

STICKER SHOCK FOR LONG-TERM CARE INSURANCE

Terry Savage, Denver Post, Sunday, 09//04.16, Page 7K – huge premium increases are coming for federal employees. You aren't limited to the choices in the rate increase letter.

Help for planning is available on Phyllis Shelton's website, GotLTCi.com.

“Shelton recommends looking at the Genworth Cost of Care chart for current assisted living costs, adding about \$1,500 a month if you want a deluxe facility, and then projecting that number at 5 percent compounded for 20 or 30 years, depending on the age you are today.”

QUOTES

Ask Amy, by Amy Dickerson, The Denver Post, Monday, 09/05/2016, page 10B – “I think you've hit the trifecta of jackassery.

“...The ‘I'm holding these condoms for a friend' statement is also one for the ages. I'll be needlepointing it on a pillow soon.”

AARP Bulletin, September, 2016, page 42 – regarding the upcoming election –

Cartoon – alien – “After watching your presidential race, we'd rather not be taken to your leader!”

Denver Sunday Post, 09/18.2016, page 10B, AP story “Another tale of chasing own tale,” about “treasures” Forrest Fenn said he hid in the Rocky Mountains six years ago. He is inundated with letters and emails. One of his favorites is from an 8-year-old girl who wrote: “Mr. Fenn, if I find the treasure, do I have to share it with my brother?”

Recent obituary in the *Richmond Times Dispatch*:

“Faced with the prospect of voting for either Donald Trump or Hillary Clinton, Mary Anne Noland of Richmond chose, instead, to pass into the eternal love of God on Sunday, May 16, 2016, at the age of 68.”

The Denver Post, Sunday, September 18, 2016, Business Section –

Page 3K - “Seven of 10 Americans Plan to Work in Retirement”

Page 6K – Jill Schlesinger – “Juggling Needs of Children, Aging Parents” – 47 % of us are doing both. Identify who’s doing what. Make a schedule. GoogleDocs is a good resource to help you manage the process. Hire help – contact the National Association of Area Agencies on Aging to find resources in your area; private agencies do cost, but do background checks and carry insurance on employees. Make time for breaks – walks, books, friends.

Page 7K – Brian J. O’Connor, The Detroit News – “Match Your Credit Card to Your Needs, Uses”

Page 7K – Elliot Ralphaelson – “Medicare Mysteries” – he summarizes it, and he recommends a new nuanced and comprehensive guide available in October, 2016 by Philip Moeller, “Get What’s Yours for Medicare” (Simon and Schuster).

CRIMES AGAINST THE ELDERLY AND DISABLED

Noelle Phillips, “Colorado Sees Rise in Cases,” The Denver Post, Sunday, 10/02/2016, page 1A – In the 2 years since the law made it mandatory to report crimes of abuse, neglect, and exploitation of the elderly and persons with intellectual and developmental disabilities, the number of cases across the state jumped 50% to 17,743. “Colorado was among the last three states in the country to enact a mandatory reporting law.” Colorado’s elderly population is expected to double by 2020.

The Aurora Police Department started a Special Victims Unit (SVU) in 2015 headed by Sgt. Damon Vaz. The Colorado Springs Police Department has a unit that handles crimes against at-risk persons. Boulder and Jefferson counties have prosecutors who focus on crimes against the elderly and intellectually disabled. Denver county protective services meets regularly with a Denver police sergeant and a Denver district attorney.

Victims often make poor or unwilling witnesses. There is lack of funding. The 2010 federal Elder Justice Act has never been funded by Congress.

“You have to have a license in Aurora to have chickens,” Vaz said, “but you don’t have to have a license to be a caregiver.” (FPS – he’d been a good speaker for an Elder Law meeting.)

EEOC LAWSUIT TARGETS UNIVERSITY OF DENVER’S STURM COLLEGE OF LAW, alleging it violated federal law by paying women full professors less than their male counterparts. Kevin Simpson, The Denver Post, Sunday, 10/02/2016, page 1B.

ESCHEAT – SENIORS LOSE ASSETS THROUGH INATTENTION

Many seniors (and others) let accounts roll over and over and ignore messages to affirm or activate them. Inattention can lead these inactive accounts to escheat to the state. *See* Terry Savage, The Denver Post, Sunday, 10/02/2016, page 12 K - “Power to Escheat Assets Looks a Lot Like Cheating.”

U. S. WOMEN’S SOCCER TEAM FILES EEOC COMPLAINT

The Equal Pay Act, 29 USC 206(d) requires a prima facie case described recently in *Hesterberg v. Tyson Foods, Inc.*, 2016 WL 483017 (W. D. Ark, signed Feb. 5, 2016).

