

**CBA LITIGATION COUNCIL**  
**April 1, 2017 MEETING MINUTES**

**LOCATION:** CBA offices, Denver

**COUNCIL MEMBERS PRESENT:**

In Person:	Chair: Lorraine Parker Luke Ritchie Alden Hill Kathie Riley Mickey Smith Jake Eisenstein Rich Caschette Jerry Pratt Peter Black Mike Mihm Lidiana Rios Patrick Wilson Kathie Riley Natacha Guiterrez Kayla Dreyer Brad Breslau
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By telephone:	Sam Starritt Peter Goldstein Nicoal Sperrazza Mike Chapman Lyndsay Arundel Pat Wilson
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CBA/CLE  
Personnel: Elizabeth Akalin  
Jeremy Schupach

1. **CALL TO ORDER:** 9:05 AM
  
2. **APPROVAL OF MINUTES:** Motion by Mr. Eisenstein, second by Mr. Smith:  
Approved.
  
3. **FINANCIAL REPORT:**  
Reviewed Financials for period ending February 27, 2018  
**Election of Treasurer:** Motion by Alden Hill to elect Nicoal Sperazza, second by  
Mr. Ritchie. Approved.

**4. OLD BUSINESS:**

- A.** Discussion regarding Litigation Section social event in May. Event will be held at Broadway Club (32<sup>nd</sup> Floor of 1999 Broadway) on Tuesday, May 9<sup>th</sup>, from 6:00 p.m. to 8:00 p.m. The event will be preceded by the Executive Council meeting to commence at 4:30 p.m., in the offices of Jones & Keller (31<sup>st</sup> Floor of 1999 Broadway).

Vote Regarding CBA/CLE door prize. Motion by Chair Parker to approve \$800 worth of CLE passes (hopefully, two passes) as door prizes. Second by Mr. Pratt. Approved.

Mr. Pratt, Co-Chair of DBA Bench / Bar Committee, committed to co-sponsor the event and help to deliver judges.

Vote Regarding \$7,500 budget for event. Motion by Mr. Breslan, second by Mr. Pratt. Approved.

- B.** Discussion regarding Litigation Section Symposium. CBA/CLE representative Vince Obrien raised concerns that there is a real risk of a budget break if you enter into contract with one of the resorts and end up failing to deliver attendees. These resorts have significant Food and Beverage requirement, and that budget is paid whether attendees or not.

Ms. Dreyer provided update from Symposium Subcommittee, explaining that the subcommittee had decided at their last meeting to not hold the event in 2017. Instead, subcommittee has decided to explore resources (other symposiums, and CBA/CLE) over the next couple months and then present on the proposal for 2018 Symposium at the Executive Council meeting in September 2017.

Group agreed that it was too aspirational to push for 2017, and leaning toward a one day (Friday) day-long event here in Denver.

**5. COMMITTEE AND SUB-COMMITTEE REPORTS:** An effort was made to confirm which members were serving on which sub-committees; to wit:

- A. Supreme Court Civil Rules / Rules Committee.** Rich Caschette, Luke Richie, Lidiana Rios, Brad Breslau, Joe Rivera, Patrick Wilson, Peter Goldstein

- B. Board of Governors.** No report

- C. Securities Sub-Section.** No report

- D. Appellate Practice Sub-section.** No report

- E. Section Newsletter.** Sam Starritt, Kayla Dreyer, Kim Schutt

- F. Events/CLE.** Luke Ritchie, Gerald Pratt, Natacha Gutierrez, Sam Starritt, Amanda Francis, Courtenay Patterson, Kathie Riley, Kim Schutt, Joe Rivera, Mike Chapman, Kayla Dreyer
- G. Legislative Update / Policy.** Michael Mihm, Kathie Riley, Natacha Gutierrez, Kayla Dreyer
- H Ethics Committee.** No report from Mr. Pratt
- I. Membership.** Alden Hill, Nicoal Sperrazza, Lyndsay Arundel, Mike Chapman, Natacha Gutierrez, Mickey Smith
- J. Listserve.** Lorraine Parker, Nicoal Sperrazza, Mickey Smith
- K. Website.** Lidiana Rios, Jake Eisenstein, Peter Goldstein
- L. Newsletter.** Sam Starritt, Kim Schutt, Lidiana Rios

**6. GUEST SPEAKER:** Chair Parker invited guest, Chief Justice Nancy Rice, to present on state of the judiciary. Discussion ensued led by Chief Justice regarding developments including:

