

**Meeting of Elder Law Section of the CBA
March 16, 2017**

Co-Chairs:	Michael Kirtland	Colorado Springs	719-448-0734	mak@kirtlandseal.com
	Letitia Maxfield	Denver	303-353-8354	letty@tealaw.com
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	Tamara Trujillo	Denver	303-355-8500	tamara@coloradoelderlaw.com
	Rose Zapor	Lakewood	303-866-0990	rose@zaporelderlaw.com
CBA Liaison:	Rebecca Spence	Denver	303-824-5311	rspence@cobar.org
CBA Board of Governors Rep.:	Marco Chayet	Denver	303-355-8500	marco@coloradoelderlaw.com

Frank Slaninger Honorary Acronym Key:

ELS – Elder Law Section

EC – Executive Council

T&E – Trust and Estates Section

SRC – Statutory Revisions Committee

DPC – Denver Probate Court

PoA – Power of Attorney

NCCUSL – National Conference of Commissioners on Uniform State Laws

HCPF – Department of Health Care Policy and Financing

Other abbreviations:

M/S/A – a motion was made seconded and approved by the voting members.

M/S/D – a motion was made seconded and denied by the voting members.

SLD – Senior Law Day

LPC – Legislative Policy Committee

1. Call to Order by Michael Kirtland at 8:36 A.M.

Introductions followed, and the sign-in sheet was circulated. Those attending in person were:

Names in italics are nonmember attendees

Michelle Adams
Dirk Costin
Mark Kiken
Kelsey Lesco

Steven Barrett
Carl Glatstein
Michael Kirtland
Rikke Liska

Arlene Barringer
Ruben Hernandez
Ayo Labode
Kayla Nelson

Nancy Peterson
Catherine Seal
Sherene Stenger
Patrick Thiessen
Pamela Wilson
Aaron Burton
Sara Welborn

Tom Rodriguez
Sandra Sigler
Wayne Stewart
Dennis Valentine
Rose Zapor
John Lauce
Lisa Blattner

Ryan Scott
Courtney Smith
Steven Strunk
Barbara Van Vliet
Kris Zumalt
Carol Johnson
Carl Miller

On the phone:
Sarah Golombek
Megan Brand
Chuck Connell
Brooke Brestel

Spencer Crona
Charles Spence
Steven Strandberg
Susie Germany

Doug Holden
Kevin Lazar
Letitia Maxfield

Call for review and approval of the February 2017 Minutes. Motion to approve the February 2017 Minutes, seconded, approved.

1. **Chair's Report** – Michael Kirtland – no report.
2. **Treasurer's Report** – Charles Spence
 - a. Mr. Spence reports that the Section currently has \$15,225.61. This balance does not reflect the \$3,000 contribution we approved to CLE for the purpose of supporting the 2017 Elder Law Retreat. Elder Law Council also recently approved a \$600 sponsorship at Senior Law Day at the Capitol.
 - b. Carl Glatstein requests that the Section contribute \$2,800 to the Senior Law Handbook this year. ELS contributed \$2,500 last year. Mr. Glatstein reports that the funding for the Handbook is more of a crunch this year than in years past; ink and printing costs have gone up and a former employee of CLE had a relationship with the publisher in past years. John Fielder contributes the front cover photo, and Rose Community Foundation donates \$8,000 and receives the back cover. The Civic & Community Affairs Committee has been asked to step up and look for additional sponsors. The Handbook costs close to \$24,000 to publish – but for less books this year. The Senior Law Handbook will not be able to be donated for free anymore. Mr. Spence reports that the Section's lowest fiscal point of the year was about \$8,000 in August 2016. Motion to contribute \$2,800 toward the Senior Law Handbook, seconded, approved.
4. **Old Business**
 - a. Committee Reports (Chairperson of the committee may report any current matters.) Our current committees are:

