BOULDER COUNTY BAR ASSOCIATION NEWSLETTER

OCTOBER 2015



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MARK YOUR CALENDARS FOR THE
BCBA ANNUAL JUDGES DINNER
WEDNESDAY, NOVEMBER 4, 2015
5:30 PM AT
TOUCHDOWN CLUB AT FOLSOM FIELD
$60 per person
(Free Parking will be provided)
RSVP
www.boulder-bar.org/calendar at November 4

CALENDAR OF EVENTS FOR OCTOBER

Thursday, October 1
NATURAL RESOURCES/ENVIRONMENTAL AND NEW/YOUNG LAWYERS
Ha-Baaaa Hour – A Networking Event
5:30 @ Mountain Flower Goat Dairy (3240 Broadway). Heading to Hungry Toad about 6:30.
$10 for wine and appetizers at the farm, $5 New/Young Lawyers

Tuesday, October 6
SOLO/SMALL FIRM
Drafting: Does it Matter?
Presenter: Dan Sweet and Nathan Miller
Noon @ Faegre Baker Daniels
$25 CLE, $15 New/Young Lawyers

Wednesday, October 7
CIVIL AND NATURAL RESOURCES/ ENVIRONMENTAL LAW
Anatomy of an Environmental Tort Case: From the Las Animas River to Rocky Flats
Presenter: David Driscoll
Noon @ Justice Center Training Room East $25 CLE, $15 New/Young Lawyers

Thursday, October 8
IN HOUSE COUNSEL AND EMPLOYMENT
Outside Investigators and What they Mean to Your Practice
Presenter: Karen Sprole
Noon @ Holland & Hart
$25 CLE, $15 New/Young Lawyer, brown bag lunch. Please note this program includes .5 of ethics.

Thursday, October 8
PARALEGALS
Water Law Part II – Water Court
Presenter: Karl Kumli
Noon @ Bryan Cave
Free to attend, $12 lunch

Friday, October 9
AVAILABILITY OF LEGAL SERVICES
Monthly Roundtable
Noon @ Boulder County Legal Services

Tuesday, October 13
EMPLOYMENT
When Bruce Says Call Me Caitlyn: Gender Identity in the Workplace
Presenter: Howard Bernstein
Noon @ Caplan & Earnest
$25 CLE, $15 New/Young Lawyer

Wednesday, October 14
CRIMINAL
Meet the Bench
Presenters: Chief Judge Maria Berkenkotter and Judge Ingrid Bakke
Noon @ Justice Center Training Room East
$25 CLE, $15 New/Young Lawyer, brown bag lunch

Wednesday, October 14
SOLO/SMALL FIRM HAPPY HOUR
5:30 @ The Hungry Toad

Thursday, October 15
REAL ESTATE
The Mortgage Lending Environment After TRID: What Every Real Estate Attorney Should Know
Presenter: Cary Whittaker
Noon @ Hutchison Black and Cook
$25 CLE, $15 New/Young Lawyers

Tuesday, October 20
BUSINESS
Entrepreneurial Ecosystems on the Front Range and Beyond
Presenter: Brad Bernthal, Ryan Kirkpatrick, and Fletcher Richman
Noon – 2pm @ Packard Dierking
$40 2 CLE, $25 New/Young Lawyer

Tuesday, October 20
ELDER
Achieving a Better Life Experience (ABLE) Act
Presenter: Daniel Kapsak
Noon @ Caplan & Earnest
$25 CLE, $15 New/Young Lawyer

Wednesday, October 21
FAMILY
Changes to the Rules of Civil Procedure You Need to Know
Presenter: John Tatlock
Noon @ Justice Center Jury Assembly Room
$25 CLE, $15 New/Young Lawyer

Thursday, October 22
BANKRUPTCY
Confessions of a BK Trustee
Presenter: Joe Rosania
Noon @ TBD
$25 CLE, $15 New/Young Lawyer, lunch

Thursday, October 22
LONGMONT LAWYERS HAPPY HOUR
5:30 @ TBD
Appetizers and first drink are on the BCBA!