- Efforts to increase jurisdictional limitation at County Court
  - Civil Rules looked at from access to justice issue, and recommended that jurisdictional maximum be increased from \$15,000 to \$35,000. County Court Judges were very concerned and ultimately opposed that significant increase. However, after discussing further at the judicial retreat, County Court Judges appear to agree that some level of increase is appropriate.
  - An additional step will be to vet proposed new number with court services committee. Want to ensure that services in rural communities can appropriately adapt to the increase. Must avoid disparate impact on rural communities
  - CJ is optimistic that there will be a resolution by the end of the summer. Does not expect any changes to the presumptive case management / discovery procedures resulting from the increase in jurisdictional limitation.
- Judicial salary situation? A couple years ago the joint budget committee (JBC) pushed to “couple” i.e., adjust judicial salary in line with legislative

- branch i.e., judges and legislators have some parity in compensation. Result, is that legislators' salaries will be increasing.
- There was no increase to judicial salaries in 2016, despite requests.
  - This year, studies were performed on data from across country and judicial is pushing for a 6% increase over two years, which will bring them to the "market" rate i.e., comparable with peers in the nation
  - Senate voted to decrease the salary adjustment, and then again to decrease the salaries. Basic result is the salaries go back to zero change.
  - Now, the matter is back at the House and will be taken up again in the coming weeks.
- Legislation regarding judicial recusal. Sponsor's original proposal raised a number of concerns, and he asked the Court to help make it more procedurally workable. Redrafts are underway, but there have been some improvements. Bar remains involved in the redrafting and still very concerned. Current draft has the appeal of a denial to recuse going up to the Court of Appeals, rather than judicial district's chief judge.
  - Discussion regarding chief justice directive regarding completion of case within 1 year. CJ says that she believes judges may be reacting to judicial evaluation rating implications by not moving cases a long , more so than they are to the actual judicial directive.
    - Concerns were expressed regarding judges putting this rocket docket requirement ahead of ensuring the parties' rights to their day in court and a fair process
  - Chief Justice commented on the Conference of Chief Justices, which brings together the chief justices from each state to thoughtfully consider and address many of these complicated issues. She thinks highly of the conference and believes it valuable
  - New legislation regarding judicial performance evaluation. Bi-partisan bill presented just last week. Several changes include: take Chief Justice Appointments to the commission away, and instead give them to legislators. Take away Supreme Court's review of the commission's proposed rules, and exempted judicial performance rules from APA oversight. Evaluate senior judges by an independent commission, rather than the Chief Justice evaluating and appointing. Add evaluations from self-represented litigants (pro se litigants). Pro se litigants tend to evaluate judges based on outcome, and also to be hypercritical (salacious comments) in reviews. Change language from "retain" to "meets performance standards". Stop the use of performance plans during the retention year.

- Pilot Program providing for a “navigator” for pro se litigants. Program is ongoing in Jefferson County, and really not much to report as of yet. CJ has not heard much regarding Washington’s State’s push several years ago for limited liability legal (?). Instead, the trend now is to navigators and Sherlocks.

## **7. LITIGATION SECTION REBOOT:**

no report

## **8. NEW BUSINESS.**

- A. Presentation by Jeremy Schupach on current legislative developments:
  - a. Bill 1303 regarding judicial performance committee and evaluation process. Discussion ensued regarding concerns that it takes the control over the judicial branch’s rules and rule writing process away from the judicial branch
    - i. Peter Black circulated to the EC a thoughtful list of additional concerns
    - ii. Mr. Mihm moved to oppose provision taking away Supreme Court’s review of the commission’s proposed rules, and which would result in a new committee that would be exempt from APA oversight. Seconded by Mr. Pratt. Discussion ensued. Approved.
    - iii. Mr. Hill moved to oppose any version of the bill that would take away the Chief Justice’s power to appoint members of the judicial performance committee and any measures in the bill that would tend to politicize the judicial performance evaluation process. Seconded by Mr. Breslau. Approved.
  - b. Bill \_\_ regarding coupling of judges’ salaries with legislators’ salaries.
  - c. Senate Bill 45 regarding reform of construction defect laws.
  - d. House Bill 1132 regarding judicial recusal. Kayla Dreyer and Amy Van Dahm (?) provided testimony opposing the bill.
    - i. Mr. Pratt moved to oppose the bill on separation of powers issues. Discussion ensued. Mr. Pratt moved to amend motion, to wit: oppose the bill, seconded Black. Approved.

## **7. FUTURE MEETING DATES:** Discussion ensued regarding scheduling of upcoming meetings and possibility of meeting during summer and also alternating weekend / weekday meetings.

8. **ADJOURNED at 11:48 a.m. Next meeting May 9, 2017, at the office of Jones & Keller, 1999 Broadway, Suite 3150, Denver, CO 80202 at 4:00 PM, preceding Members Appreciation Reception**

Prepared by:

/s/ Luke Ritchie  
Secretary

Approved: \_\_\_\_\_  
(date)