- i. Board of Governors: Marco Chayet – not present.
- ii. Civic and Community Affairs Committee (CCA): Sandra Sigler reports that Senior Law Day events are scheduled as follows: Grand Junction on May 5th, Jefferson County on June 3rd, Denver on July 29th, Colorado Springs on August 5th, and Boulder on September 23rd. The Committee is working on revised language for the current CBA brochures and is being asked to reach out to the community for financial support for the Senior Law Handbook.
- iii. CLE and Publications Committee: Rose Zapor reports that the CLE speaker for April will be a remote presentation by national NAELA's Director of Public Policy; that CLE will be held in the small classroom on the 3rd floor. Ms. Zapor has several articles in the pipeline. Susie Germany wrote an article on the ABLE Act, which will be in the April or May issue of the Colorado Lawyer. Catherine Seal will have an article next fall once UGAPPA is finished.
- iv. Elder Law Retreat: Arlene Barringer/Susan Germany. Ms. Barringer reports that the Retreat will be held August 24-26 in Breckenridge at the Beaver Run Resort. The Committee is finalizing its line up and speakers. The various presentations will include a panel on the ABLE Act, a panel on end of life issues, and Catherine Seal will be breaking down a video of a contested guardianship trial into what to do and what not to do.
- v. Court Visitor Subcommittee: Lisa DiPonio – not present.
- vi. Medicaid Regulatory Reform/Legislation Committee (MRRC): TBD. Persons interested in chairing this Committee should email Mr. Kirtland. Recent issues that affect this Committee involve proposed block grants and capping. Mr. Kirtland suggests that individuals consider finding a co-chair if they are hesitant to take on this Committee.
- vii. Probate Trial & Procedure Committee: Tom Rodriguez reports that the Committee had a presentation from Jean Stewart last meeting regarding ADR and mediation. The Committee is meeting today at 10:00am to discuss the benchbook and bench cards.
- viii. Capacity *Sorenson* Committee: Tammy Conover – not present. The Committee is not meeting today.

- ix. Legislative Response Team Joint Subcommittee: Marco Chayet/Spencer Crona. Mr. Crona reports that various Section members will likely be testifying next Wednesday against the remote notarization provisions of the Uniform Act.
- x. Eldercare Coordinating Committee: Michael Kirtland – no report.
- xi. Office of the Public Guardianship Committee (OPG): Shari Caton reports by email that the House judiciary heard the bill on February 23rd. Numerous stakeholders and section members testified in support of the legislation. Four amendments to the bill were made:
 - a. Added definition of direct care provider and that commission member’s term of service concludes with repeal.
 - b. Added clarification that OPG referrals not made if individual is subject to APS Petition for Appointment of Guardian and that the district shall coordinate with departments of human and social services.
 - c. Implementation timeline changed to be tied to receipt of \$1.7 million in gifts, grants, and donations.
 - d. Added language to require the director to develop rules addressing conflicts of interest and solicitation of gifts, grants, and donations.

The bill sponsor assured the Judiciary Committee that he would not be seeking appropriations this legislative session. The House Judiciary Committee voted on straight party lines 7-4, and the amended bill was referred to the Committee on Appropriations with a favorable recommendation. On March 1, 2017, a revised fiscal note was issued. The bill was scheduled to be heard in appropriations on March 3rd, but it is Ms. Caton’s belief that it has been delayed to work on additional amendments.

- xii. List Serv Committee: Sarah Golombek reports that the Committee met several times and is currently working on a set of rules for the list serv. The Committee is hoping to approve the rules and have them to ELS by April.
- xiii. Judges Elder Law Presentation Committee: Michael Kirtland/Rose Zapor – no report.

- xiv. Mentoring Committee: Rose Zapor reports that the Committee is meeting via email. A Bingo and networking night is scheduled for April 3rd at DU Law School. The committee is going to try to always have a liaison at the DU Elder Law Society meetings. Ms. Zapor inquired whether anyone in ELS would be willing to approach and get involved with CU.
- xv. Subcommittee for Fiduciary Duties & Entities: Scott Challinor – not present.

b. Liaison Reports

i. Legislative Relations: Jeremy Schupbach

- a. Office of Public Guardianship.
- b. Revised Law on Notarial Acts.
- c. The clean-up of the T&E vehicle title bill was heard in committee this morning and should pass without issue. There are provisions that provide protection for fiduciaries for not knowing that beneficiaries exist on a vehicle.
- d. ARC Colorado is drafting a bill regarding self-funded special needs trusts.
- e. Mr. Schupbach received notice this morning that a new bill has been introduced that would specifically expand the PACE program ombudsmen.
- f. An additional bill was just introduced to continue the efforts to protect elders from abuse. The bill includes SEC-authorized agencies as mandatory reporters. Business Law is looking at the bill as well. Mr. Schupbach recommends that ELS monitor the bill for now, let the bill be fought without us, and only get involved if we have to.

