July/August 2018

Boulder COUNTY BAR ASSOCIATION

PRESIDENT'S PAGE

BRAD HALL

Annual Meeting Pictures Page 3

Before I begin the scintillating tale of my journey from small town boy to practicing law in Longmont and becoming president of the Boulder County Bar Association, I should disclose my dark secret before some investigative snoop outs me. I am a dyed-in-the-wool lifetime Cornhusker fan and Nebraska College of Law graduate now heading the bar association sitting in the very heart of Buff country. I am sure many are wondering right now how this happened and whether there were fail-safes in place that could have prevented this from happening. It's an intriguing tale, but one to be told another day when I am out of ideas for this page.

As a child I never aspired to attend law school and become a lawyer. I never watched Perry Mason or carried a brief case to grade school. Other than dreaming about becoming the next Johnny Bench, my goal was to become an orthodontist and return to my hometown of Scottsbluff and start slapping metal braces on the crooked teeth of young boys and girls. It seemed like a good gig based on what I was able to gather from my orthodontist. That dream was rather short-lived falling victim to less than stellar performances in biology and chemistry. Course work consisting of singular correct answers was clearly not my strong suit. Fortunately for me and the future teenagers needing braces, I found myself in a business law class and the die was cast. Even in business law there was no one right answer all the time! As an aside the next Johnny Bench thing didn't work out either.

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PRESIDENT'S PAGE CONTINUED

I spent my undergrad years freezing in Laramie, Wyoming receiving a degree in political science and winding up with exactly zero job opportunities. The only significant events I can recall during my time there was Ronald Reagan was elected to his first term and Gerry Spence went to trial in Cheyenne against Penthouse Magazine against Bob Guiccione on a libel claim on behalf of 1978 Ms. Wyoming Kimerli Pring. Some of you may recall what the fictional Ms. Wyoming was said to be capable of in the article and not surprisingly, Ms. Pring took offense. News of the case consumed the state for several weeks and lots of people made the trip from Laramie to Cheyenne to watch Mr. Spence in action. In the end Ms. Pring didn't get to keep the $26.5 million-dollar verdict.

Prior to heading off to Lincoln for law school I took a two-year hiatus. Lacking any real marketable skills, I applied to numerous law firms in town and wound up working in a small law firm in Scottsbluff for a personal injury lawyer. In a small town like Scottsbluff I was actually allowed to participate in pre-trial conferences and other minor matters without the threat of being charged with practicing without a license. What an amazing learning experience that was. During those two years I had the privilege of working on two large personal injury cases with Joe Epstein, partner of CTLA founder Norman Kripke. In one a young boy was horribly burned in a propane explosion in the home of a family friend as a result of the negligence of several parties. During the course of depositions of a large corporate defendant, multiple witnesses continued to deny what was incredibly plain to all parties. It was a pleasure watching Joe dismantle the lies being peddled which



eventually resulted in a very large settlement to help the boy through what was going to be a long difficult life. I will never forget the stark realization that this young boy and his mother with no resources at all would have had no chance at a recovery without the assistance of some very fine lawyers.

Since moving to Longmont 28 years ago I have been privileged to represent hundreds of individuals who without a lawyer would have had no chance. And I am happy that I get to do that in one of the most beautiful places in the country right here in Boulder County.

I look forward to this coming year working with the board members of Boulder County Bar Association, our fantastic staff Laura and Kyle, and all the section chairs. And most importantly, I am looking forward to meeting as many as possible of the members and other lawyers here in Boulder County. Please feel free to contact me at any time to chat, for a beer, or just to find out more about what's coming up this year for the BCBA.

I can also be easily engaged in long and pointless arguments about college football – especially if it involves the Huskers and the Buffs.

