



BOULDER COUNTY BAR ONLINE NEWSLETTER

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J U L Y • A U G U S T 2 0 0 2

NEW BOULDER COUNTY COURT CIVIL PROCEDURES

By Judges John Stavely and David Archuleta

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BACKGROUND

In 2001, Chief Judge Roxanne Bailin enlisted the services of court management experts Maureen and Harvey Solomon to analyze the 20th Judicial District's case management and calendar control for County Court criminal cases. Judge Bailin formed a committee to review and make recommendations to reform procedures. The new procedures were adopted by the District and put in place effective January 2, 2002.

Shortly thereafter, on January 8th and 9th, 2002, the Boulder Judges held their annual retreat. One of the goals agreed upon was to review County Court civil procedures as well. Statistics show that approximately 96% of cases filed in

Boulder County are resolved short of trial. As you might expect, filings increase every year. When Judge Stavely was in private practice, he was often frustrated by the length of time it took to resolve a case, whether by settlement, mediation or trial. Based on his and others' experiences, and the foregoing discussion, it was decided to modify the system to create opportunities for earlier resolution or disposition of civil as well as criminal cases.

Debbie Crosser, Clerk of Court, Lea Snyder, Unit Supervisor, and Judge Stavely met to explore ways to improve case management and calendar control. A letter was sent to various plaintiffs' attorneys for their input. The genesis of the new procedures was in a review of case management methods used in the new criminal procedures, our internal meetings, and input from practicing attorneys.

NEW PROCEDURES

Historically, Boulder County Court civil returns are held on Wednesday after-

**NEW 20TH JUDICIAL DISTRICT SECURITY POLICY
BCBA JUSTICE CENTER ID CARDS WILL
NO LONGER BE VALID**

STORY ON PAGE 12

**FAMILY LAW NUTS AND BOLTS SERIES
BEGINNING SEPTEMBER 11, 2002**

DETAILS ON PAGE 6

(continued on page 3)

**Effective July 1, 2002
National Exchange Service Group (d/b/a Rocky Mountain Exchange Service)
is ceasing operations and is no longer accepting new clients.**

Accordingly, it is with great pleasure that

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COUNTY COURT CIVIL PROCEDURES *(continued from page 1)*

noons at 1:30 p.m. Many of the plaintiffs' attorneys practice in the greater Denver Metro area and are accustomed to being in Boulder on Wednesday afternoons. Therefore, if a defendant files an answer, a pretrial conference is scheduled approximately four weeks thereafter on Wednesday afternoon starting at 2:30 p.m. Holding a pretrial conference on the return date was discussed, but it was determined that this date would be too early to have effective discussions. *(Memorandum Order is on the bar's web site, boulder-bar.org in the What's New Section.)*

The pretrial conferences began in Boulder on March 13, and a number of cases have begun to settle at this stage. An example of how these cases can easily be resolved is when a pro se defendant discovers that plaintiffs really are entitled to a minimum of \$100 plus attorney's fees in "bad check" cases. The attorney can show and explain the statute to the the defendant. If the defendant accepts that explanation, the case is resolved. The Court assists the parties by providing stipulation forms for parties who do not have their own.

If the case does not settle at this stage, an Alternative Dispute Resolution (ADR) Order is issued to mediate within 60 days instead of the previous 90-day period for cases exceeding \$1,000. Initially we were not inclined to order ADR, but a number of plaintiffs' attorneys requested it remain in place, albeit on a shorter track. In cases in which the amount in controversy is less than \$1,000, the case is set directly for trial.

Cases that don't settle through ADR will also be set for trial. The cases that should be tried will be set and tried earlier than in the old timeframe. For cases scheduled for trial, attorneys will receive a Setting Order and both parties will be required to complete a Disclosure Statement. *(These forms are on the bar's web site, boulder-bar.org.)*

In Longmont, Judge Archuleta has decided not to require mediation at all in his civil cases. Instead, the parties report for a pretrial conference in Court approximately 30-40 days after the return date. The pretrial conference is held in the courtroom between the parties and any dis-

(continued on page 4)

