

**Council of the Trust and Estate Section of the Colorado Bar Association
Notice of and Agenda for the April 5, 2023, Meeting**

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

From: Dylan Metzner
Secretary/Treasurer
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Notice of Meeting

The next monthly meeting of the 2022-2023 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: **Wednesday, April 5, 2023, 3:15 p.m.**

Place: 1290 Broadway, Suite 1700, Denver, CO 80203 Room West 1
or Call-In/Zoom

<https://cba-cle.zoom.us/j/83843741966?pwd=NXVOTEExdUxuQ0FrV0VXV3ZrU3hVQT09>

Meeting ID: 838 4374 1966

Passcode: 534100

Call-in: 16694449171

Minutes of Previous Meetings & Attachments

1. Minutes of the March 1, 2023 meeting of the Council
2. CBA Brand Guide and Logo Design for Proposed Table Runner
3. February 28, 2023 Financial Statements
4. Proposed Budget Template for Section
5. Memorandum regarding the March 21, 2023 CBA Real Estate Section Council Meeting
6. Uniform Community Property Disposition at Death Act Materials
7. ADR Section Call for Proposals re 2023 ADR Conference

Trust and Estate Section Council Agenda

April 5, 2023

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise his/her 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 1, 2023 meeting of the Council
2. Chair's Report and Administrative Matters (Molly Zwerdinger)
 - a. Table Runner for Trust and Estate Section
3. Secretary/Treasurer's report (Dylan Metzner)
4. Tax Section Liaison (Aaron Burton)
5. Elder Law Section (Patrick Thiessen)
6. Real Estate Section Liaison (Chad Rounds)
7. Family Law Section Liaison (Kim Willoughby)
8. Statutory Revisions Committee (Jonathan Haskell)
 - a. Discussion and possible vote on UCPDDA
9. Legislative Liaison (Steve Brainerd and Leia Ursury)
10. Legislative Update (Tyler Mounsey)
11. Council Notes (Kristin Dittus)
12. CLE/Estate Planning Retreat (Lauren da Cunha)
13. Orange Book Forms Committee (Rikke Liska)
14. Supreme Court's Rules and Forms Committee (Leia Ursury)
15. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)

16. Justice Equity, Diversity, and Inclusivity Committee (Amber Marchlowska)
17. Probate Trial and Procedures Committee (Marcie McMinimee & Lindsay Andrew)
18. Colorado Estate Planning Handbook (David Johns)
19. Green Book (Josie Faix)
20. Trust & Estate Practice Support Committee (Margrit Parker)
21. The Colorado Lawyer (Emily Bowman & David Kirch)
22. Communications Representative/Ambassador Program (Kayla Nelson)
23. Board of Governors Representative (Jonathan Haskell)
24. Miscellaneous/FYI
 - a. ADR Section is seeking proposals for their 17th Annual CBA-CLE Alternative Dispute Resolution Conference, which will occur on October 27, 2023.
25. Adjournment

**Council of the Trust and Estate Section of the Colorado Bar Association
Minutes of the March 1, 2023, Meeting**

Council met on March 1, 2023 in person and via audio-conference. The meeting was called to order at approximately 3:15 p.m. by Molly Zwerdinger, Chair.

The following members of Council participated by Zoom/phone or in-person and constituted a quorum:

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

Molly Zwerdinger, Chair
Lauren da Cunha, Vice Chair
Dylan Metzner, Secretary/Treasurer
Tim Bounds, Immediate Past Chair
Kristin Piñeiro, Second-Year Member
Marianne Luu-Chen, Second-Year Member
Lindsay Andrew, First-Year Member
Kelianna Chamberlain, First-Year Member
Margot Edwards, First-Year Member

Also in attendance were:

Emma Baxter, CBA Staff
Amber Marchlowska, JEDI Chair
Rikke Liska, Orange Book Chair,
Chad Rounds, Real Estate Section Liaison
Jonathan Haskell, SRC Chair and Board of Governors Representative
Kayla Nelson, Communications Representative
Margrit Parker, TEPS Chair
Kristin Dittus, Council Notes
Sandra Sigler, Chair of Civic and Community Affairs Committee
David Kirch, Colorado Lawyer
Kristin Dittus, Council Notes
Tavis Campbell, DU JD Candidate '24

1. Review/approval of January 4, 2023 Minutes.

The draft of the January 4, 2023 minutes were approved unanimously.

2. Chair's Report and Administrative Matters (Molly Zwerdinger)

No Report.

3. Secretary/Treasurer's report (Dylan Metzner)

Dylan has reviewed financials going back to the 2016/2017 years. The Section started with a significant positive balance for the 2019/2020 year (approximately \$22,262.87) and has grown that positive balance each year.

The 2020/2021 year (COVID Year) saw reduced expenses resulting from meals. No surprise given that all meetings were remote. The positive balance of the 2021/2022 year was \$38,426.81.

Even with more in person activities in 2021/2022 we ended that year with a \$43,092.16 to start the 2022/2023 year.

Dues revenue through January 2023 are \$32,445. CBA Amin Fee for the year is \$13,324.56 and other expenses are (meals including net Stirling Ambler Dinner 6,788.63); JEDI \$1,000; Grants Contributions \$5,750.00). Net Revenue through July 31 (but assuming full year payment of Administrative fee is \$5,553.27) leaving a balance of \$48,645.43. We still will have expenses for Probate Day Meals, T&E Retreat (\$7,500 for 2022) etc (Colorado Bar Foundation Table \$3,500).

Dylan suggested preparing a draft budget for 2023/2024 year with goal of having draft approved during May 2023 meeting. Goal is to continue a to have a cushion balance (22,000 in 2019) and to prepare for expenses for the Section. Dylan will have a Budget template for council's review and discussion in April with vote in May.

Ambler award one application received thus far. Historically consideration has been given to nominees from prior years.

4. Tax Section Liaison (Aaron Burton)

None.