Hope Solo, Carli Lloyd, Megan Rapinoe, and Alex Morgan filed a complaint, *available at* [http://big.assets.huffingtonpost.com/EEOCCharge, pdf](http://big.assets.huffingtonpost.com/EEOCCharge.pdf). Women soccer players were paid substantially less than their male counterparts – in some cases, as much as 62% less – regarding the 2015 World Cup competition, the complaint alleged that the men’s team was paid \$9 million even though it lost in the Round of 16, while the women’s team was paid only \$2 million despite winning the entire tournament. The disparity exists even though the teams play the same game, under similar conditions, and requiring the same skill. Furthermore, the complaint alleges the U. S. Soccer Federation for 2017 (4/1/2016 – 3/31/2017) projects a net profit from the women’s team of approximately \$5 million, while projecting a net loss of nearly \$1 million from the men’s team.

FMLA & ADA: INDIVIDUAL LIABILITY AND THE NEED FOR CLEAR COMMUNICATION

Graziadio v. Culinary Inst. of Am., 2016 WL 1055742 (2d Cir. Mar. 17, 2016) sets forth *new Second Circuit standards* for addressing certain issues under the Family and Medical Leave Act (“FMLA”), 29 U.S.C. 2601-2654, and the employment discrimination provisions of the Americans with Disabilities Act (“ADA”), 42 U. S. C. 12111-12117, and provides a set of facts on how *not* to respond to an employee’s request for FMLA leave.

APPEALS – MISTAKES CAN BE FATAL TO YOUR CASE

“Judges are not like pigs, hunting for truffles buried in briefs.” *U. S. v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991).

For example, sanctions were imposed against counsel in one case involving the failure to observe line spacing, fonts, and footnote rules. *Kano v. Nat’l Consumer Co-Op Bank*, 22 F. 3d 899 (9th Cir. 1994).

In *Kushner v. Winterthur Swiss Ins. Co.*, failure to comply with federal rules for brief and appendix not only led to the dismissal of the appeal, but the court suggested that counsel should be liable for malpractice for the brief that was egregiously noncompliant with court rules. The court stated, at 408: “We note with extreme melancholy that this case is not an isolated example.”

Courts are reluctant to strike briefs and dismiss appeals, because it is a harsh penalty on a client. *In re Estate of DeMarzo*, 2015 IL. App. (1st) 141766, 39 N. E. 3d 255.

Other actions are taken by courts – striking portions of a brief, resolving doubts against the appellant, declining to consider paragraphs in the statement of facts without record citations. *Hawkins v. Harney*, 2003 MT 58, 66 P.3d 305; *Doppes v. Bentley Motors, Inc.* 94 Cal Rptr. 3d 802 (Ct. App. 2009).

Citing to unpublished authority and failing to provide a copy of the opinion with the brief led to the court’s declining to consider these arguments. *Condon v. Condon*, 288 O,3d 86 (Wash. 2013).

3 ARTICLES TO HELP YOUR KIDS – SUNDAY DENVER POST, OCTOBER 9, 2016 – BUSINESS SECTION -

Page 6K - Jill Schlesinger, “File FAFSA – Don’t Leave Money on the Table” - Free Application for Federal Student Aid – FAFSA – high school students left \$2.7 billion unused in possible federal college funds – you can now start to apply 3 months earlier, on October 1st – it is used to determine how much students may receive in loans, grants, and scholarships – the IRS has created a way to send your tax information seamlessly to the Department of Education. The process is easier –the IRS Data Retrieval Tool automatically fills in the online FAFSA form with the necessary tax information.

Submit the data, even if you don’t think you will qualify. “Contrary to popular belief, there is no income cut-off when it comes to federal student aid.” Do it as *early* as possible after October 1st. (The 2017-2018 deadline is June 30, 2018, but colleges, states, and the federal government have their own guidelines.)

Your situation may change. You can file your FAFSA as long as you list at least one school. Add every school you’re considering, even if you haven’t applied or been accepted yet. You can add or delete schools them from your FAFSA later.

Page 7K – Steve Rosen, “Legal Insurance Can Help Get Your Kids Out of a Jam” – premiums are typically less than \$20 a month and carry a deductible of about \$250. Is the benefit worth the cost? Do the math; factor in the deductible.

Page 7K - Kimberly Lankford, “How to Open an ABLE Account” – federal law permitting ABLE accounts was passed in 2014, but states are taking their time developing their plans. See an updated list of states offering plans, as well as updates on the status of plans in development at the ABLE National Resource Center, www.ablenrc.org.