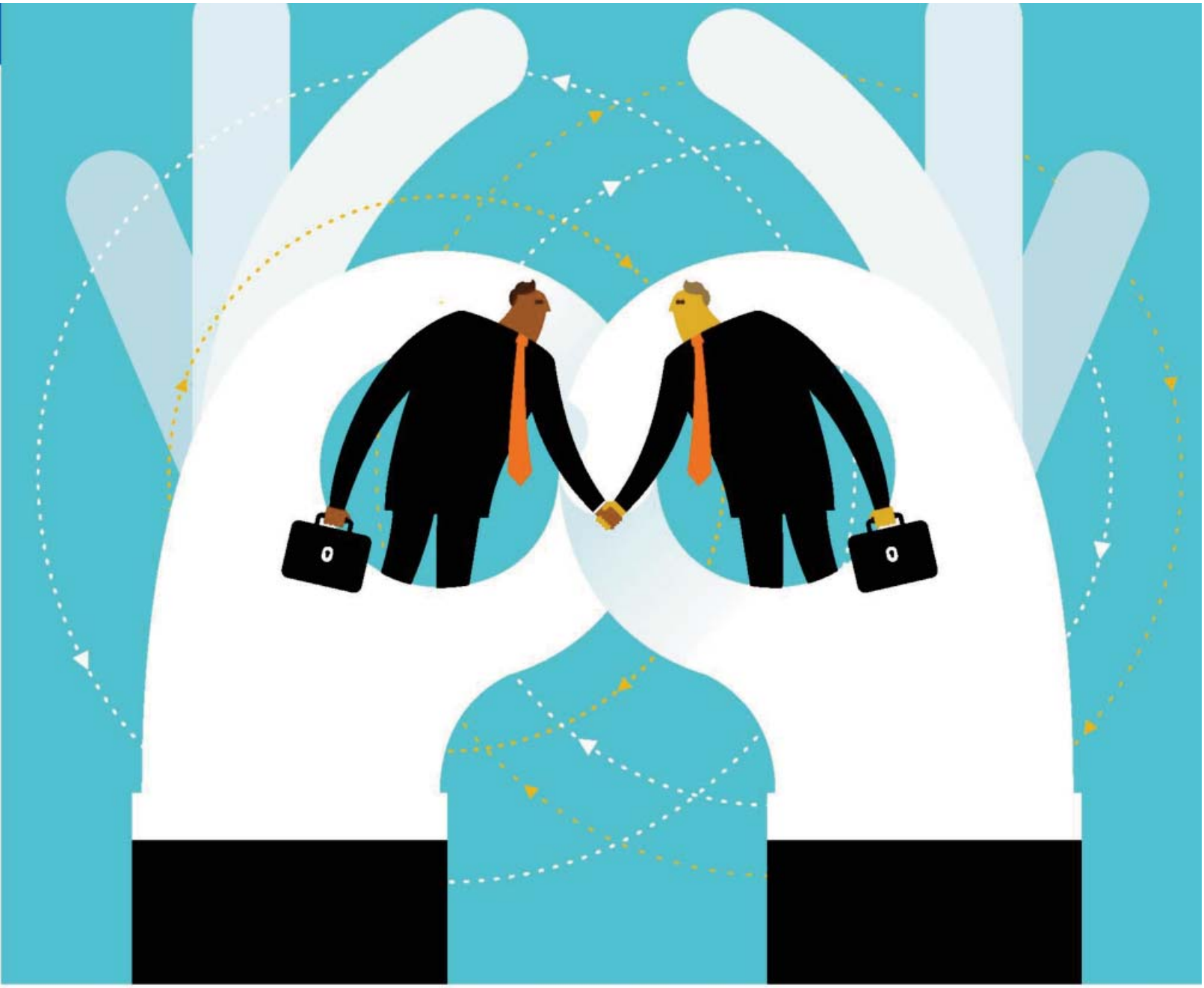
Tuesday, October 27
ALTERNATIVE DISPUTE RESOLUTION
Presenter: TBD
Noon @ Dickens Tavern, Longmont
$25 CLE, $15 New/Young Lawyers, $13 lunch

Wednesday, October 28
TAX, ESTATE PLANNING AND PROBATE
Ethics of Representing Clients with Diminished Capacity
Presenter: Michael Kirtland
Noon @ Justice Center Training Room East
$25 CLE, $15 New/Young Lawyers, brown bag lunch. Please note: We have applied for one ethics credit.

