

**NOTICE OF MEETING FOR THE PROBATE TRIAL AND PROCEDURE  
COMMITTEE OF THE TRUST AND ESTATE SECTION AND ELDER LAW SECTION  
OF THE COLORADO BAR ASSOCIATION**

**October 7, 2020 at 10 a.m.**

<https://cba-cle.zoom.us/j/91827848116?pwd=VEFQRms3VHYyaFpXSDJmN1ROcVp0UT09>

Meeting ID: 918 2784 8116

Passcode: 620136

Call-in: 1 (312) 626 6799

Meeting ID: 918 2784 8116

Find your local number: <https://cba-cle.zoom.us/u/aiYe3oM0k>

**AGENDA**

1. Welcome and Introductions
2. Review of Minutes from September 2, 2020/Approval
3. Chair's Report
  - a. Probate Bench Book – Kathy Seidel
4. New Business or Requests
5. Updates/Reports
  - a. CRPP Rule 40(d). Submitted to Supreme Court for approval? Marcie McMinimee
  - b. Cost Recovery and Compensation Act; C.R.S. § 15-10-604 re procedure and process. Marc Darling/Marcie McMinimee
  - c. Due process concerns re “exploitation list” maintained by Departments of Human Services. Kathy Seidel/Norv Brasch
  - d. C.R.S. §15-14-714(8) Powers of Attorney and agent’s duty to account. Marcie McMinimee
  - e. Conservator’s Annual Report - Tabled.
6. Adjournment

**NEXT MEETING: November 4, 2020 @ 10 a.m.**

**REMINDER: Join the Committee through CBA Membership Department – email [membership@cohar.org](mailto:membership@cohar.org)**

## **Probate Trial and Procedure Committee**

### **Minutes of the September 2, 2020 Meeting**

The Probate Trial and Procedure Committee met virtually on September 2, 2020. The meeting was called to order at approximately 10:05am.

The following members were present or participated by phone:

Lindsay Andrew – [Landrew@steenrodllaw.com](mailto:Landrew@steenrodllaw.com)

Norv Brasch – [norv@tealaw.com](mailto:norv@tealaw.com)

Lynne Bruzzese – [lynne@lbdurangolaw.com](mailto:lynne@lbdurangolaw.com)

Gary Clextton – [gclextton@m-s-lawyers.com](mailto:gclextton@m-s-lawyers.com)

Lisa Dunn - [Lisa@LotusFiduciaryGroup.com](mailto:Lisa@LotusFiduciaryGroup.com)

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Rikka M. Liska – [rikke@estate-planning-help.com](mailto:rikke@estate-planning-help.com)

Letty Maxfield – [letty@tealaw.com](mailto:letty@tealaw.com)

Marcie McMinimee – [mmcinimee@steenrodllaw.com](mailto:mmcinimee@steenrodllaw.com)

Sal Quintana – [s.quintana@qlegalservices.com](mailto:s.quintana@qlegalservices.com)

Tom Rodriguez – [Tom@elderlawcolorado.com](mailto:Tom@elderlawcolorado.com)

Catherine Seal – [cas@kirtlandseal.com](mailto:cas@kirtlandseal.com)

Sandra Sigler - [sandra@siglerlawco.com](mailto:sandra@siglerlawco.com)

Courtney Smith – [courtney@lotusfiduciarygroup.com](mailto:courtney@lotusfiduciarygroup.com)

Tamara Trujillo – [tamara@coloradoelderlaw.com](mailto:tamara@coloradoelderlaw.com)

Chelsea Ziegler – [chelsea@tealaw.com](mailto:chelsea@tealaw.com)

#### **1 Approval of Minutes of Prior Meeting**

The minutes of the August 5, 2020 meeting were approved.

#### **2 Chair's Report**

- a. Probate Bench Book – Project is moving forward. Still looking for a few more articles to be written. Several broad topic areas are complete or almost complete. Judge Leith has been responsive with edits and feedback.

#### **3 New Business or Requests**

None

#### 4 Updates/Reports

- a. Litigation Updates – In the Matter of Estate of Trevino – Appellate Court decision rendered.
- b. Conservator’s Annual Report – Tabled
- c. CRPP Rule 40(d) – Marcie McMinimee reported that she had forwarded to Connie Lind who in turn reported that it is underway with the Supreme Court Rules Committee.
- d. DHS/APS “substantiated perpetrator” list. Kathy Seidel reported that progress is being made on this issue. On August 17, a video conference was held with Andy White, Kris Zumalt, Spencer Crona, Norv and Kathy. We brought Andy up to speed on the issues involved, which really fall into three categories. The first is just getting a handle on the administrative procedures and discrepancies between administrative actions at the state and county level. The second is the experiences and concerns of many T&E and Elder law attorneys and their clients. The third is concern about training and experience of APS employees. As a result of this meeting Andy agreed to reach out to his contact at DHS. As follow up, Andy reported on 8/20 that “he had a positive conversation with Emily Hanson, at the state Department of Human Services. APS is willing and open to meeting with the CBA to discuss issues relating to a finding of a substantiated perpetrator, the appeals process at the state level, interface between a court finding and the CAPS system, how a finding of substantiated perpetrator is expunged, etc... Emily noted that DHS continues to work to improve transparency and clarity of their rules and procedures, particularly given the newness of the CAPS system. Andy and Emily discussed having a meeting later in September. APS indicated that they would appreciate an outline of the topics to be addressed so they have the right resources at a meeting. Emily also stressed that it would be helpful to hear from practitioners in the field how these systems work, or don’t. Kathy Seidel will follow up with interested persons to continue to move this forward.
- e. C.R.S. §15-14-714(8) re Powers of Attorney and Agent’s duty to report. Marcie McMinimee reported that she has changes drafted and will report back next month.
- f. Elective share of incapacitated surviving spouse. Zach Schlicting and Jody Pilmer. No report.
- g. Cost Recovery and Compensation Act. Marcie McMinimee reported that Marc Darling sent proposed modifications to the statute surrounding the issue of compensation for attorneys representing fiduciaries. Marcie had spoken to Judge Leith who opined that she thought the current statute is working well. Issues seem to be arising in the context of non T&E attorneys practicing in the T&E field who are not familiar with the statute. This led to a broader discussion at the meeting as to whether (1) there are enough specifics surrounding issues to be able to draft changes, and (2) whether there are enough significant issues with the current statute to open it

up to legislative review. Kathy Seidel to follow up with some practitioners who have expressed concerns at past meetings.

## **5 Adjournment**

The meeting adjourned at approximately 11:00 am.