COUNTY COURT CIVIL PROCEDURES *(continued from page 3)*

position reached is entered on the record immediately. In cases in which the defendant fails to appear for pretrial conference, default judgment is also immediately ordered. Finally, all cases that are not resolved are set for trial and any pretrial matters discussed on the record if necessary. Roselyn Strommen, a civil attorney with a large Longmont caseload, suggested the new procedure and describes the benefits that arise from this system as many. She finds that more defendants attend the pretrial conference than attended mediation. Once at the pretrial conference they also make more definite decisions about resolving the case or proceeding with litigation, as do the plaintiffs. Finally, she believes fewer cases are ultimately set for trial and they are all resolved far more expeditiously. Brian Holst, another attorney with a large Longmont civil caseload, favors the new system because it requires the parties to be prepared, earlier in the case, for settlement, and therefore expedites its resolution.

While the models differ slightly in Boulder and Longmont, and it remains to be seen if ADR after a pretrial conference in Boulder provides additional benefits to litigants, both systems place a premium on expediting County Court civil cases.

We on the County Court bench want your questions, concerns and input to improve the procedures and protocol for civil cases as these new procedures are tested. In doing so, we want you to keep the following in mind, as outlined by Maureen Solomon in her presentation "Case Management and Calendar Control:"
General Principle: A strong judicial commitment is essential to reducing delay and, once achieved, maintaining a current docket.

Objective: The creation of a predictable system that sets expectations and helps assure that required action is taken.

Methods:

1. Creating meaningful events; 2. Managing the time between events. Times must be long enough to allow

preparation but short enough to encourage preparation; 3. Providing certainty that events will occur as scheduled and deadlines will be enforced.

In conclusion, it is our goal to help the civil cases track more quickly while also making sure the process is as efficient and fair as possible to all parties.

Judge John Stavely is a new Boulder County Court judge in Div. 10 and Judge David Archuleta is the County Court judge in Longmont, Div. 11.

PRESIDENT'S PAGE

LYING LAWYERS: PUBLIC PERCEPTIONS

BY SETH J. BENEZRA

As the Colorado Supreme Court recently observed in *In the Matter of Mark C. Pautler*, 2002 WL 971777 (Colo. 2002), "[l]awyers serve our system of justice, and if lawyers are dishonest, then there is a perception that the system, too, must be dishonest. Certainly, the reality of such behavior must be abjured so that the perception of it may diminish." *Id.* at 5.

On June 8, 1998, Jefferson County Chief Deputy District Attorney Mark Pautler arrived at a crime scene where three women lay murdered. Pautler learned that three other individuals had contacted the Sheriff's Department with information about the murders. One of the informants had been raped by the suspect. Pautler drove to where these witnesses were waiting to talk to the police. Upon arrival, he learned that the killer was William Neal. Neal left instructions with the woman to contact the police and to have him paged when the police arrived.

After Pautler and the police contacted the rape victim, police officers paged Neal and he answered the phone. The ensuing conversation lasted three and a half hours, during which police officers listened to Neal confess in detail to his crimes.

At one point in the conversation, Neal told the police he wanted to speak to an attorney before he surrendered. Neal first requested a private attorney who had represented him previously. Pautler determined that the private attorney's phone had been disconnected. Neal then requested a public defender. The police then agreed with Neal to secure one. However, neither Pautler nor the officers made any effort to contact the Public Defender's Office.

At the subsequent disciplinary hearing, Pautler testified that he believed that any defense lawyer would have advised Neal not to talk with law enforcement officers. Pautler also testified that he did not trust anyone in the Public Defender's Office, although on cross-examination he admitted that there was at least one public defender that he did trust. Police officers testified that they would not have allowed a defense attorney to speak with Neal because they needed the conversation to continue until they could apprehend him. Instead of contacting the Public Defender's Office, or private defense counsel, Pautler offered to impersonate a Public Defender and the police officers at the scene agreed.

When Neal again requested to speak to an attorney, law enforcement told Neal that the public defender had just arrived and that his name was Mark Palmer. Pautler then took the phone and represented that he was a public defender. Neal told Pautler that he sought three guarantees from the Sheriff's Office before he would surrender, including that his lawyer be present at the time of his surrender. Neal eventually surrendered. Pautler did not speak with Neal during the surrender, although he asked the officer to tell Neal that the attorney was indeed present. Pautler made no effort to correct his misrepresentations to Neal following his arrest.