Thursday, October 29
NATURAL RESOURCES/ENVIRONMENTAL
Grouse, Bees, Fracking, and Trees: Can't We All Just Get Along? Recent Developments and Tools in Managing Federal Public Lands
Presenters: Nada Culver and Alison Flint
Noon @ Bryan Cave
$25 CLE, $15 New/Young Lawyer, brown bag lunch

Thursday, October 29
PROFESSIONALISM
Professionalism: Perspectives from the Bench and Beyond
Presenters: Gwyneth Whalen, Steven Meyrich, and Meghan Pound
Noon @ Justice Center Training Room West
$25 CLE, $15 New/Young Lawyer,

When Secrets Aren't Secret: Therapist-Patient Privilege Pointers for Providers and Practitioners
Wednesday, October 7, 2015
Stephanie Randall, JD
BIDC meetings will be held at the Millennium Harvest House
1345 28th Street, Boulder, CO 80302
www.millenniumhotels.com/Boulder
11:30am - 1:15pm
Networking: 11:30am to Noon
Lunch and Speaker: Noon - 1:15pm
LUNCH: $25.00 IDC MEMBERS; $30.00 NON-MEMBERS
CLE Credit: TBA (unless specified above)



Why PROFESSIONALISM Matters

By Richard L. Gabriel

Chief Justice Nancy E. Rice, CBA President Loren M. Brown, Dean Philip J. Weiser of the University of Colorado Law School and Dean Martin J. Katz of the University of Denver Sturm College of Law have once again proclaimed October to be Legal Professionalism Month in the State of Colorado. This year's Professionalism Month theme is "Why Professionalism Matters." After defining "professionalism," this article will seek to highlight some of the many reasons why professionalism does indeed matter.

"**Lawyers are no different**, and those who have earned reputations for always acting honorably and with integrity tend to be the most respected — as well as the most successful — lawyers in their communities."

What is Professionalism?

Recognizing that Colorado lawyers may not have a shared understanding of the meaning of "professionalism," the CBA/DBA Professionalism Coordinating Council (PCC) recently adopted the following definition:

> Professionalism is conduct reflecting the values embodied in the Colorado Attorney Oath of Admission, the Colorado Principles of Professionalism, and the Colorado Rules of Professional Conduct. These values require attorneys always to act competently, civilly and with integrity and to commit themselves to the public good and to furthering the interests of justice.

This definition captures the three key elements of professionalism. First, professionalism is a form of conduct. Second, this conduct reflects certain values to which all attorneys have subscribed and that are broader than the attorneys' ethical obligations. Third, professionalism encompasses duties owed to the bench, to clients, to other lawyers and to the public, including the duty to further the public good and the interests of justice.

Why Does Professionalism Matter?

The foregoing definition promotes a shared understanding of what professionalism is, but it does not explain why a shared understanding is important or why professionalism matters. After all, clients want to "win," and there is a perception that the most "zealous" (as in "aggressive") advocate usually prevails. Most attorneys can probably cite an example in which so-called "Rambo" or "scorched earth" tactics worked. Practical experience, however, shows that such tactics rarely succeed and that professional conduct is far more beneficial in the long run. While the advantages and benefits of professionalism in the practice of law are innumerable, the following list aims to highlight a few key points:

- Honor and integrity matter. Most people try to act with honor and integrity in their personal and professional dealings with others. Human nature makes people want to feel good about themselves. It fills them with the hope that others will respect them and hold them in high regard. Lawyers are no different, and those who have earned reputations for always acting honorably and with integrity tend to be the most respected — as well as the most successful — lawyers in their communities.
- Most (if not all) lawyers want to be part of an esteemed profession. Again, it is human nature to want to feel good about what one is doing, both personally and professionally. Professional behavior begets public esteem of the legal community, and such esteem works to the benefit of all lawyers in that community.
- Being held in high regard, both personally and by association with a respected legal community, promotes a high level of personal satisfaction and fulfillment in the practice of law. This, in turn, heralds a long and happy career. In contrast, lawyers who do not find personal satisfaction and fulfillment in their practices are often hard-pressed to justify the long hours, many challenges and frequent stresses that come with practicing law at a high level. To these lawyers, burnout tends to come early in their careers.
- Practicing professionally in a legal environment in which lawyers have committed themselves to a shared concept of professionalism promotes a better quality of life. Practicing law is difficult enough. A professional environment in which lawyers fight the battles that need to be fought and then leave those battles in the courtroom or at the negotiating table is productive and healthy. It is also a healthy and productive way to do business. Conversely, unprofessional conduct results in needless friction and tangential disputes that do not advance the client's interests but that ultimately take a harsh toll on counsel. The energy expended in dealing with such unprofessional behavior and with lawyers who take on their clients' emotional battles as their own only increases the stresses of an already difficult job and is often damaging to one's personal health and well-being. In this regard, Tranio's advice to Hortensio in Act One, Scene Two of Shakespeare's *The Taming of the Shrew* is counsel well-taken: "Do as adversaries do in law. Strive mightily, but eat and drink as friends."

"**Professionalism** in the practice of law gets results and is good for business."

- Professionalism in the practice of law gets results and is good for business. Acting professionally in a courtroom establishes a lawyer's credibility with judges and jurors alike, and such credibility tends to produce good results. Likewise, acting professionally with opponents



establishes credibility in and among the bar. The most professional and successful lawyers know that good relationships with opposing counsel promote the successful and efficient resolution of disputes and often result in enthusiastic referrals of new business, both of which promote a successful practice in the long-term. And acting professionally with and in the presence of clients engenders credibility, strengthens trust and fosters respect because such behavior not only tends to produce good results but also creates an impression of calm and control that secures the clients' confidence. Such characteristics lend themselves well to long-lasting and mutually beneficial client relationships, a fact that I previously discussed in my article titled "Professionalism in Today's Competitive Legal Market: Why It's in Everyone's Interest," which appeared in the June 2010 issue of *The Colorado Lawyer*.

- Finally, the public benefits when lawyers act professionally because disputes tend to get resolved more efficiently and economically. This, in turn, enures to the benefit of those who must seek the assistance of counsel to help them resolve their disputes, thereby breeding trust and confidence in our system and methods of dispute resolution.

Conclusion

Few would dispute that the practice of law can be difficult, demanding and stressful, especially as the legal environment and legal marketplace have become increasingly competitive and complex. Particularly in this context, professionalism matters, not only to assure professional success, but, as important, to assure both individual lawyers' long-term satisfaction, fulfillment and well-being in the practice of law and the public's trust and confidence in the legal profession's ability to serve its clients well and in an efficient and economical way. Indeed, it may matter more now than ever. D

Professionalism Resources
cobar.org/professionalism



Richard L. Gabriel is a justice of the Colorado Supreme Court. He is also a member of the CBA/DBA Joint Professionalism Coordinating Council and the Professionalism Working Group of the Chief Justice's Commission on Professional Development. He can be reached at richard.gabriel@judicial.state.co.us.

Permission to reprint this article given by the Denver Bar Association publication *The Docket.*

PRESIDENTS PAGE

By Craig Small



Happy Legal Professionalism Month! [Insert sound of horns tooting, confetti confetting and a smattering of applause.] I am sure you all remembered that October is Legal Professionalism Month. I know, I know, some of you are thinking, "Great… another Hallmark holiday" but guess what…it is not another Hallmark holiday. It is one month out of the year that we should all reflect on the depth our actions can have on our greater society.

It takes 18 years of schooling to sit in the chairs we sit in and be minimally qualified to dispense legal advice to our clients. Along the way, we sacrificed thousands of hours, dollars and tears to get into law school, grind through that first year and take the dreaded Bar exam. I openly confess…I had a mental breakdown studying for the California Bar. Questionable on the extent of my recovery.