BCBA ANNUAL MEETING JUNE 2018




















CALENDAR OF EVENTS

Wednesday, August 29
ALL-BAR HAPPY HOUR
5:00 PM @ West Flanders Brewing Company

Wednesday, September 5
CIVIL LITIGATION CLE
Presentation TBD
12:00 PM @ Boulder County Justice Center

Wednesday, September 5
PARALEGAL CLE
Presentation TBD
12:00 PM @ BCBA Conference Room

Wednesday, September 12
BUSINESS CLE
Presentation TBD
12:00 PM @ BCBA Conference Room

Wednesday, September 12
WOMEN'S BAR HAPPY HOUR
5:00 PM @ License No 1

Wednesday, September 19
LOUISVILLE HAPPY HOUR
5:00 PM @ Waterloo

Tuesday, September 18
ELDER LAW CLE
Presentation TBD
12:00 PM @ BCBA Conference Room

Wednesday, September 19
FAMILY LAW CLE
Presentation TBD
12:00 PM @ Dickens Tavern, Longmont

Wednesday, September 19
NEW / YOUNG LAWYER LUNCH
Presentation TBD
12:00 PM @ BCBA Conference Room

Thursday, September 20
REAL ESTATE CLE
Presentation TBD
12:00 PM @ BCBA Conference Room

Thursday, September 20
BANKRUPTCY
Monthly lunch and roundtable
12:00 PM @ Kathmandu Restaurant

Friday, September 21
AVAILABILITY OF LEGAL SERVICES
Presentation TBD
12:00 PM @ Boulder County Legal Services

Wednesday, September 26
TAX, ESTATE PLANNING AND PROBATE
Presentation TBD
12:00 PM @ BCBA Conference Room

Thursday, September 27
NATURAL RESOURCES / ENVIRONMENTAL CLE
Presentation TBD
12:00 PM @ BCBA Conference Room

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THE DENVER GREEN ROOF INITIATIVE

THOMAS SCOTT

In November 2017, Denver voters passed the "Green Roof Initiative" (Denver, Colorado Code of Ordinances, Art XIII, Sec 10-300 *et seq*.) (the "Ordinance"). Since its passage, stakeholders including developers, builders, owners, tenants, lawyers, and even the man who was the driving force behind the ballot measure seem to be wondering: "What Now?"

In its current form, the Ordinance requires that, among other things, buildings over 25,000 square feet constructed after January 1, 2018, and existing buildings over 25,000 that replace their roofs after January 1, 2018, must dedicate a portion of the roof to "Green Roof" space, in accordance with the chart below. Under the Ordinance, a "Green Roof" is defined as an "extension of an above grade roof, built on top of a human-made structure, that allows vegetation to grow in a growing medium and which is designed, constructed and maintained in accordance with the Denver Green Roof Construction Standard." (Sec. 10-300).

Gross Floor Area (Size of Building)

Coverage of Available Roof Space (Size of Green Roof)

25,000 — 49,999 f2

20%

50,000 — 99,999 f2

30%

100,000 — 149,999 f2

40%

150,000 — 199,999 f2

50%

200,000 f2 or greater

60%

* Industrial Buildings may cover as low as 10% of Available Roof Space (Sec 10-301(A.5)).

Unfortunately, what the Ordinance's drafters possessed in "green" ambition, they seem to have lacked in detailed, legal and practical forethought. The Ordinance has left some stakeholders scrambling to find the best way forward while staying true to the goals of the original Ordinance, if not its exact framework.

Questions about complying with the Ordinance range from legal interpretation (*e.g.* inconsistencies/conflicts between the Ordinance and City and State codes and laws, such as fire codes and water law); to unknown insurance implications (*e.g.* covering the cost of a new roof in connection with a casualty loss); to architectural and engineering feasibility (*e.g.* the ability of existing buildings to handle increased load requirements of a green roof[1]). Such questions have highlighted the need for change.

The potentially good news for builders, owners and others who are unhappy with, or uncertain about, their options under the current Ordinance, is that change appears imminent. The Denver Department of Public Health and Environment has formed the "Green Roofs Review Task Force", a 24-member committee with a "mission to recommend modifications, clarifications, and improvements to the Green Roof Initiative through a collaborative, consensus-based process that honors the vote and the benefits that the ordinance would have achieved." The Task Force has met nine times since January of 2018, and on June 15, 2018, published its final Green Building Policy Proposal (the "Proposal").

