



BOULDER COUNTY BAR ONLINE NEWSLETTER

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F E B R U A R Y 2 0 0 2

COLLABORATIVE LAW BRINGS MAGIC INTO THE PRACTICE

By Kathleen Franco

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With the September 11th situation, people see how crisis, chaos, loss and pain can quickly turn into revenge and war. Our instincts to survive based on separatism and exploitation have served us for a long time. How do we behave now; what actions do we support? These are difficult questions. Many people in the throws of a litigious divorce face similar questions. The need is for divorce lawyers and their clients is to embrace an approach other than the adversarial model. At the heart of the collaborative approach is a recognition of the needs we all have in common.

This article expresses the writer's understanding and views of Collaborative Family Law based on training conducted by Pauline Tessler in Denver.¹

Collaborative Law is appealing because it allows lawyers to practice their profession in a positive way. The shift in focus allows us and our clients to act in line with our values. Bringing people together in agreement, we experience joy and fulfillment in our work. Is it easy? No. It requires emptying out the old attitudes and behaviors shaped by the adversarial model. It also requires us to learn new skills that not only enhance our ability to collaborate but also our ability to enjoy our lives. This article will provide a brief discussion of the collaborative model as an alternative to the adversarial approach to family law, the lawyer's new role based on an old oath, why the process will dramatically increase client and lawyer satisfaction and some steps on the journey should you choose to take it.

Please join us for
**Magistrate Ed Kingery's
Farewell Party**
Friday February 22, 2002 at 4 PM
at Hutchinson, Black & Cook, LLC
921 Walnut Street, Suite 200

Call 303.440.4758 for reservations!

In short, the collaborative law process involves two lawyers acting to fulfill the non-adversarial objectives of their respective clients. After examining the ADR options available, a client choosing the collaborative model commits up front, in a written stipulation, to the principles of collaborative law. The agreement binds them to a team

(continued on page 3)

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1	2
3	4	5	6 Family Law	7	8	9
10	11	12	13 Crim. Nat. Res.	14 Emp/ ADR Bus/CTLA	15	16
17	18	19	20 Family Law	21 Wine Tasting	22 Magistrate Kingery's Fare- well Party	23 Mock Trials
24	25	26	27	28		

MEMBERSHIP BENEFITS

Justice Center ID Card

Our Bar issues a picture ID card for its members, which allows access into the Justice Center "Frisk-Free" (this means no standing in line, no searches, and no X-rays). The ID's are available for \$25 the first time and can be renewed for \$10 each year.

To obtain an original ID send a check for \$25 to the Bar office along with a small passport type photo and a photocopy of your current, valid, Colorado Supreme Court issued Attorney Registration Card. We will laminate it with a current year sticker.

To renew your ID just send a check for \$10 to the Bar office indicating that it is for a renewal. We'll send you a sticker for the next year. Justice Center ID's are for attorneys only, not paralegals or other staff.

Advertising

Members receive discounted advertising rates for Classified Ads and Announcements in the monthly newsletter. Non-member rates are an additional \$10.
\$20 up to 30 words
\$30 up to 40 words

\$40 up to 70 words

\$50 up to 100 words

All deadlines are the 10th of the month or the next business day if on a weekend. Fax or mail a copy of your ad to the Bar office. Payments are due with ad; we do not bill.

Legal Directory

All members receive a free "Legal Directory" which lists Boulder County Bar members. Additional copies are sold for \$10. The 2001 Legal Directory is on the website in the Members Only Section.

Mentor/Mentee Program

The goal of the Mentoring Project is to provide support for new admittees to the practice of law and to acquaint them at an early stage with the highest level of professionalism and ethics and familiarize themselves with the Boulder legal community. Mentees must have been in practice for less than three years. Mentees are required to have passed the Colorado Bar and maintain an appropriate level of malpractice insurance. Anyone wishing to be a mentor should contact the Bar office. Anyone who wishes to be assigned to a mentor should contact

the Bar office and request a "Mentee Application."

Mailing Lists/Labels

The current Bar Association list is available to members for \$50 and non-members for \$75. Mailing labels for members cost \$100 and non-members \$150. Section lists are available free to members and section labels for \$40. For non-members section lists cost \$20 and labels \$60. BCBA membership lists are sold for primarily legal educational purposes that will benefit the BCBA membership. They will not be sold for political, fundraising, or business generation purposes.

Web Page

We are online at <http://www.boulder-bar.org>. The website now has a Members Only Section with Court opinions and continues to grow for your membership benefit. You can be listed in the "Find A Lawyer" Section in your speciality area. Call the bar office to sign up.