Jim Aber, head of the Jefferson County Public Defender's Office, eventually undertook Neal's defense. Aber learned of Pautler's deception two weeks later when listening to the tapes of the conversation. Aber told the Hearing Board that he had difficulty establishing a trusting relationship

with the defendant after he told Neal that no Mark Palmer existed within the Public Defender's Office. Several months later, Neal dismissed the Public Defender's Office and continued his case pro se with advisory counsel. Ultimately Neal pleaded guilty to the murders pro se and was sentenced to death.

The Office of Attorney Regulation Counsel subsequently charged Pautler with violating both Colorado Rules of Professional Conduct ("CRPC") 8.4(c), and 4.3. The Board subsequently found that Pautler had violated both of these provisions. It set the sanction for both violations at three months' suspension, with a stay granted during 12 months of probation. During that period, Pautler was required to take the MPRE and 20 hours of CLE credits in ethics, to have a supervisor present whenever he engaged in any activity implicating CRPC 4.3, and to pay the costs of the disciplinary proceedings.

On appeal the Colorado Supreme Court affirmed the decision of the Board. In his defense, Pautler requested that the Colorado Supreme Court craft an exception to the rules for situations constituting a threat of imminent public harm.

The Colorado Supreme Court rejected this argument. According to the Court, one essential fact distinguished an imminent public harm scenario from Pautler's case, namely that the District Attorney in an imminent public harm situation may have no immediate alternatives. In contrast, Neal was in the midst of negotiating his own surrender to authorities. Nothing about that

(continued on page 14)

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. You will be charged for your lunch if you make a reservation and do not call to cancel prior to the CLE meeting. BCBA CLE's cost \$15 per credit hour for members and \$18 for non-members unless otherwise noted. CLE credit is \$5 per hour for members of the Young Lawyer Section. Materials are \$5 without CLE credit.

August 15, 2002

Young Lawyers Happy Hour
Conor O'Neil's Pub
5 p.m.

September 11, 2002

Family Law Nuts and Bolts Series.
Technical Basics, Trial Strategies and
Early Preparation
CU School of Law
Room 157, 7-9 p.m.
See page 12 for registration.

September 18, 2002

Family Law Section
Qualities of a Good Lawyer in the
Area of Domestic Relations
Speaker: Judge Frank Dubofsky
Noon Brown Bag Lunch
Boulder Justice Center
Courtroom C
CLE \$15

September 18, 2002

Family Law Nuts and Bolts Series
Case Management and Discovery
CU School of Law,
Room 157, 7-9 p.m.
See page 12 for registration

September 26, 2002

Family Law Nuts and Bolts Series
Decision Making, Parenting Time,
Child Support and preparation for
Parenting Evaluation
CU School of Law,
Room 157, 7-9 p.m.
See page 12 for registration

September 28, 2002

Longmont Young Lawyers' Fall BBQ
Anton Dworak's Residence
Details on page 7.

TENTH ANNUAL ESTATE & CHARITABLE

GIFT PLANNING INSTITUTE

TUESDAY, SEPTEMBER 24, 2002

DENVER MARRIOTT TECH CENTER 9:30 A.M. to 4 P.M.

Presenter: Roy Adams, *Trust & Estates Magazine* (via satellite)
(5 general and 1 Ethics credit available) Cost \$30.00

For more information contact Marcia McDougall at the Salvation Army
303.866.9213 or marcia_mcdougall@usw.salvationarmy.org

ANNOUNCEMENTS

DIETZE AND DAVIS, P.C.

is pleased to announce that

MARK F. HUNTER

has accepted an Of Counsel position with the firm.

Mr. Hunter's practice will continue to be devoted to Real Estate, Construction Law, and Transactional Law.

2060 Broadway, Suite 400

Boulder, CO 80302

Phone 303.447.1375

Fax 303.440.9036

Website: www.dietzedavis.com

YOUNG LAWYERS FALL BARBEQUE

Saturday, September 28

The Dworak Residence
in Longmont

4 p.m.