The Proposal seeks to "achieve the benefits" of the original Ordinance while "improving flexibility" for those who need to comply. Some of the intended benefits of the original Ordinance are increased air quality, reduction of the "urban heat island", water management, and improving the green experience. It remains to be seen whether the Proposal, if implemented, actually fixes the drafting issues while achieving the goals of the original Ordinance in a more practical and cost-effective way, or simply creates loopholes that will water down the original. But as drafted, the Proposal is certain to at least provide more compliance options.

Under the current Ordinance, builders/owners of buildings over 25,000 square feet may satisfy the Ordinances requirements in one of following ways (Sec 301(A)):

(i) Green Roof only (10% - 60% coverage, depending on type and size of building);

(ii) Combination Green Roof and Solar Energy collection

GREEN ROOF INITIATIVE CONTINUED

(at least 30% of the required space must be Green Roof, plus water collection requirements); or

(iii) Industrial Buildings may also use 80% of the required coverage area as Solar Energy collection (plus water collection requirements).

Under the Proposal, the current options would be amended or increased as follows (Proposal p. 7):

(i) Green Roof only (coverage requirements would be based on a formula of 10% of roof space multiplied by the number of floors in the building, *i.e.* a 3 story building would require 30% of the roof to be Green Roof). In addition, a Green "roof" could include other areas such as terraces, podiums, walls, or grade-level space.

(ii) Financial contribution for offsite green space, at a rate of $25 per square foot of the required Green Roof area (using the formula described in subsection (i) above);

(iii) Combination of Green Roof plus solar collection;

(iv) Combination of Green Roof plus energy efficiency standards (tied to the City of Denver energy code);

(v) Solar collection (or other renewable energy type) for production equivalent to 70% coverage of the roof;

(vi) Efficiency-based energy saving of at least 12% relative to City of Denver energy code;

(vii) LEED Gold level certification or better; or

(viii) Enterprise Green Communities certification.

In addition to the foregoing compliance options in the Proposal, all new buildings over 25,000 square feet would be required to have a "cool roof", which requires, among other things, materials of a certain "Solar Reflective Index", vapor barriers, and installation and ventilation standards. Like the original Ordinance, various exceptions would be available under the Proposal, as further described therein.

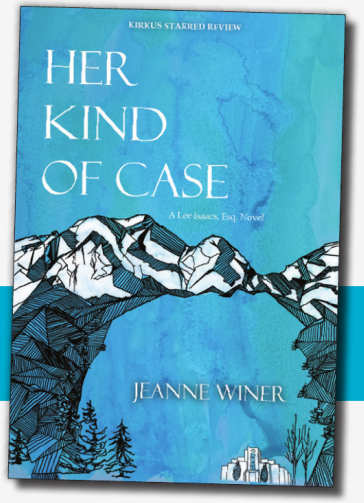
The lesson for attorneys seeking to advise their clients: if your clients have the flexibility to postpone construction plans (admittedly, a big "if"), you may serve them well by recommending they hold off on new construction to allow them to take advantage of new, potentially more attractive options for compliance that are coming down the pike.

Thomas Scott is an attorney with Fox Rothschild LLP in Denver. His practice focuses on a commercial real estate transactions. tscott@foxrothschild.com

[1] By some estimates, up to 90% of existing buildings could not withstand the current Green Roof requirements.

HER KIND OF CASE *A Lee Isaacs, Esq. Novel*

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AUGUST 23, 2018 | 7:30PM

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PROFESSIONALISM ON CALL

August 6	Meghan Pound	303.443.8010
August 13	Tom Rodriguez	303.604.6030
August 20	Karl Kumli	303.447.1375
August 27	Tripp DeMuth	303.447.7775

The Professionalism Committee assists lawyers, clients, and other members of the community with questions or complaints about behavior by lawyers that fails to meet generally accepted standards of professionalism and courtesy, or that is contrary to the BCBA Principles of Professionalism.