5. Elder Law Section (Sandra Siegler)

Section discussed Medicaid caregiver agreement and discussing this with HCPF to see if regulations could be adjusted to clarify this situation.

6. Real Estate Section Liaison (Chad Rounds)

Memorandum with March Agenda and Materials summarizes the main issues that Section would be interested in. Section went over proposed legislation and SB_23-100 (uniform community property at death act) no objections from real estate section and they are deferring to our section to handle this with LPC. Section is opposing Eviction for Cause bill. Section is opposing affordable housing rights first refusal given to local governments.

7. Family Law Section Liaison (Kim Willoughby)

None.

8. Statutory Revisions Committee (Jonathan Haskell)

SB 100 Uniform community property disposition at death act approved by SRC. This has been passed by Senate and moving forward in the house. Council will review and include in April 2023 materials for a vote.

Marianne Luu-Chen will be co-chair of SRC for 2023/2024 and Hayley Lambourn will be Chair for 2023/2024.

9. Legislative Liaison (Jonathan Haskell presented on behalf of Steve Brainard and Leia Ursery)

Spencer Corona presented on definition to interested persons and LPC approved this as well as the lodged will statute and the information of appointment changes. Legislature has so much going on that there is not a sponsor for any of this. Council will need to coordinate with Tyler in April to see if we can get sponsors for these bills

10. Legislative Update (Tyler Mounsey)

None.

11. Council Notes (Kristin Dittus)

Spring Edition about to be published. Kelianna and Amber are contributing an article on EDI.

12. CLE/Estate Planning Retreat (Lauren da Cunha)

Registration for Estate Planning Retreat is live. 45 people have registered as of yesterday. Leia Ursery is willing to run silent auction but she is requesting that officers and Council members commit to securing one auction item.

Motion to require Council members to be responsible for one item for the silent auction use our judgement. Motion approved unanimously.

CLE Committee voted and recommended to Council that proceeds be donated to Tribal Wills project. Discussion amongst Council and members as to potential beneficiaries. A Motion to approve CLE Committee' recommendation was duly made and seconded and unanimously approved.

13. Orange Book Forms Committee (Rikke Liska)

Committee was not able to work on beneficiary deed to trust will get to next week. Discussed new provision for Financial Power of Attorney specially updates to language for hot-powers that would allow an agent to do an income trust for Medicaid qualification purposes.

14. Supreme Court's Rules and Forms Committee (Leia Ursery)

None.

- 15. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)**
Fundraising goals almost met for 2023 Senior Law Handbook Edition. Committee would like to thank the section for our generosity in previous years. Firms are also providing financial support. Books will be ready by the end of May.

Jefferson County event is schedule for June 3rd and Boulder and Grand Junction and Denver Dates to follow. Updates to PR brochure is getting finalized and they will provide draft in April for vote in May.

- 16. Justice Equity, Diversity, and Inclusivity Committee (Amber Marchlowska)**
JEDI discussed DU spring event free CLE for practitioners and HH. Amber reached out to Diverse Student Group to see if they would match.

Motion for approval of a conditional \$500 for the DU Spring Event was duly made and seconded. Motion approved unanimously.

April 5th Event at DU will take place after Council meeting on April 5th.

Diverse Bar Dinner Annual amount (Goal to sponsor either 2 tables per year for diverse bars) Amber will get me proposed numbers for budget.

Committee is working on a Brochure with the goal of having a draft finalized in April.

- 17. Probate Trial and Procedures Committee (Marcie McMinimee & Lindsay Andrew)**
Possible amendment to Court Visitor statute and creation of new subcommittee to review this. New subcommittee to 13-21-201 wrongful death statute, right now a spouse or children can bring but other states allow personal representatives to also bring a wrongful death claim. Cost and compensation statute and discussed the idea of an additional statute where the court could allow a special master to hear fee disputes. All of these are in the preliminary stages.

- 18. Colorado Estate Planning Handbook (David Johns)**
None.

- 19. Green Book (Josie Faix)**
None.

- 20. Trust & Estate Practice Support Committee (Margrit Parker)**
Looking to fill role of Treasurer for next year. Next month will be Kevin Millard who will discuss serving as an expert. In May Betty Heller will talk about joint rev trust. Fall

presentations are starting to be filled. Meetings are structured so that the first portion of the meetings is a talk on a topic of interest and second portion is open discussion.

21. The Colorado Lawyer (Emily Bowman & David Kirch)

Kelianne Chamberlain is working on an article on Tax Consequences of Hot Powers in POAs. Zach Schilting is working on an article on protective provisions with respect to red flag laws. Aaron is working on an article on the will be doing an article on Everhart Case (changed pleadings on will contest). Amy Nelson is working on an article Administration on Estates in Foreign Countries.

22. Communications Representative/Ambassador Program (Kayla Nelson)

DU Job Fair is next Tuesday, March 7th. CU small midsize firm expo on March 21st.

23. Board of Governors Representative (Jonathan Haskell)

Jonathan will continue as Board of Governors Representative. June 23 meeting in Breckenridge.

24. Other Business

- a. ADR Liaison Discussion- For Trust and Estate Section the only time ADR comes in is protective proceedings and litigation. Council had discussion that at this time we do not need a Liaison. We'll remove from agenda.
- b. Colorado Guardianship Association is meeting on March 14th. National Speaker (Sally Hermine) will be discussing the National Guardianship Association's standards of practice. Registration available on Colorado Guardianship Association's Website.

ADJOURNMENT

The meeting was adjourned at 4:35p.m. The next Council meeting will be held April 5th, 2023.

Respectfully submitted

/s/ Dylan Metzner, Secretary

COLORADO BAR ASSOCIATION

BRAND GUIDE

November 8, 2016



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THE LOGO

The logo should never be altered or changed in any way other than what is specified in this guide.

PRIMARY LOGO

When possible, use the primary full color logo. A reversed logo in white is available for placement on dark backgrounds, and a grayscale version is available for single color requirements.