COLLABORATIVE LAW *(continued from page 1)*

approach to engage in genuine, honest disclosures and creative problem solving to come to agreement meeting everyone's real needs. The unique feature of the stipulation is the parties' mutual agreement that litigation and adversarial tactics are not in their best interests. If either party decides to resort to the court for resolution of the dispute, both attorneys are automatically disqualified from further representation of either party. Likewise, any experts retained jointly as part of the collaborative team are disqualified.²

Contrasted with the adversarial model, the collaborative model acknowledges several realities of divorce. Divorce is one of the most destabilizing experiences in life. It is normal for the divorce client to feel confused, even gripped by powerful primitive negative emotions like fear and rage. It is likely the client will not make his or her best life-changing decisions when possessed by these emotions. Most divorce clients do not seek counseling but rely on their attorneys for guidance. Most divorce clients call their attorneys when their emotions are running high

rather than when things are going fine. Taking marching orders from the "possessed client" often leads to a catastrophic impact on the parties and their children, a result the clients are poorly informed of in advance.

The role of the lawyer in the collaborative model precludes championing a client's cause as the victim or the one wronged. Finding someone to blame and seeking retribution are not the goal. Thankfully, the client is not allowed to put his or her attorney in the position of a gladiator in order to torture the other spouse. The lawyer is retained in service of the client's highest values and interests. Helping the client navigate the legal process in keeping with these values results in greatly reduced emotional and financial repercussions to the client and family.

This does not mean that the lawyer avoids discussing with the client his or her story of loss and pain, hatred or blame. The lawyer discusses the problem openly with the client before any

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BOULDER COUNTY IMPLEMENTS SIMPLIFIED DISSOLUTION PROCESS

By Judge Lael Montgomery, District Court Judge,
and Norma Sierra, Family Court Facilitator

The 20th Judicial District will implement the Simplified Dissolution Process previously piloted in a number of judicial districts throughout the state. Beginning March 1, 2002, all new domestic relations cases assigned to Division 1 will enter the simplified dissolution process.

The process will be characterized by early judicial intervention. Specifics will be further discussed at the Family Law Section's special meeting to discuss the process. The noon brown bag lunch is scheduled for Wednesday, February 6, in Courtroom H at the Boulder County Justice Center.

Key characteristics of simplified dissolution

The clerk's office will mail a case management order to all parties and counsel in domestic relations cases assigned to Division 1 and filed on or after February 1, 2002. This case management order will provide information on the process and order a parenting seminar, if applicable. Key points in the case management order are:

1. Parties or counsel shall set an initial conference with the judge or court facilitator. This informal conference shall take place within 30 days of filing of the petition. The initial conference is

an opportunity for the parties or counsel to outline the disputed issues and identify areas where there are no disputes, determine if temporary orders are necessary, set any necessary status conferences with the court facilitator and set a permanent orders hearing date. The court will develop a strategy and process with the parties and counsel designed to bring resolution to the case in the most expeditious and cost-effective manner. Agreements may be placed on the record at any point, including any stipulations by the parties prior to or during the initial conference. If parties or counsel do not agree to have the case processed through simplified dissolution, this conference is their opportunity to request a traditional approach.

2. No motions shall be filed unless authorized by the judge. Parties and counsel shall contact the court facilitator to discuss motion issues.

3. Parties shall exchange initial disclosures as required by C.R.C.P. Rule 26(a)(1). Formal discovery beyond the initial disclosures will be authorized only if requested.

4. There will be one expert per contested issue selected by the parties or appointed by the court, if necessary. Judge Montgomery anticipates using C.R.C.P. Rule 53 for many of these appointments, although a special advocate may also be appointed pursuant to the dissolution of marriage statute.

5. The judge may direct hearings on specific disputed issues of fact, particularly if a resolution of such an issue may assist in moving the case forward. Following the initial conference, status conferences may be scheduled with the judge or with court facilitator. This will

continued on page 12

IS YOUR LAW PRACTICE GROWING THE WAY YOU WANT IT TO?

**I've spent 20 years helping
professionals like you successfully
market and develop their businesses.**

I can help create the practice you desire!

**As one client will tell you,
"Within a short six months, Joan has helped me build a busy law
practice in the highly competitive Boulder market.
I would recommend her to any professional."
Boulder Attorney at Law**

**A Clear Marketing Strategy Can:
Help promote your law practice ethically
Bring a steady flow of clients
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www.jasmy marketing.com**

PRESIDENT'S PAGE

PRECIOUS GIFTS

BY BRUCE FEST

The telephone message reads, "Call Boulder Police." Odd, muses the lawyer. I handle no criminal cases, and the police are not involved in any of my tort cases. He calls the officer, who tells him: "Based on your wife's accusation and the investigation by Social Services and the police, you have sexually abused your four-year-old daughter. Give up your temporary visitation rights in your pending divorce case or we'll take you to court."

The divorce/custody trial is four months later. It starts before Christmas and ends on New Year's Eve. The mother frames the issue for the Court: The father has sexually abused their daughter and is an unfit parent. The District Attorney is watching the case to decide whether or not to file criminal charges. The county attorney sits through the trial, presumably considering a possible dependency and neglect action. The outcome of the trial also has serious implications for the father's license to practice law. And the father-daughter relationship hangs in the balance: Will the mother (a foreign national) be allowed to take the daughter out of the country? Will father and daughter be able to see each other? For the father-lawyer the trial is excruciating as he spins out all the potential personal, professional, family and legal consequences.