“People of any age who developed a qualifying disability before age 26 can be open an ABLE account and contribute up to \$14,000 per year. The money can be used tax-free for an expenses that can benefit the person with the disability, which could include the cost of a home modification, transportation, a special wheelchair that isn’t covered by Medicaid, and even therapeutic horseback riding. “There are different state investment options and extra perks.

“Feeling AWE May Be the Secret to Health and Happiness” – Parade Magazine, Sunday, October 9, 2016, pages 6-8 – it is the feeling of being in the presence of something vast or beyond human scale, that transcends our current understanding of things. It differs from the “big six emotions” (happiness, sadness, fear, anger, disgust, surprise) and the five emotions featured in the movie “Inside Out” (anger, joy, disgust, sadness, fear). It trips our “stop-and-think” rather than

our “fight-or-flight” response. We are nicer, happier, more generous, ethical, and fair. “Awe is the positive emotion that most strongly produces reduced levels of cytokines, a marker of inflammation that’s linked to depression.”

COLORADO LAWYER, SEPTEMBER, 2016

Page 31 – Ethics – Formal Opinion 128: Ethical Duties of Lawyer Who Cannot Contact Client, Approved October 17, 1-2015

Page 36 – Ethics – New Ethics Opinion 101: Unbundling Limited Scope Representation Approved May 31, 2016

Page 45 – Lindsay J. Miller, “‘Columbine’ and Colorado Records Act”

Page 51 – Victoria L. Otero, “Transgender Discrimination Law: Developments under Colorado and Federal Law”

Page 81 – John T. Baker and J. Ryann Peyton, “Colorado’s Trial Attorney Mentoring for the Next Generation of Lawyers”

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Page 19 – Christopher B. Mueller, Ronald J. Hedges, and Lino S. Lipinsky, “Colorado Rule of Evidence 502: Preserving Privilege and Work-Product Protection in Discovery”

Page 43 – Kevin D. Millard, “Estate Planning and Administration in Colorado after *Baker v. Wood, Ris & Hames, PC*”

Page 55 – William Hood and Dan Cordova, “The Colorado Equal Access Center: Connecting Unrepresented Litigants to Legal Resources in Technology”

CBA C-brief, 10/13/2016 –

Complimentary Webinar – Tuesday 10/25/2016 – “Using Excel and Windows Hyperlinks for Document Review”

New – Chief Justice Directive 16-03, 09/30/2016 – “Regarding the Retention, Viewing, and Transmission of Sensitive Records (sexually exploitive materials)”

MEDICARE PLAN OVERHAULS HOW IT PAYS DOCTORS AND CLINICIANS

AP, The Denver Post, Sat., 10/15/2016, page 18A – The complex regulation released Friday, 10/14/2016, is nearly 2,400 pages long. The Medicare Access and CHIP Reauthorization Act, or MACRA, will carry out legislation passed and signed in 2015, will take years to implement fully, and creates two new payment systems, or tracks, for clinicians.

LONG-TERM CARE POLICIES HAVE BECOME VERY EXPENSIVE

AARP Bulletin, October, 2016, page 22 - Jane Bryant Quinn, “Plan Ahead for Long-Term Care” - Median costs run \$6,844 a month in nursing homes, \$3,628 in assisted living facilities, and \$3,861 for full-time professional care at home. Most people run out of money and rely on children, Medicaid, or both, as their safety net.

In the past 10 years, sales of LTC policies fell 60% as premiums rose 44.5%. A married couple 60 years old pays \$2,600 to \$5,600 per year. Many do without. It's less important for single people. Single women are charged about 50% more than men for LTC insurance. Consider leaner policies. Don't skip the automatic inflation adjustment, even though it's pricey.

PATENTS

AARP Bulletin, October, 2016, page 26 – Kimberly Palmer, “How to Patent Your Million-Dollar Idea”

BOOK CLUB PROMOTES FINANCIAL SMARTS FOR KIDS

Denver Post, Sunday, October 16, 2016, Business, page 7K – Steve Rosen, “This Book Club Promotes Financial Smarts” – the Consumer Financial Protection Bureau began efforts to promote financial education and teach kids about money.

“The “Money as You Grow” book club aims to provide parents and teachers with a list of recommended books – and brief discussion guides – that can help children ages 4 to 10 pick up financial concepts and issues, such as goal-setting and exercising self-restraint at the toy store and saving money.” The book club plans to add a new book each month. It can be found at the bureau’s web page at consumerfinance.gov.

The first nine books include: “Alexander, Who Used to be Rich Last Sunday,” by Judith Viorst; “Just Shopping with Mom,” by Mercer Mayer; “Ox-Cart Man” by Donald Hall; and “The Berenstain Bears and Mama’s New Job.”

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