Primary Logo



Primary Logo Reversed



Primary Logo Black and White

PRIMARY LOGO SPACING & SIZING

CLEAR SPACE

Always maintain the designated clear space when using the Colorado Bar Association logo. Clear space is defined by 2x the cap height of “Colorado Bar Association”. More clear space should be provided when available.

SIZING

The logo should not be used smaller than the minimum size to ensure legibility.



LOGO USAGE

The Colorado Bar Association logo should always be used from the provided files in approved orientations and colors and not recreated from scratch using alternate shapes, colors, or typefaces.

DO use the logo in the two color variations whenever the logo is used in color applications.



DO NOT disproportionately scale or alter placement any of the elements of the logo.



DO NOT use the logo in unapproved colors.



DO NOT recreate the logotype in a different typeface.



TYPOGRAPHY

PRINT & DIGITAL

For all print and digital materials, the standard header font is Source Sans Pro. Source Sans Pro may be used for headers, sub headers and callouts. Any of the styles may be used. Source Sans Pro is available for free at <https://www.fontsquirrel.com/fonts/source-sans-pro>.

For print and digital body copy, use Source Serif Pro. All styles may be used. Source Serif Pro is available for free at <https://www.fontsquirrel.com/fonts/source-serif-pro>

SYSTEM FONTS

If the preferred fonts are not available, please use Helvetica Neue in place of Source Sans Pro and Times New Roman in place of Source Serif Pro. Arial may be used when Helvetica Neue is not available.

Print and Digital Heading Typography

Source Sans Pro Light

Source Sans Pro Light Italic

Source Sans Pro Regular

Source Sans Pro Regular Italic

Source Sans Pro Bold

Source Sans Pro Bold Italic

Print and Digital Body Typography

Source Serif Pro Light

Source Serif Pro Regular

Source Serif Pro Bold

System Fonts (for use when Source Sans and Source Serif are not available)

Helvetica Neue

Helvetica Neue Italic

Helvetica Neue Bold

Helvetica Neue Bold Italic

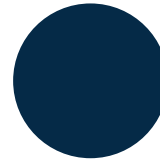
Times New Roman

Times New Roman Bold

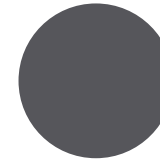
PRIMARY COLORADO BAR ASSOCIATION COLOR PALETTE

A new palette has been developed for the Colorado Bar Association to work alongside the Denver Bar Association. Use these colors in promotional material and collateral when associated with Colorado Bar Association. Colors from the primary palette can be used in union with colors from the DBA palette, while secondary colors should be used when promoting CBA exclusively.

Primary CBA Color Palette



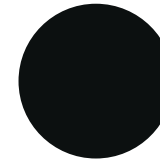
PMS 743
CMYK 100/81/44/45
RGB 5/43/72
HEX #052B48



PMS COOL GRAY 11
CMYK 65/58/51/28
RGB 86/86/91
HEX #56565B

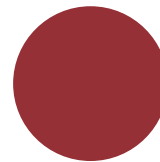


PMS 7536
CMYK 36/32/47/1
RGB 169/160/137
HEX #A9A089

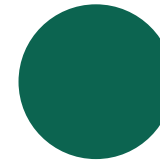


PMS BLACK
CMYK 0/0/0/100
RGB 169/160/137
HEX #000000

Secondary CBA Color Palette



PMS 492
CMYK 28/90/77/24
RGB 149/50/54
HEX #953236



PMS 336
CMYK 90/37/73/27
RGB 0/100/80
HEX #006450

PHOTOGRAPHY GUIDELINES

To differentiate Colorado Bar Association from Denver Bar Association, consider darker neutral palettes with natural poses and a business feel. To represent Colorado, leverage iconic architectural images throughout the state with a similar neutral palette. Imagery should feel tailored, structured and strong.

Photography on this page can be found here:

1. <https://www.stocksy.com/640157>
2. <https://www.stocksy.com/735952>
3. <https://www.stocksy.com/876266>
4. http://www.flydenver.com/sites/default/files/images/slideshow/tents-and-plane4opt_0.jpg
5. <http://www.shutterstock.com/pic-1293540/stock-photo-a-modern-building-with-geometric-shapes.html?src=Mp-uTa7t8ZbF8xbOZWW0bQ-1-4>
6. <http://www.shutterstock.com/pic-314635424/stock-photo-denver-colorado-usa-september-7-2015-renovated-union-station-in-downtown-denver-colorado.html?src=f1juRdnl9zL8TctM83Wlca-1-6>



PHOTOGRAPHY GUIDELINES, CONT.

Avoid using photography of Colorado that is overused, photography that appears staged or ingenuine, photography with added visuals, brightly colored photography that will clash with the CBA color palette, and anything overtly related to law practice.



CBA

Trust and Estate
Section

Colorado Bar Association
Trust & Estate
For the Eight Months Ending February 28, 2023

		February	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		\$43,092.16		\$43,092.16	0%	\$38,426.81
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	135.00	32,580.00		32,580.00	0%	33,345.00
Registration Income	01-4501-31600		2,280.00		2,280.00	0%	
Total Revenue Trust & Estate Sect		135.00	34,860.00		34,860.00	0%	33,345.00
Expenses							
Other Expense	01-5000-31600		(1,000.00)		(1,000.00)	0%	
AWARDS	01-5007-31600		(28.54)		(28.54)	0%	
Meals (Not travel related)	01-5491-31600	(480.08)	(9,548.71)		(9,548.71)	0%	(5,103.70)
Administration Fee	01-5494-31600	(1,110.38)	(8,883.04)		(8,883.04)	0%	(8,623.68)
Grants/Contributions	01-5500-31600		(5,750.00)		(5,750.00)	0%	
Total Expenses Trust & Estate Sec		(1,590.46)	(25,210.29)		(25,210.29)	0%	(13,727.38)
Statutory Revisions Committee							
Revenue							
Rev. Elderlaw Joint Task Force							
Rev. Uniform POA Act							
Rev. Uniform Trust Code							
Expenses							
Exp. Elderlaw Joint Task Force							
Exp. Uniform POA Act							
Exp. Uniform Trust Code							
CLE							
Revenue							
Revenue Joint CLE							
Revenue CLE Retreat							