In the end we have that magic moment where we sit down at that first legal job, at that first legal desk and think, "What am I doing here?" Then that first legal client comes in and it all comes to bear, and hopefully to focus. Life is messy and complicated and it is time to take that hot mess and try to apply some legal jujitsu to have it all make sense; objectively to ourselves and both objectively and subjectively to the client. Sometimes we are more successful than others. Sometimes the facts just fall into line with a statute, case law, code or regulation.

But most of the time it does not. Most of the time it is a spaghetti bowl of half remembered "facts" and missing documents and the more you try to follow the spaghetti to find the truth, the more the spaghetti squirms in the bowl and you just can't keep your fingers on those buttery noodles.

At this stage we have a moral and ethical duty to our clients, to our fellow attorneys and to our judiciary to approach every aspect of our pursuit of the truth with professionalism, respect and a common goal in maintaining a legal system with integrity.

This month I am going to cheat a little and let the Colorado Supreme Court have the last word with the following declaration. I encourage all of you to read this declaration and think on what these words mean to you.

"Declaring October 2015 Legal Professionalism Month in the State of Colorado
WHEREAS, the Supreme Court of Colorado is vested with the authority and responsibility to determine who is possessed of the moral and ethical character, knowledge, and skill to represent clients and serve as an officer of the court; and

WHEREAS, law schools teach such knowledge and skill and foster the formation of professional identity; and
WHEREAS, members of the legal profession are public citizens having special responsibility for the quality of justice, the improvement of the law, the access to the legal system, the administration of justice, and the quality of service rendered by the legal profession; and

WHEREAS, members of the legal profession in Colorado have established the Colorado Bar Association; and

WHEREAS, the objectives of the Colorado Bar Association include advancing the science of jurisprudence, securing more efficient administration of justice, advocating thorough and continuing legal education, upholding the honor and integrity of the bar, cultivating cordial relations among the lawyers of Colorado, and perpetuating the history of the profession and the memory of its members; and

WHEREAS, the Chief Justice of the Supreme Court of Colorado has established the Commission on Professional Development to foster among members of the legal profession a commitment to service, excellence, respect, ethics, and trustworthiness, as well as a commitment to the preservation of the rule of law;
NOW THEREFORE, the Chief Justice of the Supreme Court of Colorado, the President of the Colorado Bar Association, the Chief Justice's Commission on Profes-

(continued on the next page



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Jim Christoph, JD

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PRESIDENTS PAGE *(continued from page 6)*

sional Development, and the Deans of the University of Colorado School of Law and the University of Denver Sturm College of Law do hereby declare and proclaim October 2015 to be Legal Professionalism Month in the State of Colorado;

AND IN FURTHERANCE THEREOF, encourage • Members of the Legal Profession to rededicate themselves to demonstrating the highest standards of professionalism and integrity, and promoting public trust in the rule of law; • Professional Entities, including law firms, corporate and public law offices, bar organizations, and Inns of Court, to promote legal professionalism and public confidence in the profession; • Judicial Officers and Court Staff to promote public confidence in the courts, our system of justice, and the professionalism of the bench and bar; and • All Members of the Legal Profession to foster diversity and inclusion within the profession;

Declared and Proclaimed this 8th day of July 2015. Nancy E. Rice Chief Justice Colorado Supreme Court, Philip J. Weiser Dean University of Colorado Law School, Martin J. Katz Dean University of Denver Sturm College of Law and Loren M. Brown President Colorado Bar Association."