- ii. Trust and Estate Section Liaison: Patrick Thiessen reports that the motion to move T&E's list serv was tabled because past posts to the list serv would not be able to be archived if the list serv was brought into the CBA. A grief counseling luncheon CLE is being held on April 4th. Lastly, nominations for the Sterling Ambler Award are due by the end of the month. Nominations are due to Leia Ursery by email.

- iii. Trust & Estate Standing Committee – Statutory Revisions: Arlene Barringer reports that the Uniform Trust Code Committee is asking for final comments on the draft bill by May. The Estate Planning Retreat this summer will have a presentation on the UTC. The bill for deposit of original documents with the Secretary of State, such as original wills, was approved by SRC.
- iv. Trust & Estate Standing Committee – Uniform Trust Code: Michael Kirtland reports that the Committee is nearing the end and is currently working on definitions. They are hoping to be done in the next few months. Section 5 of the UTC is not being included at all.
- v. Department of Health Care Policy and Finance Liaison: John Campbell – not present.
- vi. CBA Legislative Policy Committee Liaison: Letitia Maxfield reports that the Uniform Trust Decanting Act is likely to be approved and signed without further testimony. Ms. Maxfield reports that ELS is in the best position to fight the remote notarization provisions of the Revised Law on Notarial Acts. She anticipates that ELS will have to provide testimony again on the second round of the bill’s review. The Bar’s goal is to delay implementation of the bill so that regulations can be put in place beforehand if it passes.
- vii. NAELA Colorado: Marco Chayet – not present.
- viii. National Guardianship Association/Colorado Guardianship Association: Sarah Golombek reports that the national conference will be held in Colorado Springs in October 2017. Terry Hammond, an attorney in Texas, will be giving a presentation at the CGA meeting on May 9th entitled “Love and Mercy: The Conservatorship of Legendary Beach Boy Brian Wilson.”
- ix. AARP Liaison: Dennis Valentine reports that AARP is focusing on healthcare at the national level. Mr. Valentine urges individuals to contact their congressmen and senators. AARP believes Medicaid is the most problematic hardship for Colorado because of how the Colorado constitution works; Mr. Valentine reports that Colorado would not be able to raise money, and even if it could, it would not be able to spend it.

- x. CBA Ethics Committee: Michael Kirtland reports that he is waiting for the second reading of the second ethics opinion regarding Rule 1.14.
- xi. Probate Rules & Forms Committee: Shari Caton/Michael Kirtland/Marcie McMinimee – not present.
- xii. SRC Public Administrator Liaison: Marcie McMinimee – not present.
- xiii. CBA YLD Liaison: Brooke Brestel reports that the YLD does joint social events with different areas of the Bar, which may be an idea for the Mentoring Committee for the future. Mr. Kirtland proposed giving a specific invitation to the YLD regarding the Elder Law Retreat.
- xiv. Website Monitor: TBD. Interested persons should contact Mr. Kirtland.

5. New Business and Announcements

- a. Rose Zapor urges ELS to reach out to their congresspersons. Ms. Zapor will be joining the vigil outside of Senator Gardner’s office today. The proposed cap on state block grants would mean that if a state exceeds the national average, then the next year the state’s block grant would be reduced by how much it went over the average. The 90 day lookback will be gone. Susie Germany also reports that the national act will significantly affect our waiver programs as well, which affects disabled children. The national act will be published on ELS’ website.

The Section Meeting ended at 9:42 A.M.

The CLE portion of the meeting began soon thereafter. The CLE speakers this month were Barbara Cashman and Sarah Pheral on the topic “Business Continuation Planning.” Materials are available on the Section’s website.