With all this at stake the father's civil rights seem mighty skimpy. He has the right to remain silent, but in a civil case the court is free to draw unfavorable inferences from that silence. He has no right to a jury trial in a divorce case. He can be "convicted" not by proof beyond a reasonable doubt, but

by a mere preponderance of the evidence. Unannounced and without warning or warrant, the police and Social Services can and do pull the little girl out of her school to interrogate her.

But the father does have an attorney and the right to due process. He has a first-rate attorney who confronts and cross-examines the witnesses against the father and presents the evidence under his basic civil and fundamental rights to due process. Without them the father is doomed. With them the father prevails. On January 4 the court rules that the abuse allegations are unfounded and awards custody of the four-year-old girl to the father. The father does not forget the precious gifts he received that Christmas: due process, civil rights and an attorney using those rights to protect him.

Nor should any of us forget these precious gifts. They come not just at Christmas but also at Passover, Ramadan, Kwanzaa, and to all believers and non-believers and on all holy and non-holy days. As Americans we should celebrate our heritage and civil liberties. They do not belong just to the "good" people. They belong to all of us.

Preserving these gifts is not always easy. If we do not answer that calling, our gifts will be taken away slowly and piece by piece. Then we lose not only due process, civil rights and justice but our privacy, security, family, jobs and freedom become at risk as well. So much is at stake.

Right now these precious gifts are being taken away. On the national

level, crisis and war are the excuse to detain hundreds without any charge or right to counsel and to truncate due process and civil rights in military tribunals. On the local level, our distinguished criminal defense bar is attacked for fighting for the civil rights of the accused in high profile cases. It is so easy to forget that these civil rights belong to every one of us; that not every accused is guilty. Without limits on government power, it will be abused at the cost of our freedom, privacy, family, security and jobs. Ask the father. He knows. He has not forgotten.

We are all in debt to our criminal defense bar and the civil rights lawyers who fight for the rights and freedoms vital to each of us. Our Public Defenders and the private criminal defense bar often labor under sometimes subtle, sometimes harsh but always constant criticism: These lawyers defend the guilty; they are unethical; they free people on technicalities; they are at the bottom of the legal profession and our society.

Nothing could be further from the truth. Defense lawyers are the best of our profession. The "technicalities" are our constitutional rights and freedoms. Some of their clients are guilty; some are not fairly charged. Many are ethnically, religiously, racially or socially different. And all are innocent and entitled to due process and civil rights until proven guilty.

The criminal defense bar is fighting the good fight. Their cause is essential to the preservation of a free society. They are fighting *our* fight. Ask the father. He knows.

CALENDAR OF EVENTS

Pre-registration is required for BCBA CLE luncheons. Please send a check to the Bar office at least 3 days in advance. BCBA CLE's cost \$12 per credit hour for members and \$18 for non-members unless otherwise noted. Young Lawyer Section Members pay only \$5 for CLE programs. Materials are \$5 without CLE credit.

February 6, 2001

Family Law Section Special Program

Topic: Boulder County Implements Simplified Dissolution Process
Presenter: Judge Lael Montgomery
Noon Brown Bag Lunch,
Boulder County Justice Center
Courtroom H
CLE \$12

February 13, 2002

Criminal Law Section

Topic: Line-Ups/Restitution
Presenter: George Coddling
Noon Brown Bag Lunch
Boulder Justice Center Courtroom E
CLE \$12

February 14, 2002

Employment Law & ADR Sections

Topic: Intra-Company Mediation
Presenter: TBA
Noon at Faegre & Benson (CBI)
Box Lunch \$10 (Turkey Veggie or Beef)
CLE \$12

Business Law & CTLA

Topic: Insurance Bad Faith
Speaker: Steven Taffet, Esq.
Noon-1:30 pm, Brown Bag Lunch
Boulder Justice Center
Courtroom E
CLE \$15

February 20, 2002

Family Law Section

Topic: A Primer on Trusts
What divorce lawyers need to know about trusts - the basics and beyond, with emphasis on marital property division issues.