Colorado Bar Association
Trust & Estate
 For the Eight Months Ending February 28, 2023

	February	YTD	Budget	Variance	%	Last FY
Revenue CLE Section Only						
Expenses						
Expenses Joint CLE						
Expenses CLE Retreat						
Expenses CLE Section Only						
Council Notes						
Revenue						
Expenses						
Community & Civic Affairs						
Revenue						
Contributions 01-4500-31613		\$3,500.00		\$3,500.00	0%	
Total Revenue Community & Civic		3,500.00		3,500.00	0%	
Expenses						
Rules & Forms Committee						
Revenue						
Expenses						
Orange Book Forms						
Revenue						
Expenses						
Local Liaison						
Revenue						
Expenses						
Uniform Trust Code						
Revenue						
Expenses						

Colorado Bar Association
Trust & Estate
 For the Eight Months Ending February 28, 2023

	February	YTD	Budget	Variance	%	Last FY
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						

Colorado Bar Association
Trust & Estate
For the Eight Months Ending February 28, 2023

		<u>February</u>	<u>YTD</u>	<u>Budget</u>	<u>Variance</u>	<u>%</u>	<u>Last FY</u>
Green Book							
Revenue							
Expenses							
The Colorado Lawyer							
Revenue							
Expenses							
T&E Diversity Committee							
Revenue							
Misc Income	01-4299-31628		\$1,000.00		\$1,000.00	0%	
Total Revenue Diversity Committe			1,000.00		1,000.00	0%	
Expenses							
Judicial Liaison							
Revenue							
Expenses							
Meals (Not travel related)	01-5491-31615	(746.50)	(746.50)		(746.50)	0%	
Total Expenses Judicial Liaison		(746.50)	(746.50)		(746.50)	0%	
Member Vouchers							
Expenses							
T&E Young Lawyer Society							
Revenue							
Expenses							
Beginning Balance	01-3160-31600		43,092.16		43,092.16	0%	38,426.81
Total Revenue All Sources	01-4???-316??	135.00	39,360.00		39,360.00	0%	33,345.00
Total Expense All Sources	01-5???-316??	(2,336.96)	(25,956.79)		(25,956.79)	0%	(13,727.38)
Ending Balance		(2,201.96)	56,495.37		56,495.37	0%	58,044.43

Trust and Estate Section- FY 2023/2024 Budget

Beginning Balance

Revenue

Dues
Annual Dinner
Other

Total Budgeted Revenue

\$ -

Expenses

CBA Administrative Fee
Annual Dinner
Probate Day Food and Beverage
CLE
Grants/Contributions/Sponsorships
Estate Planning Retreat
Senior Law Handbook
Colorado Bar Foundation
Other
Awards
Travel
Other

Total Budgeted Expenses

\$ -

Budgeted Surpluse/Deficit

\$ -

Budgeted Closing Balance

\$ -

KIRCH ROUNDS BOWMAN & DEFFENBAUGH PC
MEMORANDUM

TO: CBA Council of the Trust and Estate Section

FROM: Chad Rounds

RE: Summary of 03/21/23 CBA Real Estate Section Council Meeting

DATE: 03/22/23

I attended the CBA Real Estate Section Council ("RESC") meeting on 03/21/23 by Zoom. The following is my report on matters addressed which the CBA Trust and Estate Section Council ("TESC") might find of interest:

At this meeting, the RESC discussed creating an Affordable Housing Committee.

Habitat for Humanity will be the charitable sponsor of the Real Estate Section's annual symposium this summer.

SB23-184 - Concerning Protections for Residential Tenants: The RESC is concerned that many of the protections provided in this bill will force smaller landlords out of the rental business and tie up the courts. The RESC is taking an amend position. For example, unless a subsidy fully covers rent, landlords should maintain the ability to require full income information from potential renters.

HB23-1190 - Affordable Housing Right of First Refusal: It gives right of first refusal on multi-family or mixed-use property in Colorado to local governments. Local governments would have 14 business days to exercise the right, but in fact could hold up the sale for a much longer period of time. Also, the local governments do not have the resources to administer such a program or the funds to purchase these properties. Currently, this bill looks like it will pass as written.