Please RSVP to the BCBA
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Boulder, CO 80306

303.444.4669 FAX 303.440.9968 Cell 303.909.4707

LAWYERS' ANNOUNCEMENTS

BOULDER COUNTY WELCOMES

THE LAW OFFICE OF

PETER M. ANDERSON

The firm represents clients in construction law, family law, traffic, medical malpractice, and personal injury with an emphasis on snowboard law.

2033 11th Street, Suite 6
Boulder, CO 80302
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BERNARD, LYONS, GADDIS
AND KAHN, P.C.

is pleased to announce that

MADOLINE S. WALLACE

has become associated
with the firm.

Ms. Wallace joins the firm's water practice group representing water-related entities. Ms. Wallace was formerly with the U.S. National Park Service.

515 Kimbark Street, 2nd Floor
Post Office Box 978
Longmont, CO 80502
Phone: 303.776.9900
E-mail: info@blglaw.com

GARLIN, DRISCOLL & MURRAY, LLC
is pleased to announce that

BETHANY JOHNSON

(former clerk to Judge Frank N. Dubofsky,
Boulder County District Court)

Has Joined the Firm

Ms. Johnson's practice will emphasize commercial litigation and personal injury, including trials and appeals.

245 Century Circle, Suite 101
Louisville, CO 80027
Telephone 303.926.4222
Fax 303.926.4224
E-mail baj@gdmlaw.net



LAWYERS' ANNOUNCEMENTS



GARY L. MERRITT

Is Pleased to Announce the
Opening of His Office:

LAW OFFICE OF GARY L. MERRITT
250 ARAPAHOE AVE., SUITE 101
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720.406.0011

Currently accepting client referrals in the
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- DUI Defense
- Personal Injury

E-mail: merritt.law@mindspring.com

DIERKING AND ASSOCIATES

Is Pleased to Announce That

VIVIAN A. BENREY
Formerly of Wilmer, Cutler & Pickering
Washington, DC

Has Become Associated with the Firm.

The firm's practice will continue to emphasize
commercial real estate, development, land use,
and related corporate and transactional matters.

Dierking & Associates, P.C.
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Boulder, CO 80302-5620
Tel: 303.447.0450
Fax: 303.447.0451
www.dierkinglaw.com

THE KAPSAK LAW FIRM, LLC
Is Very Pleased to Announce that

RAJA M. SALAYMEH

Has Joined the Firm as an Associate.

Mr. Salaymeh's practice will emphasize
Estate and Trust Administration and Litigation.

The firm will continue to devote itself to Estate
Planning and Elder Law, Trust and Estate
Administration, and Estate Litigation.

1610 Hover Road, Suite 203
Longmont, CO 80501
tel 303.651.9330
fax 303.485.3714

website: www.kapsaklaw.com

DIETZE AND DAVIS, P.C.

is pleased to announce that

STAR L. WARING

has joined the firm as a shareholder.

Ms. Waring's practice will continue to be
devoted to Water Rights, Real Estate Law
and Estate Planning.

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Boulder, CO 80302
Phone 303.447.1375
Fax 303.440.9036
Website: www.dietzedavis.com

FAMILY LAW NUTS AND BOLTS SERIES

Boulder County Bar Association Family Law Section
University of Colorado School of Law
Room 157, from 7-9 P.M.

- Sept. 11, 2002 Technical Basics, Trial Strategies and Early Preparation
- Sept. 18, 2002 Case Management and Discovery
- Sept. 26, 2002 Decision Making, Parenting Time, Child Support
Client Preparation for Parenting Evaluation (This program is on a Thursday evening)
- Oct. 2, 2002 Property, Debt, Maintenance, Temporary Orders
- Oct. 9, 2002 Evidence and Trial Overview: The Judge's Perspective
- Oct. 16, 2002 Final Agreements, Mediation and ADR
The Trial and Final Preparations

Name _____ Address _____ Phone _____

Please register me for the following classes: Series _____ Individual Class (list dates) _____

Cost for series: BCBA Members \$165 Non-Members \$190 BCBA Young Lawyers \$120
Cost of Individual Classes: BCBA Members \$30 Non-Members \$40 BCBA Young Lawyers \$20
General and ethics credits applied for
Send your check and registration form to BCBA, 1942 Broadway, Suite 205, Boulder, CO 80302

IT'S NOT TOO LATE TO BE LISTED ON THE WEBSITE!
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(Please check the web site to review the speciality area choices)

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Please send to Boulder County Bar Association
1942 Broadway, Suite 205, Boulder, CO 80302



PRO BONO PAGE



Fifty-eight cases were referred during the months of May and June. Thank you to the following attorneys.