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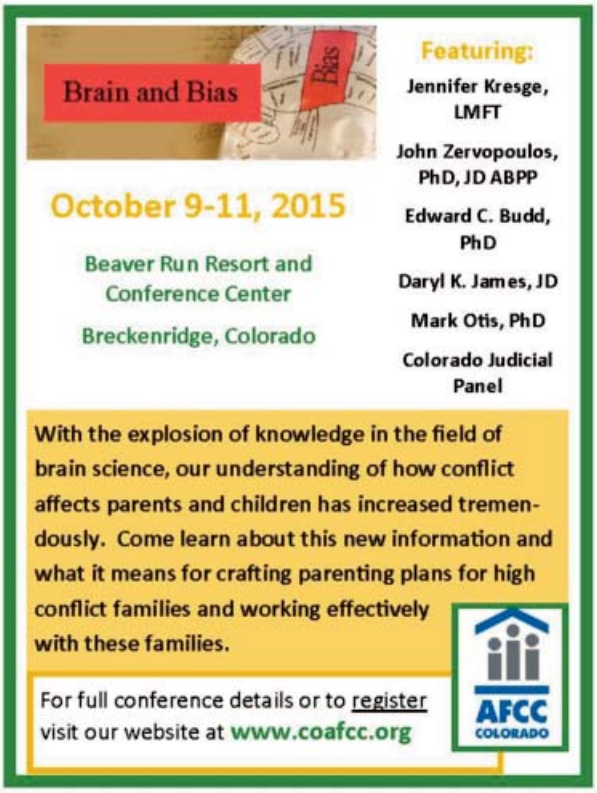
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Mr. Cohen served as an Air Force JAG, a Special Asst. U.S. Attorney, a prosecutor, a Boulder Municipal Judge, on the Executive Board of the Colorado Municipal League, and on the Editorial Board of The Colorado Lawyer. He wrote six articles published in the American Jurisprudence Proof of Facts series. He taught an advanced legal writing class at the University of Arkansas School of Law. His two mysteries, published by Time Warner, won high praise, and one was a Book Sense® top ten mystery pick. His non-legal articles have appeared in magazines such as Inside Kung Fu, Camping & RV, and Modern Dad. He is a member of the Institute of General Semantics.

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John Vaughan


Toni J. Wehman


Gwyneth Whalen

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PRO BONO PAGE

Pro Bono Referrals

Twenty cases were referred during the month of August. Thank you to the following attorneys:

Norm Aaronson
Brooke Brestel
Susan Bryant
Deborah Cantrell
Jessica Creevy
Erin Eastvedt
Judson Hite
Angela Little
Sarah McEahern
William Meyer
Benjamin Wilson
Louisa Young

Pro Se Program Volunteers

Joyce Bergmann
Evan Branigan
M.L. Edwards
Tucker Katz
Brett Landis
Michael Morphew
Craig Small
Leonard Tanis

BCAP Volunteers
Thank you to the following attorneys who accepted pro bono referrals for the Boulder County AIDS Project in August:

Scott Beard Jr.
Brad Hendrick
Kirstin Jahn

Pro Bono Corner

Interested in a Pro Bono case?

Please call Erika at 303-449-2197. CLE credits available for pro bono service.

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.

PROFESSIONALISM ON-CALL LIST

October 5	**Mike Rafik**	**303.444.9292**
October 12	**Curt Rautenstrauss**	**303.666.8576**
October 19	**Lee Strickler**	**303.443.6690**
October 26	**Mark Langston**	**303.440.9684**

Thank you for volunteering for the Boulder Free Legal Clinic on September 17

Shawn Ettingoff, Bill Benjamin, Mariri Maloney, Laurel Herndon, Gina Weinberger, Kurt Hofgard, Bruce Wiener, Steve Taffett, Dipak Patelk Karen Burns, Alice Robbins, Courtney McVean, Conrad Lattess, Steve Janssen, Craig Small and the CU law school legal clinic students

The next clinic is on December 17
5:30 - 7:30 PM
Sacred Heart of Jesus
2312 14th Street.

to volunteer email:
Christine@boulder-bar.org

CLASSIFIED ADS

Established attorney looking for attorney with some experience in estates, trusts, wills and transactional matters. Looking for attorney who is interested in building their practice in assisting existing attorney servicing clients in this area. Address replies to: Occupant, P.O. Box 187, Boulder, CO 80306.

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LARGE OFFICE FOR RENT: 212 sq ft office with 3 large windows, in shared suite with conference room, kitchen, reception area and covered parking. Rent is $850/mo (negotiable) and includes cleaning and water service. Furnished or unfurnished. The office is at 29th & Valmont, and two established, professional sole practitioners (family law, business law) would be your suitemates. Call Michele, 720-282-9209.

Large windowed office, opening to a deck facing the Justice Center at the Canyon Professional Build ing. Full services include receptionist, fax, parking, storage area, conference room and other amenities.
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OR THE BAR'S WEBSITE www.boulder-bar.org