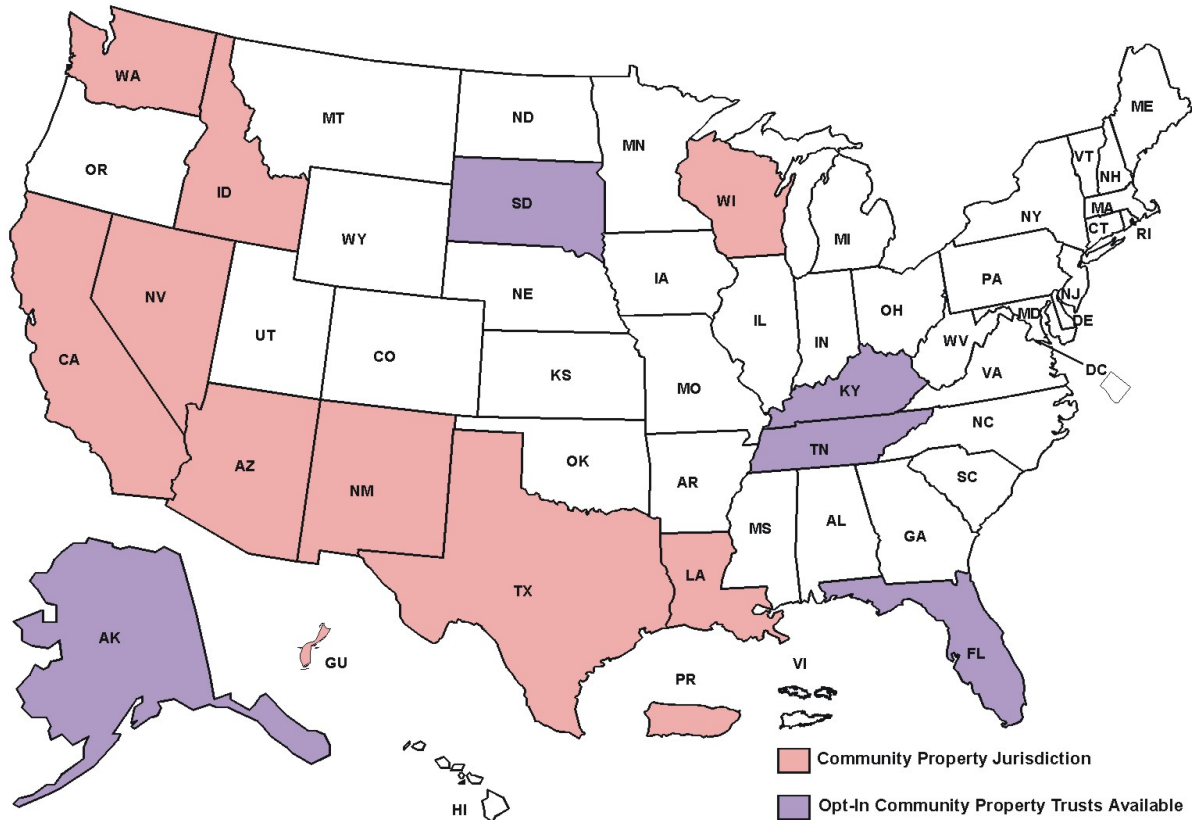


THE UNIFORM COMMUNITY PROPERTY DISPOSITION AT DEATH ACT

- A Summary -

The law of marital property in the United States is far from uniform. The majority of jurisdictions use a system of property rights based on English common law, but nine states and two U.S. territories use a system based on civil law instead. In those jurisdictions, a married couple’s property is generally presumed to be “community property,” unless the couple agrees to a different distribution. At the time of the first spouse’s death, 50% of the community property is owned by the surviving spouse and 50% by the deceased spouse’s estate. Additionally, a few states have enacted laws that permit couples to opt-in to a community property system by creating a trust.

COMMUNITY PROPERTY JURISDICTIONS



As of October 2021

Non-uniform property laws can create problems when a married couple moves to another state. Though the governing law may be different, the nature of the couple’s previously acquired property is not changed. It stands to reason that many couples will accumulate both community and non-community property over time, complicating estate administration when the first spouse dies.

The Uniform Community Property Disposition at Death Act (UCPDDA) is appropriate for enactment in *non-community property states* (i.e., the states shown in white and purple on the map above) where trustees, judges, and estate administrators may be unfamiliar with the rules governing distribution of community property.

The UCPDDA provides a set of default rules to ensure the equitable distribution of community property when the first spouse dies. It assists courts in determining the character of property when there is a dispute between potential heirs. The act also clarifies the process for partitioning and reclassifying community property for couples who mutually agree to separate their interests, and provides a remedy to address bad-faith transfers intended to impair the property rights of one spouse.

The UCPDDA is an update of a 1971 law that specifically governed the *probate* of estates containing community property. The update was necessary due to the increased popularity of trusts and other vehicles for nonprobate transfers, and also because of the recognition of same-sex marriage throughout the United States. The act is intended for enactment in non-community property states where the legal status of community property may otherwise be unclear.

For more information about the Uniform Community Property Disposition at Death Act, please contact ULC Chief Counsel Benjamin Orzeske at (312) 450-6621 or borzeske@uniformlaws.org.

UNIFORM COMMUNITY PROPERTY DISPOSITION AT DEATH ACT

Proposed Colorado Changes

Prepared by a Subcommittee of the Trust and Estate Section of the CBA

Summary

Currently, the disposition of community property at death is governed by C.R.S. §15-20-101, et seq., the “Uniform Disposition of Community Property Rights at Death Act,” first enacted in Colorado in 1973. The proposed statute, the “Uniform Community Property Disposition at Death Act” is an update to that 1973 law. The new law is substantially similar to the old law in that it allows individuals who hold community property, acquired in another state, to retain the community property character of those assets while in Colorado. The old law, however, only addressed community property that existed as part of a probate estate. As set forth in the official summary of the proposed new statute, an update was needed to address community property held in trust and/or disposed of by nonprobate transfers.

Our subcommittee, after careful review, proposes the modest changes to the uniform law identified below. We added a sentence to §15-20-103 that underscores the existing law that new community property cannot be created in Colorado. In §15-20-106 we added language to clarify that not only is the surviving community property spouse’s interest in community property not subject to disposition by the decedent or the decedent’s estate planning documents, in addition, it is not subject to disposition by the laws of intestacy as a result of the decedent’s death.

As suggested by the drafters of the uniform law, in sections §15-20-108 and -109, addressing the time period in which someone would have a right to make a claim based on an interest in community property, we (a) adopted the three year time period for a claim made against

a nonprobate asset, and (b) inserted the time periods for generally making a claim against a probate asset by notifying the personal representative of an estate. In section 109 we also added language expressly authorizing a personal representative to distribute an asset if not made aware of an interest in community property within the time period set forth in the statute. In C.R.S. §15-20-110, we added language to protect other fiduciaries acting without knowledge of a community property interest.

In the conforming amendments section, we suggested one amendment to the elective share statute to clarify that only the decedent's one-half of community property would be included in the augmented estate. We did not suggest an effective date, but our opinion is that no delayed effective date is needed for this statute.

Redline of Uniform Law with Proposed Changes

15-20-101. Short Title

This Article 20 ~~is known and~~ may be cited as the Uniform Community Property Disposition at Death Act and is referred to in this Article 20 as “this act” or “act”.