The Professionalism Committee does not address allegations of criminal or ethical violations by lawyers, as regulated by the Colorado Rules of Professional Conduct, and any such violations should be addressed to the Office of Attorney Regulation Counsel.

BOULDER COUNTY FREE LEGAL CLINIC

The dates have been set for the 2018 Free Legal Clinics at the Sacred Heart of Jesus Church (2312 14th Street) and the Longmont Senior Center (910 Longs Peak Ave) from 5:30 - 7:30 pm. Volunteers are always needed. Please contact Laura at laura@boulder-bar.org if you can help in Boulder or Lafayette, or susan.spaulding@longmontcolorado.gov if you can help in Longmont.

Boulder: September 13, December 13

Longmont: August 28, November 27

Lafayette: October 16

PRO BONO CORNER

Interested in a Pro Bono case? Please call Erika at 303-449-2197. CLE credits available for pro bono service.

PRO BONO REFERRALS

16 cases were referred during the months of May and June. Thank you to the following attorneys:

Marlise Armstrong
Howard Bernstein
Susan Bryant
Erin Eastvedt
John Estes
Chris Jeffers
Judson Hite
Gary Merenstein
Elizabeth Meyer
Jeffrey Skovron
David Thrower
Lisa Wilcox
Bruce Wiener

PRO SE VOLUNTEERS

Josh Anderson
Lori Barkus
Evan Branigan
Shawn Ettingoff
Kathleen Franco
Chris Jeffers
Tucker Katz
Zachary LaFramboise
Michael Morphew
Joan Norman

BCAP VOLUNTEERS

There were no requests for a referral for the Boulder County AIDS Project in May or June.

COURT ANNOUNCEMENTS

The 20th Judicial District Administrative Order 16-101 (Twentieth Judicial District Truancy Improvement Policy) has been updated and is available, along with an index of all 20th Judicial District administrative orders, on the 20JD web page at: https://www.courts.state.co.us/Courts/County/Custom.cfm?County_ID=62&Page_ID=85.

BOULDER COUNTY BAR FOUNDATION

THE 2019 GRANT CYCLE IS STARTING

The Boulder County Bar Foundation grant cycle is beginning and will be accepting applications. The Foundation funds legally related organizations and programs in Boulder County. The grant application is on the BCBA website and can be accessed here. All applications are due September 15. If you have any questions, please email laura@boulder-bar.org.

2018 GRANTS

Boulder County Legal Services
Boulder High School Mock Trial
Bridge to Justice
Boulder Interdisciplinary Committee
Children First of the Rockies
Fairview High School
Immingrant Legal Center of Boulder County
J-SUP: Law Center for the Un-housed
League of Women Voters of Boulder County
Niwot High School Mock Trial Team
Parent Engagement Network
Safe Shelter of St. Vrain Valley
YWCA
TOTAL $21, 600

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LAWYER ANNOUNCEMENTS

Vincent, Romeo & Rodriguez, LLC



Josh is an associate attorney at Vincent, Romeo & Rodriguez. Prior to joining the firm in 2018, Josh clerked for Judge Roland Belsome on Louisiana's 4th Circuit Court of Appeals, where he drafted appellate onions in a variety of civil, criminal, and probate related matters. After serving the term of his clerkship, Josh moved to Denver and parlayed his experience with the court into a position with a downtown civil litigation practice where he focused mostly on personal injury and premises liability representation.

Now with VRR, Josh is marrying his passion with experience and looks forward to representing clients in probate, will, and trust litigation; as well as advising them in estate planning and administration matters.

Bar Admissions
Colorado, 2017

Education
Tulane Law School; J.D. 2015
· Moot Court Board, *Appellate Competition Chairperson*
· Ruby R. Vale Corporate Law Moot Court Team
· Negotiation/Mediation Advocacy Program
University of South Carolina; B.S. 2010

Memberships
· Colorado Bar Association
· Denver Bar Association
· Boulder County Bar Association

Juli J Ellen

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Boulder COUNTY BAR ASSOCIATION

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