Speaker: Shelly D. Merritt, J.D., C.P.A.,
Caplan and Earnest, LLC
Noon Brown Bag Lunch, Justice Center
Courtroom D CLE \$12

March 7, 2002

Natural Resources/Environmental Law Section

Topic: Brownfield Update
Presenter: TBA
Noon Brown Bag Lunch
Boulder Justice Center Courtroom TBA
CLE \$12

March 12, 2002

Employment Law Section

Topic: Same Sex Couple and Domestic Partner Benefits
Presenter: TBA
Noon at Faegre & Benson (CBI)
Box Lunch \$10 (Turkey, Veggie or Beef)
CLE \$12

March 13, 2002

Criminal Law Section

Topic: Polygraph
Presenter: TBA
Noon Brown Bag Lunch
Boulder Justice Center Courtroom C
CLE \$12

March 14, 2001

Business Law Section

Topic: Update of Colorado Law Affecting Business
Presenters: Marc Loewenstein
Noon at Dolan's in Boulder
Lunch \$13 CLE \$12

March 20, 2002

Family Law and ADR Sections

Topic: Collaborative Divorce Round II.
A further elaboration on the concept and a discussion of recent developments and related matters that divorce lawyers should know.
Speaker: Sheila Gutterman
Noon Brown Bag Lunch
Boulder Justice Center Courtroom D
CLE \$12

April 2002

ADR Section & CCMO of Boulder
5th Annual Dialog with the 20th Judicial District Judges - Civil Issues
Details to come

April 4, 2002

Natural Resources/Environmental Law Section
Topic: Takings Update
Presenter: TBA
Noon Brown Bag Lunch
Boulder Justice Center
Courtroom TBA CLE \$12

April 9, 2002

Employment Law Section
Topic: Mechanics of Colorado's Wage Statute
Presenter: Joel Maguire, Martin and Mahaffy, Noon at Faegre & Benson (formerly CBI) Box Lunch \$10 (Turkey, Veggie or Beef) CLE \$12

MOOT COURT JUDGES NEEDED

UNIVERSITY OF COLORADO SCHOOL OF LAW

Attorneys are needed on April 5 and 6 at CU Law School and on April 8 at US Court of Appeals in Denver to judge law students as they present oral arguments.

Please call Kari Bourg for more information and to volunteer. 303.735.4124 or kari.bourg@colorado.edu

CALENDAR OF EVENTS

2002 Denver Bar Foundation Barristers' Benefit Ball

"A Capital Evening"
April 27, 2002 - 6:30 pm
Hyatt Regency Tech Center
7800 E. Tufts Ave.
Denver

This annual event benefits Metro
Volunteer Lawyers and features
fine dining, dancing and raffle
prizes.

Send a check made payable to
Denver Bar Foundation, 1900
Grant Street Suite 900, Denver,
CO 80203-4336.

Call Dana Collier Smith at
303.824.5381 for details.

Patron Table of 10: \$2,500 or \$2,750*

Patron Ticket: \$250/person or \$275*

Individual: \$145/person or \$165*

Judges: \$100/person or \$120 Young*

Lawyers: \$90/person or \$100*

* Denotes price after February 1.

PROTECTING THE CHILDREN

OBVIOUS AND SUBTLE
SIGNS OF CHILD ABUSE
AND EXPLOITATION

FRIDAY, FEBRUARY 1, 2002

8 A.M. - 5 P.M.

Arvada Center for the Arts and
Humanities
6901 Wadsworth Blvd.
Arvada

This conference will address child abuse
and exploitation from a number of per-
spectives. There will be tracts for
professionals in law enforcement, law,
mental health, health care, education,
child protection and the community.
Go to www.boulder-bar.org Calendar of
Events for details and registration.

YOU WON'T WANT TO MISS THE 2ND ANNUAL LEGAL AID FOUNDATION WINE TASTING FUNDRAISER

All proceeds benefit the Legal Aid Foundation of Colorado

THURSDAY, FEBRUARY 21, 2002
CHAUTAUQUA DINING HALL
IN BOULDER

5:30 P.M.

\$50 PER PERSON

PROGRAM SPONSORS

LIQUOR MART

CHAUTAUQUA DINING HALL



**LAW FIRM SPONSORSHIPS ARE NEEDED
FOR TABLES AND VOLUNTEERS TO ASSIST
WITH THE FUN EVENT.**

**TICKETS WILL BE SOLD SEPARATELY
CALL THE BAR OFFICE TO VOLUNTEER
AND PURCHASE TICKETS
303.440.4758**

LAWYER ANNOUNCEMENTS

HUTCHINSON, BLACK and COOK, LLC

is pleased to announce that

KIMBERLY M. HULT

has become a Shareholder of the Firm

Her practice will continue to emphasize complex commercial litigation, intellectual property litigation and securities fraud litigation.

921 Walnut Street, Suite 200
Boulder, CO 80302

Phone 303-442-6514 Fax 303-4426593
Website: www.hbcboulder.com

BERG HILL GREENLEAF & RUSCITTI LLP

Attorneys and Counselors at Law
Are Pleased to Announce
Their New Location

1468 PEARL STREET, SUITE 200
BOULDER, CO 80302

TEL: 303.402.1600 FAX:
303.402.1601

And also that

**KATHLEEN MORGAN, IKE
KRASNIEWICZ**

and **KIM A. TOMEY**

Have joined the firm as associates.

The firm will continue to emphasize business disputes and other commercial litigation, technology law, bankruptcy, construction and surety law, business entity formation, real estate, water laws and estate planning.