15-20-102. Definitions

In this ~~{act}~~:

- (1) “Community-property spouse” means an individual in a marriage or other relationship:
 - (A) under which community property could be acquired during the existence of the relationship; and
 - (B) that remains in existence at the time of death of either party to the relationship.
- (2) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (3) “Jurisdiction” means the United States, a state, a foreign country, or a political subdivision of a foreign country.
- (4) “Partition” means voluntarily divide property to which this [act] otherwise would apply.
- (5) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.
- (6) “Personal representative” includes an executor, administrator, successor personal representative, special administrator, and other person that performs substantially the same function.
- (7) “Property” means anything that may be the subject of ownership, whether real or personal, tangible or intangible, legal or equitable, or any interest therein.
- (8) “Reclassify” means change the characterization or treatment of community property to property owned separately by community-property spouses.
- (9) “Record” means information:

(A) inscribed on a tangible medium; or

(B) stored in an electronic or other medium and retrievable in perceivable form.

(10) “Sign” means, with present intent to authenticate or adopt a record:

(A) execute or adopt a tangible symbol; or

(B) attach to or logically associate with the record an electronic symbol, sound, or process.

(11) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

15-20-103. Included and Excluded Property

(a) Subject to subsection (b), this [act] applies to the following property of a community-property spouse, without regard to how the property is titled or held:

(1) if a decedent was domiciled in this state at the time of death:

(A) all or a proportionate part of each item of personal property, wherever located, that was community property under the law of the jurisdiction where the decedent or the surviving community-property spouse was domiciled when the property:

i. was acquired; or

ii. after acquisition, became community property;

(B) income, rent, profit, appreciation, or other increase derived from or traceable to property described in subparagraph (A); and

(C) personal property traceable to property described in subparagraph (A) or (B);

and

(2) regardless of whether a decedent was domiciled in this state at the time of death:

(A) all or a proportionate part of each item of real property located in this state traceable to community property or acquired with community property under the law of the

jurisdiction where the decedent or the surviving community-property spouse was domiciled when the property:

(i) was acquired; or

(ii) after acquisition, became community property; and

(B) income, rent, profit, appreciation, or other increase, derived from or traceable to property described in subparagraph (A).

(b) If community-property spouses acquired community property by complying with the law of a jurisdiction that allows for creation of community property by transfer of property to a trust, this {act} applies to the property only to the extent the property is held in the trust or characterized as community property by the terms of the trust or the law of the jurisdiction under which the trust was created.

(c) This {act} does not apply to property that:

(1) community-property spouses have partitioned or reclassified; or

(2) is the subject of a waiver of rights granted by this {act}.

(3) is acquired by spouses domiciled in this state that is not property identified in [paragraphs] (a) and (b) of this section.

15-20-104. Form of Partition, Reclassification, or Waiver

(a) Community-property spouses domiciled in this state may partition or reclassify property to which this {act} otherwise would apply. The partition or reclassification must be in a record signed by both community-property spouses.

(b) A community-property spouse domiciled in this state may waive a right granted by this {act} only by complying with the law of this state, including this state's choice-of-law rules, applicable to waiver of a spousal property right.

15-20-105. Community Property Presumption

All property acquired by a community-property spouse when domiciled in a jurisdiction where community property then could be acquired by the community-property spouse by operation of law is presumed to be community property. This presumption may be rebutted by a preponderance of the evidence.

15-20-106. Disposition of Property at Death

(a) One-half of the property to which this {act} applies belongs to the surviving community-property spouse of a decedent and is not subject to disposition by the decedent at death or distribution under the laws of succession of this state as a result of the decedent's death.

(b) One-half of the property to which this {act} applies belongs to the decedent and is subject to disposition by the decedent at death.

~~Alternative A-~~

~~(c) The property that belongs to the decedent under subsection (b) is not subject to the elective-share right of the surviving community-property spouse.~~

~~Alternative B-~~

(c) For the purpose of calculating the augmented estate of the decedent and the elective-share right of the surviving community-property spouse:

(1) property under subsection (a) is deemed to be property of the surviving community-property spouse; and

(2) property under subsection (b) is deemed to be property of the decedent.

~~End of Alternatives-~~

(d) {Except for the purpose of calculating the augmented estate of the decedent and the elective-share right of the surviving community-property spouse under C.R.S. 15-11-201 et. seq.,

this ~~]~~~~[This]~~ section does not apply to property transferred by right of survivorship or under a revocable trust or other nonprobate transfer.

(e) This section does not limit the right of a surviving community-property spouse to ~~]~~~~[insert statutory allowances]~~the statutory allowances set forth under C.R.S. 15-11-402; 15-11-403; and 15-11-404.

(f) If at death a decedent purports to transfer to a third person property that, under this section, belongs to the surviving community-property spouse and transfers other property to the surviving community-property spouse, this section does not limit the authority of the court under other law of this state to require that the community-property spouse elect between retaining the property transferred to the community-property spouse or asserting rights under this ~~]~~~~[act]~~.

15-20-107. Other Remedies Available At Death.

(a) At the death of a community-property spouse, the surviving community-property spouse or a personal representative, heir, or nonprobate transferee of the decedent may assert a right based on an act of:

- (1) the surviving community-property spouse or decedent during the marriage or other relationship under which community property then could be acquired; or
- (2) the decedent that takes effect at the death of the decedent.

(b) In determining a right under subsection (a) and corresponding remedy, the court:

- (1) shall apply equitable principles; and
- (2) may consider the community property law of the jurisdiction where the decedent or surviving community-property spouse was domiciled when property was acquired or enhanced.

15-20-108. Right of Surviving Community Property Spouse.

(a) The surviving community-property spouse of the decedent may assert a claim for relief with respect to a right under this {act} in accordance with the following rules:

(1) In an action asserting a right in or to property, the surviving community-property spouse must:

(A) not later than {three years} after the death of the decedent, commence an action against an heir, devisee, or nonprobate transferee of the decedent that is in possession of the property; or

(B) not later than ~~{six months}~~the time periods set forth in section 15-12-803(1) after appointment of the personal representative of the decedent, send a demand in a record to the personal representative.

