

**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**

March 3, 2021 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

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AGENDA

1. Welcome and Introductions
2. Review of Minutes from February 3, 2021 - Approval
3. Chair's Report
 - a. Probate Bench Book – Kathy Seidel
 - b. Common Law Marriage cases – Update from CLE
 - i. In re Marriage of Hogsett & Neale, 2021 CO 1
 - ii. In re Estate of Yudkin, 2021 CO 2
 - iii. In re Marriage of LaFleur & Pyfer, 2021 CO 3
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 “substantiated perpetrator” list maintained by Departments of Human Services. Kathy Seidel/Norv Brasch
 - d. C.R.S. §§15-14-708(2) and 421(6)(a) Powers of Attorney when fiduciary appointed. Marcie McMinimee

- e. Virtual Court Proceedings. Norv Brasch
 - f. Conservator's Annual Report - Tabled.
6. Adjournment

NEXT MEETING: April 7, 2021 @ 10 a.m.

REMINDER: Join the Committee through CBA Membership Department – email membership@cobar.org

Probate Trial and Procedure Committee

Minutes of the February 3, 2021 Meeting

The Probate Trial and Procedure Committee met virtually on February 3, 2021. The meeting was called to order at approximately 10:00am.

The following members were present or participated by phone:

Lindsay Andrew – Landrew@steenrodllaw.com

Tim Bounds – bounds@evanscase.com

Norv Brasch – norv@tealaw.com

Diedre Braverman

Marco Chayet – marco@coloradoelderlaw.com

Gary Clexton – gclinton@m-s-lawyers.com

Spencer Crona – scrona@brownandcrona.com

Paige Hayes – phayes@m-s-lawyers.com

Keith Lapuyade – keith.lapuyade@overtontlawfirm.com

Marcie McMinimee – mmcinimee@steenrodllaw.com

Lettie Maxfield – letty@tealaw.com

Kayla Nelson – kayla@siglerlawco.com

Sal Quintana – s.quintana@qlegalservices.com

Patricia Rankin – prankin99@gmail.com

Tom Rodriguez – tom@elderlawcolorado.com

Tamara Trujillo – tamara@coloradoelderlaw.com

Sandra Sigler - sandra@siglerlawco.com

Chelsea Ziegler – chelsea@tealaw.com

1 Approval of Minutes of Prior Meeting

The minutes of the January 6, 2021 meeting were approved.

2 Chair's Report

- a. Probate Bench Book – Project continues to move forward slowly. Justice Boatright is keenly interested in a finished product. Recent case law, such as Rabin, and new statutory provisions, such as E-Will legislation, will need to be added to the materials. This project will need to be updated annually.
- b. Three recent CO Supreme Court cases regarding common law marriage were reviewed and discussed. In re Marriage of Hogsett & Neale, 2021 CO 1; In re Estate of Yudkin; 2021 CO 2; In re Marriage of La Fleur & Pyfer; 2021 CO 3.

3 New Business or Requests

- a. Question whether PT&P has separate diversity policy from CBA. We do not have any formal, written policy regarding diversity and inclusion. We abide by the CBA policy.

4 Updates/Reports

- a. CRPP Rule 40(d). No change from last month's report from Marci McMinimee.
- b. Cost Recovery and Compensation Act. The Committee is not currently meeting, however, Marci McMinimee asked that anyone having input on this matter contact her or Marc Darling. They are focusing on issues surrounding fee objections as some practitioners submit very generalized fee objections. Contemplated changes to the statute would require the identification of specific fee entries being objected to.
- c. DHS/APS "substantiated perpetrator" list. Kathy Seidel reported that they are hoping to set up another meeting with representatives of DPS, in order to present CBA member concerns with the APS process.
- d. C.R.S. §§ 15-14-708(2) and 15-14-421(6)(a) re Powers of Attorney. Proposed changes were approved by SRC and T&E Council in December. They were also approved by Elder Law Council at their January meeting. The proposed statutory changes were forwarded to LPC.
- e. Virtual Court Proceedings. The case of People in the Interest of RJB, a dependency and neglect case in which a hearing was conducted virtually via Webex, was discussed. The parental rights of the juvenile's mother were terminated. She appealed, objecting on the grounds that her due process rights were violated due to the virtual nature of the hearing. The court disagreed. An appeal solely on the basis of the virtual nature of the hearing does not automatically violate due process. The court talked at length about all procedures taken to ensure that the virtual platform worked. Norv Brasch has been in touch with Justice Gabriel. Lettie Maxfield reported that she had submitted a memo regarding pandemic protocol and due process concerns in protective proceedings to the State Court Administrator's Office. Lettie was of the opinion that no one from SAO would be following up on these issues. Sal Quintana and Sandra Sigler also weighed in with concerns re virtual proceedings. Even after COVID passes, virtual proceedings will continue and there will be a need for standards and protocols.
- f. Conservator's Annual Report – Tabled.

5 Adjournment

The meeting adjourned at approximately 11:05 am.