STEVENS, LITTMAN & BIDDISON, LLC

ATTORNEYS AT LAW

is pleased to welcome

BURTON H. LEVIN

formerly Avon Town Attorney
as the newest attorney with the firm and
to announce its name change to

STEVENS, LITTMAN, BIDDISON & THARP, LLC

Stevens, Littman, Biddison & Tharp is a full service law firm with offices in Boulder and Vail, Colorado. SLBT practices in the areas of domestic relations, family law, personal injury, contracts, real estate, land use, zoning, wills and trusts, probate and criminal and civil litigation.

Boulder Office 250 Arapahoe Suite 301 Boulder, CO 80302 Tel: 303.443.6690 Fax: 303.449.9349 littman@slb-llc.com	Vail Office Crossroads 141 E. Meadow Drive E101B Vail, CO 81657 Tel: 970.479.9989 Fax: 970.477.0850 blevin@slb-llc.com
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Boulder County Bar Association Members are Needed to be Mentors to CU Law Students

A new program at the University of Colorado School of Law seeks attorneys to share their perspective with law students on career paths, academic preparation and life experiences.

Opportunities require only a one-time meeting such as job shadowing or an informal discussion and can thereafter be as limited or extensive as participants choose.

Please call the bar offices to volunteer to mentor a law student. There are many interested students and we need your help.

303.440.4758

Call Christine if you have any questions.

LAWYERS ANNOUNCEMENTS

THE BOULDER COUNTY BAR ASSOCIATION IS SEEKING NOMINATIONS AND/OR LETTERS OF INTEREST FOR POSITIONS ON THE BOARD OF DIRECTORS FOR 2002. BOARD POSITIONS ARE FOR A THREE-YEAR TERM. THE POSITION OF SECRETARY/TREASURER IS ALSO AVAILABLE.

THIS POSITION ON THE EXECUTIVE BOARD MOVES TO PRESIDENT OF THE BOARD IN 2004-2005.

PLEASE CONTACT CHRISTINE AT THE BAR OFFICES WITH QUESTIONS REGARDING THE POSITIONS. 303.440.4758

NOMINATIONS AND LETTERS ARE DUE IN MARCH AND FINAL DECISIONS ARE MADE IN APRIL



MARK YOUR CALENDARS!!

THE BOULDER COUNTY BAR ASSOCIATION ANNUAL MEETING / RECEPTION WILL BE HELD AT THE BOULDER MUSEUM OF CONTEMPORARY ART

THURSDAY, JUNE 6

5-7 PM

COCKTAILS AND HORS D'OUVRES
DETAILS TO COME
\$15 PER PERSON

THE AWARD OF MERIT AND YOUNG LAWYER OF THE YEAR AWARD ARE PRESENTED AT THE ANNUAL MEETING.
PLEASE SEND YOUR
NOMINATIONS TO THE BAR OFFICES.

NEW DOMESTIC RELATIONS CASE MANAGEMENT

Effective March 1, 2002, the Boulder District Court will adopt new case management procedures to better serve families involved in domestic relations cases. The goal of these new procedures is to ensure that by the 91st day after the filing of a petition for dissolution of marriage or legal separation, there must either be a decree of dissolution entered or the case must be set for permanent orders.

In practice, counsel may file required documents at any point as they become available in non-contested cases, so that a case not involving children is ready for review and entry of Decree on the 91st day. In non-contested cases involving children, documents should still be filed at least three weeks before the hearing to allow the magistrate or family court facilitator an opportunity to review the documents. In these cases, a non-contested hearing may be scheduled at the time of filing if the parties are petitioner and co-petitioner and they have completed all their documents when they appear to file the petition.

If a case reaches its 91st day and is neither finalized nor set for permanent orders, a dismissal notice will issue. Counsel are reminded that a support order should be provided to the court in all cases involving child support and/or spousal maintenance.

A case management order will be mailed to both parties in every case. It is anticipated that adoption of these procedures will minimize ongoing conflict for families whose cases can be resolved expeditiously and may also reduce the associated costs. Additionally, they will also help the 20th Judicial District comply with a Colorado Supreme Court directive which mandates that a decree of dissolution or separation enter within six months of filing. For additional information, you may contact Debbie Crosser, Clerk of Court, at 303.441.3766, or Norma Sierra, Family Court Facilitator, at 303.441.1717.

**2002 Boulder County Bar Association
Legal Membership Directory Update Form
DEADLINE IS MARCH 22, 2002**

The BCBA will be updating the Membership Directory. If you would like to be listed, please complete the form below and return it via fax to (303) 402-6958 or via mail to the Bar office at 1942 Broadway, #205, Boulder, 80302. Anticipated publication date is April 2002.

Last Name _____ First Name _____ M.I. _____

Firm or Business Name _____

Please list us in the firm section _____

Address _____

Mailing Address _____

Phone _____ Fax _____ E mail _____

SPECIALTY AREA LISTINGS

If you would like to be listed in a specialty area of practice, the charge will be \$25 for EACH listing.
Please use the list below when choosing where you would like to be listed in the Directory.