(2) In an action other than an action under paragraph (1), the surviving community-property spouse must:

(A) not later than ~~{six months}~~the time periods set forth in section 15-12-803(1) after appointment of the personal representative of the decedent, send a demand in a record to the personal representative; or

(B) if a personal representative is not appointed, commence the action not later than {three years} after the death of the decedent.

(b) Unless a timely demand is made under subsection (a)(1)(B) or (2)(A), the personal representative may distribute the assets of the decedent's estate without personal liability for a community-property spouse's claim under this {act}.

15-20-109. Right of Heir, Devisee, or Nonprobate Transferee.

An heir, devisee, or nonprobate transferee of a deceased community-property spouse may assert a claim for relief with respect to a right under this [act] in accordance with the following rules:

(a) An heir, devisee, or nonprobate transferee of a deceased community-property spouse may assert a claim for relief with respect to a right under this [act] in accordance with the following rules:

1. In an action asserting a right in or to property, the heir, devisee, or nonprobate transferee must:

A. not later than ~~{three years}~~ after the death of the decedent, commence an action against the surviving community-property spouse of the decedent who is in possession of the property; or

B. not later than ~~{six months}~~ the time periods set forth in section 15-12-803(1) after appointment of the personal representative of the decedent, send a demand in a record to the personal representative.

2. In an action other than an action under paragraph (1), the heir, devisee, or nonprobate transferee must:

A. not later than ~~{six months}~~ the time periods set forth in section 15-12-803(1) after the appointment of the personal representative of the decedent, send a demand in a record to the personal representative; or

B. if a personal representative is not appointed, commence the action not later than ~~{three years}~~ after the death of the decedent.

(b) Unless a timely demand is made under subsection (a)(1)(B) or (2)(A), the personal representative may distribute the assets of the decedent's estate without personal liability for an heir's, devisee's, or nonprobate transferee's claim under this act.

15-20-110. Protection of Third Person.

(a) With respect to property to which this {act} applies, a person is not liable under this {act} to the extent the person:

(1) transacts in good faith and for value:

(A) with a community-property spouse; or

(B) after the death of the decedent, with a surviving community-property spouse, personal representative, heir, devisee, or nonprobate transferee of the decedent; ~~and~~

(C) a fiduciary acting on behalf of any such person, or a trustee of a trust holding community property; and

(2) does not know or have reason to know that the other party to the transaction is exceeding or improperly exercising the party's authority.

(b) Good faith under subsection (a)(1) does not require the person to inquire into the extent or propriety of the exercise of authority by the other party to the transaction.

15-20-111. Principles of Law and Equity.

The principles of law and equity supplement this {act} except to the extent inconsistent with this {act}.

15-20-112. Uniformity of Application and Construction.

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

15-20-113. Saving Provision.

If a right with respect to property to which this [act] applies is acquired, extinguished, or barred on the expiration of a limitation period that began to run under another statute before [the effective date of this [act]], that statute continues to apply to the right even if the statute has been repealed or superseded by this [act].

15-20-114. Transitional Provision.

Except as provided in ~~Section 13~~§15-20-113, this [act] applies to a judicial proceeding with respect to property to which this [act] applies commenced on or after [the effective date of this [act]], regardless of the date of death of the decedent.

15-20-115. Severability

If a provision of this [act] or its application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.}

15-20-116. Repeal; Conforming Amendments

~~{(a)}~~ The [Uniform Disposition of Community Property Rights at Death Act] is repealed.}

~~{(b)}~~ C.R.S. §15-11-208 is revised as follows:

15-11-208 (4) Community Property. If there is a disparity in the titling of property under sections 15-11-204, 15-11-205, 15-11-206, or 15-11-207, and the ownership of such property under article 20 of this title 15 regarding community property, then the community property ownership shall control and only one-half of such community property shall be included under each such section as applicable, and any administrative expenses relating to and enforceable claims against such community property shall be allocated equally between the decedent's and the surviving spouse's shares of the community property. ~~15-11-208 (4)~~

15-20-117. Effective Date

This [act] takes effect . . .

Dear Colleague:

The 17th Annual CBA-CLE Alternative Dispute Resolution Conference Planning Committee is seeking proposals for the Friday, October 27, 2023, Conference. Proposals are sought from a wide variety of speakers of differing academic, personal, and professional backgrounds. This includes, but is not limited to, mediators, arbitrators, dispute resolution practitioners, attorneys, non-attorneys, judges, academics, and more.

This year's conference will be hybrid, available to attendees both online and in-person. The in-person conference will be held in the CBA-CLE Classroom (1290 Broadway, Suite 1700, Denver, CO), and the virtual conference will be held on our online platform. The theme of the 2023 Conference is *New Horizons for ADR: Expanding the Profession and Elevating Our Skills*.

We are planning for presenters to conduct their presentations live and in-person. While keeping with our theme of *New Horizons for ADR: Expanding the Profession and Elevating Our Skills*, the Planning Committee requests presentation proposals that fit into one or more of the following five broad categories.

1. Promoting Diversity, Equity, and Inclusivity

Proposals submitted under this topic area address issues of diversity awareness, belonging, and community-building. Examples of topics under this category include, but are not limited to, practitioner and client diversity reflecting our society, practitioner self-care, wellness/mindfulness/enrichment/resilience when dealing with communities in conflict, countering negativity, dealing with trauma, managing emotional reactions, and identifying personal bias. In addition, problem solving, recognizing power imbalances, resolving cross-cultural disputes, negotiated rulemaking with competing stakeholders, resolving professional disputes, resolving cultural property disputes, understanding community and professional dynamics, ethical conflicts between professions and cultures, self-awareness, hybrid dispute resolution processes, and reflective practice are additional topics that would support the theme.

For a presentation to be eligible for EDI credit, the presentation (whether for all or part of the presentation) must meet the following.

