbell	Kimberly Lavin	Kathy Seidel
Kelly Campbell	Marianne Luu Chen	Sandra Sigler
Geoffrey Carpenter	Victoria Long	Sara Stein
Shari Caton	Letty Maxfield	Rubea Taylor
Scott Challinor	Emily McDaniel	Tamara Trujillo
Marco Chayet	Nick McWharter	Herb Tucker
Molly Clarke	Sydney Merrel	Chelsea Ziegler
Tammy Conover	Kevin Millard	Kris Zumalt
Kelly Cooper	Kayla Nelson	Lisa Dunn
Lisha Coultrip	Matthew Perkins	Stephen Wilson
Spencer Crona	Sara Price	Morgan Wiener
Kaitlin Davis	Sal Quintana	
	Jesse Rember	

Welcome/Introductions

The minutes of the November 1, 2023, meeting were approved.

I. Chair's Report

- Annual Holiday Party later today – Judges on panel will be Judge Vriesman, Judge Leith, and Judge Kramer.

II. Updates/Reports

- Statutory Revisions for E-Wills – Stan Kent gave update. Working on proposed statutes, in drafting. Wanting to get wrapped up quick to present to sections.
- Wrongful Death Subcommittee – Aaron Evans gave update. Met last week, narrowed down to 6-7 states, working on pulling language from other states' statutes. Meeting again in two months.

- Court Visitor Subcommittee – Connie Lind retiring. Aaron reaching out to new person.
- Unauthorized Practice of Law – Tammy and Susie gave update. Next meeting is on January 19, 2024, then Feb 2, 2024, both at CFPD offices (2 hours, in person). Working on narrowing down talking points in terms of what we want to get to OARC. Research ongoing into other states’ approaches.
- Mandatory Mediation / 16.1 Committee – Spencer gave update. NY statutes could provide good foundation for at least a pre-objection discovery process in light of Everhardt case. As far as mediation, the input received is that judges prefer it to be in their discretion.
- County Bench Bar – Angela Rockwood / Kris Zumalt gave update. Magistrate Allen confirmed 3/6/2024, going to circulate email with details.
 - February 7th from 10:30-11am: 1st Judicial District, Magistrate Allen (potentially Judge Vriesman as well – he will confirm later in January 2024)
 - March 6th from 10:30-11am: 19th Judicial District, Magistrate Apostoli (tentative will confirm later in January 2024 whether it will be her or another judicial officer)
 - April 3rd from 10:30-11am: 20th Judicial District, Judge Collins
- UGCOPPA – Andrew Rogers gave update. Have been meeting weekly on Fridays in person at offices of Wade Ash, 1:00-3:00 – have been reading through the act, taking note of issues as we go through it. Uniform Law Commission is convening at the capital this coming Friday morning – Andrew and Letty to testify and give them update on our progress and some of issues we’ve discussed, like forms/how affects other statutes, etc.

III. New Business

- Discussion of Terri Schiavo documentary.
- Judge Werner and Magistrate Rahaman presented to the group starting at approximately 10:30 a.m.
 - a. Rahaman – 3000 probate cases filed every year in El Paso County. Most of litigation is focused on estate and trust litigation.
 - i. When disputed cases on radar, calls up cases on case mgt/case scheduling conference. Allows them to get fingers on pulse of the case, goes through deadlines –

discovery/depositions/exhibits/witnesses/ex and witness lists, etc. – finds that helps resolve discovery disputes/reduce discovery requests.

- ii. 10-15 cases per month get kicked up to Judge Werner, either by request or by decision of Magistrate.

- b. Werner – Usually when case comes up, a lot of stuff has gone on beforehand. So he requires that attorneys set CMC in his division, he finds out issues and plans going forward, then issues the CMO with deadlines. Sometimes will have another status conference 30 days out from trial/evidentiary hearing – to see if any outstanding issues/remove any roadblocks to matter proceeding to hearing. The CMO requires parties to set ADR before trial readiness conference – rare that he waives ADR.

- c. Rahaman – lots of cases resolve at mediation – once case has settled down/discovery is conducted, mediation can be successful.

- d. Werner – mandatory ADR order in El Paso since 1996 – for any civil case that proceeds to trial. ADR to be completed by pre-trial readiness
 - i. Tone/temperature of case in terms of timing of mediation

- e. Marco – R40 – Rahaman – fine tuning discovery to be specifically related to the case – goes to importance of CMC – sometimes counsel will agree to incorporate CRCP into discovery schedule – discuss that at the case management conference.

- f. Werner – will ask what is key issue/issues – civil atty sometimes want full discovery, but that will cost estate money. Need to narrowly tailor discovery to the discrete issues.

- g. Probate Breakfast Sheet – points
 - i. Point 3 – Urge that in motions/oral argument – get right to the point for the court.
 - 1. Guide to counsel for arguing before the Supreme Court – *Guide for Counsel* – can download PDF online.
 - ii. Info of appointment must be on file before letters testamentary issued – probate bench decided that.

- h. Werner – when you file motion to withdraw, have to comply with Rule 121.

- i. Have to confer, in best interest to do so – if unopposed then could get order back same day. Don't need to conferral on Withdrawal motion.

IV. Adjournment

The meeting adjourned at approximately 11:00 a.m.