- | | | |
|--------------------------------------|---|---------------------------------|
| Accidents-Personal Injury/Property | Entertainment & the Arts | Ski Law |
| Administrative & Governmental | Environmental | Social Security |
| Agricultural-Ranch/Farm | Estate Planning - Wills, Trusts & Probate | Sports Law |
| Alternative Dispute Resolution | Finance | Taxation |
| Antitrust | General Practice | Traffic |
| Aviation | Immigration Law | Unemployment Compensation |
| Banking | Intellectual Properties | Water Law |
| Bankruptcy | International Trade & Business Law | Worker's Compensation |
| Civil Litigation | Juvenile Law | Zoning/City Planning - Land Use |
| Civil Rights | Labor Law | |
| Commercial Litigation | Landlord & Tenant | |
| Computer Law | Mental Health | |
| Constitutional | Natural Resources | |
| Construction Law | Product Liability | |
| Consumer | Radio & communication | |
| Corporation, Partnerships & Business | Real Estate | |
| Criminal Law | Real Estate Joint Ventures | |
| Divorce/Family Law | Real Estate Litigation | |
| Education Law | Registered Patent Attorneys | |
| Elder Law | School Law | |
| Employment Law | Securities | |

1. _____ 2. _____ 3. _____

Please list me in the Directory in the above specialty areas. My check for \$_____ is enclosed.

PRO BONO PAGE

Twenty cases were referred in the month of December. Thank you to the following attorneys.

Bruce Joss
Joseph French
Alan Friedberg
Melody Fuller
Juliet Gilbert
Don Goulart
Kevin McDowell
Gary Merenstein
Michael Morphey
David Olivas
Brad Peterson
Andrew Spiegel
Wendy Stevens
Ralph Strebel
Scott Tippett
Louisa Young

Pro Se Program volunteers:

Ann Mygatt
Bev Nelson
Patty Roberts
Georgiana Scott

Boulder County AIDS Project:

Thank you to the following attorneys who accepted pro bono referrals for the Boulder County AIDS Project

during the month of December:

Dawn Anderson
Paul Bierbaum
Kurt Hofgard
Barbara Lavender

Pro Bono Corner:

BCLS had several emergency evictions over the holidays. Thank you to the attorneys who responded to those cases with 24 hours notice!

Update on LACH - Legal Advice Clinic for the Homeless. Thanks to Alex Garlin and Slade Spillman, co-coordinators of the LACH and Bill Benjamin, Eric Butler and Peter Rogers who alternate volunteering on Wednesday nights. CU law students also volunteer at the clinic. The clinic now has a set of 2000 CRS thanks to a donation from Banashek & Talkington. There are about 4 to 5 clients who are helped at the clinic each week. Most of the them need assistance with criminal, employment and family matters. Without exception, each client is extremely grateful to the bar members for being available to help them. By our bar members volunteering the residents of the

shelter feel less disenfranchised and isolated from the legal system. Thank you to all. More volunteers are always needed.

**Boulder County Bar Association
Members Rock !**

The Boulder County Bar Association recently awarded a generous grant to Boulder County Legal Services from the proceeds of its fundraiser, "Rock Around the Block."

Thanks to all you hoopers (hula), warblers (karaoke) and sponsors for making the September Rock Around the Block fundraiser a smashing success. Your financial support and participation helped Boulder County Legal Services offer quality legal services to Boulder County's low-income community members. Many thanks to the sponsors of this fun event: Garlin Driscoll & Murray, Johnson & Johnson, Lamm, Nathan & Butler, Ridgway Romeo & Vincent, Cooper Tanis & McBain, Rautenstrauss & Joss and Heritage Bank.

**BCBA Professionalism
Committee
On-call Schedule**

Feb. 6 Christie Coates 443-8524

Feb. 13 Steve Meyrich 440-8238

Feb. 20 Chuck Saxton 776-6911

Feb. 27 Trip DeMuth 546-1375

COLORADO LAWYERS FOR THE ARTS

THE ARTS & HUMANITIES ASSEMBLY OF BOULDER COUNTY AND
THE BOULDER COUNTY BAR ASSOCIATION
PRESENT

THE BUSINESS OF ART CONFERENCE Saturday, February 23, 2002 • 8:30 A.M. - 4:30 P.M.

The University of Colorado School of Law
Fleming Law Building, Room 157 in Boulder
(7 hours of CLE credit are expected)

Anastasia Volkonsky, Colorado Lawyers for the Arts, Denver

"Debunking Copyright Myths"

Christopher Beall, Attorney at Law, The Finberg Law Firm, PC, Boulder

"Business Formation 101-Profit and Nonprofit"

Sarah Bayko, Attorney at Law, The Finberg Law Firm, PC, Boulder

Lunch (on your own)

"Living with the Muse" (a video and discussion on how to make a living with your art) Beth Rypkema, Denver

"Negotiating and Writing Better Contracts" Susan Andre, Attorney at Law, Boulder

*Two individuals from an arts organization may attend for one registration fee.