Norm Aaronson
Don Alspaugh
Jeff Ballas
Jennifer Bales
Steve Barnett
Brent Bartlett
Bill Benjamin
Walter Bradley
Chris Brauchli
James Carpenter
Bart Costello
Matthew Connell
Bruce Dierking
Greg Doty
Tony Dworak
Connie Eyster
Melody Fuller
Kim Gent
Katie Goff
Wally Grant
John Greer
Rob Gunning
David Kirsh
Julie Kreutzer

Robin Kube
James Lionberger
Marion McBain
Todd McMillen
Gary Merenstein
Charles Martien
Chris Noel
Fern O'Brien
Andrew Peternell
Kirk Peterson
Marshall Riggs
Jack Robinson
Mike Ruderman
Barry Satlow
Ralph Strebel
Sharon Svendsen
Rick Samson
Brad Stephenson
Scott Tippet

Thank you to mediators **Christie Coates**, **Renee Ezer** and **Sara Jane Cohen** for a settlement conference.

Special thanks go to **Ron Cook, CPA** for pro bono assistance with a PERA account.

Pro Se Program Volunteers:

John Barrett
Mary Louise Edwards
Kim Gent
Ann Mygatt
Bev Nelson
Georgianna Scott
Wendy Stevens

Boulder County AIDS Project:

Thank you to the following attorneys who accepted pro bono referrals for the Boulder County AIDS Project during the months of May and June:

Seth Benezra
Paul Bierbaum (2)
Richard Irvin
Richard Nehls
Andrew Peternell

Pro Bono Corner:

Thank you to the law firms who recently committed to 100% participation! BCLS looks forward to working with you in the coming months to help you meet your goal.

BCBA Professionalism Committee On-call Schedule

July 15	Trip DeMuth	546-1375
July 22	Mark Langston	440-9684
July 29	Bev Nelson	554-7030
Aug. 4	Christie Coates	443-8524
Aug. 11	Steve Meyrich	440-8238
Aug. 18	Bruce Fest	494-5600
Aug. 25	John Miller	772-0165

20TH JUDICIAL DISTRICT COURT NEWS

BOULDER COUNTY JUSTICE CENTER CONSTRUCTION AND SECURITY UPDATE

Construction continues on the building expansion project at the Justice Center. A new temporary entry opened on July 1, 2002 and will be in use for approximately one year. The entrance is located by the Municipal Court exterior doors at the east end of the east wing. Drilling and pouring of caissons started during the first week of July. This stage of construction may last up to 2 months.

Effective August 1, 2002, the Boulder County Justice Center and the Longmont Courthouse will be implementing a new security policy. All attorneys will be required to pass through security, and personal possessions will be scanned. Security cards issued by the Boulder County Bar Association will no longer be valid. Security staff must be able to screen for weapons, and concealed weapon permits make this difficult unless everyone passes through security.

Please plan to arrive early to allow time for the required security screening. If you have any questions, please call Amy Waddle, District Administrator, at 303-441-3882.

OFFICE OF DISPUTE RESOLUTION IMPLEMENTS NEW FEE SCHEDULE

Effective July 1, 2002, the Colorado Office of Dispute Resolution has implemented changes in mediation fees. (Not all services are available in every district.) Pursuant to Section 13-22-305(3), C.R.S. (2000), the following fee schedule has been adopted:

District Court Civil and Probate:

These fees apply to the following services: mediation, neutral case evaluation, settlement conference, arbitration, mini-trial, summary jury trials and other ancillary forms of dispute resolution.

- \$75 per party per hour.
- A one time administrative charge of \$40 per party.

District Court Domestic Relations, Juvenile, Dependency and Neglect, and County Court Civil:

These fees apply to the following services: mediation, parenting coordination, family group decision-making and other ancillary forms of dispute resolution, except for neutral retirement fund evaluation.

- \$50 per party per hour.
- \$100 per party per hour when only one party is present.
- A one-time administrative charge of \$40 per party may be assessed.