Equity, diversity, and inclusivity (EDI) is an activity or portion of an activity that addresses equal access to the legal system; competent representation of diverse populations; or the recognition, mitigation, or elimination of bias in the legal profession or the legal system.

2. The Future of Dispute Resolution

Proposals submitted under this topic area address current and future trends in dispute resolution process protection and design. Examples of topics under this category include, but are not limited to, online dispute resolution practice and ethics, regulating dispute resolution professionals, political and social conflict resolution, international dispute resolution, contemporary dispute resolution scholarship, dispute resolution and the law, technology and/or artificial intelligence,

neuroscience and conflict mapping, restorative justice, med-arb, collaborative law, arbitration, change management, access to justice and dispute resolution, and a look at future trends in conflict resolution worldwide.

3. The Business of Dispute Resolution

Proposals submitted under this topic area address information regarding the business aspects of starting, building, and running your dispute resolution practice. Examples of topics under this category include, but are not limited to, virtual dispute resolution practice, and changes in marketing strategies, including social media, advertising, and networking. Additionally, accounting and tax issues, identifying conflicts of interest, disclosure by professionals, pre-session communications, agreements to mediate, recordkeeping and confidentiality, document drafting, reasonable fees, dispute resolution services, court requirements for professionals, party/participant/advocate competence, technology, best practices for professionals, mediation advocacy, and ethics in business practices are other key topics.

4. Practical Skills

The practical skills of dispute resolution are where theory meets practices. Examples of topics under this category include, but are not limited to, de-escalation, dealing with difficult people, dispute resolution processes, dispute resolution method selection, etc.

5. Developing Subject Matter Expertise

Proposals submitted under this topic focus on expanding the ADR practitioner's understanding of a substantive area of law, a primer or advanced primer for the ADR practitioner, on the presenter's main area of practice. Subject matters of interest for the ADR practitioner include, but are not limited to, agricultural, bankruptcy, business (privately held/family business, franchises, trade associations, commercial and other), cannabis, civil rights, construction law, elder, labor and employment, entertainment/sports, environmental (ground, water, air, and climate change), family, administrative/government/regulatory, health (substance, health care, and billing), immigration, intellectual property (copyright, patents, trademark, licensing, and trade secrets), juvenile, litigation (discovery), military and veterans' affairs, natural resources and energy (oil and gas law and mining), real estate (adverse possession, landlord/tenant, residential, quiet title, and commercial), technology (computer and internet), torts and insurance (subrogation, personal injury, malpractice, and premise or product liability), trust and estate (estate administration and probate), water, workers compensations, disability, aviation, animal, taxation, transportation, collections, and school.

Proposal Guidelines and Considerations

1. The Planning Committee will consider all timely submitted proposals. We are seeking thoughtful, engaging, and creative proposals from a wide range of dispute resolution professionals across different areas of practice.

2. We encourage students, new practitioners, and seasoned veterans to submit proposals.
3. We value diversity and inclusion recognizing everyone has important talents and perspectives. We are particularly interested in the broad diversity comprising the ADR community inclusive of diversity in race, ethnicity, age, religious belief, gender, sexual orientation, and professional background.
4. We encourage innovative presentation formats and creativity in content delivery to attendees. Key considerations include the use of technology, audience participation, and creative presentation formats.
5. We request an appropriate number of presenters for the subject matter and session duration. We value well-organized programs and individual presentations with a logical, structured flow sharing a common theme and consistency.
6. Please submit a separate proposal for each presentation.
7. All proposals should be submitted via this [online form](#).
8. The fields needed for the [online form](#) are listed below:
 - (a) **Session Organizer Information.** Provide name, title, organization, address, phone number, email, and resume.
 - (b) **Presenter Information.** Provide name, title, organization, address, phone number, email, and resume.
 - (c) **Presenter Biography.** Provide a short biography of 200 words or less.
 - (d) **Presentation Title and Abstract.** Provide a concise statement of no more than 100 words (not counting the title) describing your presentation. Write presentation titles and abstracts in a manner accurately describing the session and convincing people to attend the session. We may use the title and abstract in the conference marketing materials.
 - (e) **Presentation Learning Objectives/Goals.** Provide a concise statement of no more than 100 words describing your proposal learning objectives and goals. We require a minimum of three learning objectives to evaluate your presentation. If you are requesting ethics credits for your presentation, please provide the basis for that request.
 - (f) **Presentation Outline of Format and Session Content.** Provide an outline of no more than 500 words identifying the approach you will use to meet the project goals, including but not limited to, principal tasks, duration, sequence, and

particular purposes. Please make the presentation outline consistent with your learning objectives and goals.

- (g) **A Description of Your Presentation Handout Materials.** Provide a description of no more than 100 words listing the comprehensive written materials you will provide. These materials may include, but are not limited to, research articles, detailed outlines, charts, diagrams, checklists, case studies, bibliographies, and additional references. Please note we require comprehensive written materials for distribution at the conference and inclusion in the conference handbook.
- (h) **Audience Participation.** Please provide a brief statement of no more than 100 words detailing how your presentation will provide audience participation opportunities.
- (i) **Time Needed.** We invite presentation proposals ranging from 60 to 75 minutes. Please indicate the presentation time needed understanding we may alter it depending on conference needs.
- (j) **Required Presentation Equipment.** Provide a statement regarding the audio/visual support you will need for your presentation.
- (k) **Sample Presentation (optional).** Provide an attachment or link to an audio/video recording of a past presentation you have done.

Program Decisions and Conference Planning

Proposals are due on or before **April 28, 2023**.

Once the Planning Committee makes decisions on the acceptance of proposals, we will notify the session organizers at the email address provided with the proposal. Presenters will receive notification of acceptance on or before May 12, 2023. Comprehensive written materials are due on or before September 28, 2023.

Please submit your proposals via this [online form](#).

If you have any questions, please contact Jody Davis (jodydavis@cobar.org) or reach out to clereception@cobar.org.

Thank you for submitting your proposal.

Sincerely,

17th Annual ADR Conference Planning Committee