Make checks payable to Colorado Lawyers for the Arts, P.O. Box 48148, Denver, CO 80204. For more information contact COLA at (303) 722-7994.

COLA is the only organization in Colorado dedicated to providing pro bono legal services to artists and arts organizations. COLA has more than 170 attorneys on the referral panel. COLA sponsors educational programs on a wide variety of arts-related issues and provides a speakers bureau, an art law resource library and an Arts Mediation Service.

Registration fees:	COLA / AHAB member	Non-member
Artist	\$25	\$35
Arts Organization*	\$30	\$40
Arts Supplier	\$40	\$50
Attorney	\$50	\$60

SIMPLIFIED DISSOLUTION PROCESS *(continued from page 4)*

often be a telephone conference to follow the progress of the case and address issues that might arise.

History of Simplified Dissolution in Colorado

The pilot for simplified dissolution started in Denver in January 2000, and other districts soon followed. The focus of the project is two-fold: 1) court case management and 2) access to the judge or court facilitator both initially and continuing through the case, resolving issues in a timely and cost effective manner. Another goal is to have parties can take greater responsibility for resolution of their own disputes.

Parties will be directed to third-party resources as necessary to assist them.

Judicial districts with experience in simplified dissolution report positive results resolving conflict more quickly, cheaply and simply, keeping responsibility for decision-making in the family and establishing an expectation of cooperative dissolution and responsible parenting during and after dissolution.

Simplified dissolution is authorized by a Chief Justice Order which suspends Rules 16.2 and 26.2 of the Rules of Civil Procedure for cases assigned to the project. This process will be used for all Division 1 cases, both simple and complex, with or without attorneys.

Feedback

Your continuing feedback will be appreciated and is necessary to the ongoing development of this project in other divisions in our district. Additional brown bags will be scheduled during the course of the year to collect input from practitioners. The hope is that this process will improve the experience of families and children in our Court.

COLLABORATIVE LAW (continued from page 3)

issue is brought to the settlement table. Incorrect behavior is not overlooked, and all participants are required to live up to their stated intentions. Experienced divorce lawyers explain that, in holding onto the past or a personal claim to what was lost, the client assumes the identity of a victim.

The first task of the collaborative lawyer is to help the client identify his or her true needs. Listening empathetically to the client's legitimate feelings without the filter of legal relevance creates an opening in the client's mind for the lawyers' reflections. This is when genuine human connection can take place between lawyer and client as stories are shared. Clients are asked to remember their commitment to separate their true needs from any desire for revenge or to punish the other spouse.

The collaborative process proceeds via a series of four-way settlement conferences preceded by meetings between each party and his or her attorney and followed by debriefings between the lawyers to gauge the success of each meeting. Honesty, candor, thinking out loud and "outside of the box," use of the signed stipulation and interest-based bargaining are some of the conflict management tools used.

Does taking the high road, not fueled by unrelenting fury, weaken the will to respond appropriately to the situation? On the contrary, the ability to think clearly and see the big picture is what assures a successful outcome. This is precisely why the lawyer's role in the collaborative model is so vital. Part of that role

is to know and embody the expectations of our society about divorce, helping to guide the client to a positive outcome. The message the client's children learn from their parents' collaborative divorce is also positive.

Experienced divorce attorneys may think this is nothing new: "I already do this."

IS COLLABORATIVE LAW A NEW CONCEPT?

"Lawyers, as guardians of the law, play a vital role in the preservation of society. . . . The continued existence of a free and democratic society depends upon recognition of the concept that justice is based on the rule of law **grounded in respect for the dignity of the individual and each person's capacity through reason for enlightened self government.**" (Preamble, Colorado Rules of Professional Conduct)

Quite obviously the courthouse was never meant to replace the individual's own right to self government. Thus, the lawyer's sworn obligations are to society and the law, as well as to the client, to work for the general good. The safeguards of the collaborative model enable the lawyer to live up to this oath.

Similarly, that the lawyer is considered to be the repository of the cultural values of society or the public good is also nothing new. The law is one of the three traditionally recognized professions: in primitive human societies, the three professions of clergy, law and medicine were united in one individual. These three professions all serve the needs of others, involve a public oath and possess a

"world view" which defines the individual in relation to self, others and the divine.³ As such, the lawyer is seen as embodying the values of society.

IS OUR CONCEPT OF OUR ROLE IN THE ADVERSARIAL MODEL PROBLEMS?

According to Tessler, \$3 billion a year are spent on family law attorney fees and nobody is happy. Trends in pro se filings are increasing. Sixty percent of all divorce filings in California are pro se and half of those filing pro se can well afford a lawyer. Fifty percent of all divorce filings last year in Boulder were pro se according to figures presented by Norma Sierra, Family Court Facilitator of the Boulder County District Court.

On top of this, practically every professionalism seminar we attend these days cites numerous articles and readership surveys that point overwhelmingly to major career dissatisfaction among lawyers. "Society as a whole finds lawyers in contempt, somewhere beneath politicians (all of whom are presumed to be lawyers) and used-car salesmen in credibility. They are seen as "hired guns" whose moral fiber is determined by who pays the most. . . . Society despises lawyers, clients despise lawyers, but most telling of all, lawyers despise lawyers." ⁴

Personal, professional and systemic symptoms of the problem include high rates of alcoholism, drug abuse and divorce among lawyers. Many lawyers drop out of the profession altogether. Lawyers' perceptions of each other are characterized

continued on page 14

COLLABORATIVE FAMILY LAW (continued from page 13)

by words like greed, winning-at-all-costs, ruthlessness and cynicism. The public views the profession as governed by rules rather than values. What can we learn from the proliferation of lawyer jokes? ⁵

According to Tessler, we delude ourselves, "ignoring the unpleasant fact that what we do during the course of our representation may cause far more injury to the children than what led up to their parents' decision to divorce." The first thing that might cause clients to fear, distrust, and avoid family lawyers is that we are a great deal more adversarial in our thinking and behavior than our clients need or want. We over-litigate, exacerbating interfamilial stress when we could be calming it. As a result we charge our clients a high emotional and financial price that few can afford. We do this not because we wish to harm our clients or their families, but because we believe that is what we are supposed to do. . . . We have absorbed from movies and our law school educations a gladiator model for our professional role that is so deeply imbedded in our definition of what it means to be a lawyer that most of us do not even see it. It is the water in which we swim, the air we breathe, and consequently, we reconsider our automatic adversarial behavior just about as often as we remind ourselves to breathe." ⁶

COLLABORATIVE FAMILY LAW'S RESPONSE TO THE PROBLEM

Collaborative family law began with one lawyer wanting a healthier and happier professional life. Stuart G. Webb of Minneapolis founded the practice in the early 90's. ⁷ His efforts, together with Pauline Tessler's and others, have resulted in an alternative dispute resolution model that ensures Webb's desire. Until now, this model has not been used in Colorado. ⁸

Our growth as lawyers and as leaders always seems to come from our growth as individuals. It is necessary for us to

truly appreciate that the position of influence we hold affects the lives of countless people. We can use the same doggedness with which we have approached the adversarial model to rise to the demands of our time. Some of the steps suggested by Tessler to become a collaborative lawyer are: a full mediation training, joining a practice group and examining our knee-jerk adversarial behavior. ⁹

THE MAGIC

There is no guarantee that any process-oriented approach will work its magic unless there is a clear commitment by both parties and their lawyers to that process. This model places the risk of failure (financial and otherwise) on all of the participants. Magic happens because there is no alternative to a negotiated outcome. The parties are committed to settling the case. They believe strongly that the certainty they may get in court is not justice but a last resort, a failure of their own "enlightened self-government." At the moment when failure looks imminent, usually someone jumps up to leave saying, "See you in court!" The collaborative model reduces the failure of settlement by reducing this behavior. The parties agreed at the outset not to give up control of the outcome of their lives to the court. The realization dawns, "To get my needs met I must meet the needs of my spouse!" This sudden flash of insight leads the parties to a solution.

The entire process empowers the clients by allowing them an active role in determining the result they will live with. The process often uncovers a client's hidden abilities to successfully navigate through difficulty.

CONCLUSION

The demand is that lawyers and their clients adopt the collaborative approach to dispute resolution. As lawyers we may expect to enjoy much success as we learn to let go of old methods and offer this constructive approach to more and more clients.

Kathleen Franco is co-chair of the Alternative Dispute Resolution section of the Boulder County Bar Association.

FOOTNOTES

1. Collaborative Law: A Training Program For Lawyers, by Pauline H. Tessler, Denver, CO., Nov. 3, 2001.
2. Pauline H. Tessler "Collaborative Law: Achieving Effective Resolution in Divorce Without Litigation" (Chicago II: American Bar Association, June 2001).
3. The Art of Law: A Workshop in Professionalism for Lawyers, Graham Thatcher, PhD. Professionalism Committee, Colorado Bar Association, 102nd Annual Convention, Sept. 8, 2000.
4. Id.
5. Id.
6. Tessler, "Collaborative Law: What It Is and Why Family Law Attorneys Need to Know About It" ABA Journal of Family Law, Vol. 13, 215-225 (1999).
7. See Gutterman "Collaborative Law-Part I" 30 Colorado Lawyer 57 (Nov. 2001)
8. The collaborative model is becoming a reality in Colorado through the compassionate and generous efforts of Sheila Gutterman and Pauline Tessler, Supra note 7.
9. Supra note 7. An umbrella organization has formed: Colorado Collaborative Family Law Professionals (CCFLP). A practice group of Boulder and Denver professionals is meeting regularly. For more information about this group, contact the author.

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