The following fee applies to neutral retirement fund evaluation: \$75 per party per hour (no administrative fee). When services are provided by senior judges, the hourly fees are waived. A party may be charged for up to two hours of service for late cancellation of an ADR session or if a party fails to appear for a scheduled session. A reduced or waived fee for indigent parties is authorized, based on need and ability to pay.



**BOULDER COUNTY BAR ASSOCIATION
LEGAL MEMBERSHIP DIRECTORY 2002-2003
MEMBER CHANGES AND UPDATES**



All BCBA members should have received their 2002 Membership Directory. If there are changes that need to be made in your listing, please call the Bar office so we can make these corrections. We will also publish the corrections in the newsletter for the next couple of months. The 2002/2003 Directory will be on the BCBA website in August when we have made the majority of necessary changes. Thank you for keeping us up-to-date with your membership information.

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garvez3@juno.com

LYING LAWYERS: PUBLIC PERCEPTIONS *(continued from page 5)*

negotiation indicated that any specific person's safety was in imminent danger. More importantly, according to the Court, Pautler's choices were not limited. Pautler had telephone numbers and a telephone and could have, in fact, contacted the Public Defender. Pautler also had the option of exploring with Neal the possibility that no attorney would be called until after Neal surrendered. The Court concluded that when presented with choices, at least one of which conforms to the Rules of Professional Responsibility, an attorney must not select an option that involves deceit or misrepresentation.

Pautler also argued that the traditional defenses of duress and choice of evils provided examples of appropriate defenses to allegations of ethical misconduct. The Court rejected this argument, noting that Pautler was not acting at the direction of another person who threatened harm (duress), nor did he engage in criminal conduct to avoid imminent public injury (choice of evils).

Finally, Pautler contended that the Colorado Supreme Court had never addressed whether District Attorneys, while functioning as law enforcement officers, may employ deception to apprehend suspects. Pautler suggested that because peace officers can employ lethal force when pursuing a fleeing dangerous felon, for example, it would be absurd to sanction an officer who instead uses artifice simply because that officer is also a licensed attorney. The Colorado Supreme Court rejected that argument, holding that the obligations concomitant with a license to practice law trump any other obligations that a lawyer may have in that lawyer's other roles, even when it comes to apprehending criminals.

Ultimately, the Colorado Supreme Court upheld the sanction imposed by the

Disciplinary Hearing Board. In particular, the Court believed that the sanction imposed by the Hearing Board was correct given Pautler's previous commendable reputation in the legal community, his lack of prior misconduct and his cooperation in the proceedings. In addition, the Court concluded that Pautler believed he was protecting the public. However, the Court specifically identified an additional aggravator, which the Hearing Board had not noted, that after Neal was arrested, Pautler should have disclosed the deception to Neal's lawyer. The Court found that his failure to correct the deception justified suspension.

The Colorado Supreme Court's analysis is analytically solid. Nonetheless, I question the appropriateness of the sanction under the circumstances of this case. As the Colorado Supreme Court noted in its opinion, lawyers themselves are recognizing that the public perceives that lawyers "twist words to meet their own goals and pay little attention to the truth" and this public perception strikes "at the very heart of the system of justice." A completely suspended sentence, however, appears to undermine the gravity of Mr. Pautler's behavior. After all, Pautler not only lied, he engaged in deliberate deception of an unrepresented person and did nothing to correct the situation after the fact.

As the Colorado Supreme Court noted, public perception of lawyers is at an all-time low. The National Conference of Bar Presidents has launched a Professional Reform Initiative to investigate the phenomenon. Concomitantly, lawyers will continue to be involved, as they always have been, in the resolution of the pressing issues of our day, including, for example, the recent disclosures of corporate misconduct and (possible) prosecution of offenders and

the defense (in some forum) of those accused of terrorist attacks. The public must have confidence in the justice system and in the integrity of the lawyers as it tackles these issues.

This year the Boulder County Bar Association will present a public symposium on the issues raised by the Pautler case and more broadly on the integrity of lawyers and public perceptions. The goal is to engage both the Bar and the public in an open dialogue on these issues. The public symposium will be lead by Professor Patrick Furman, our colleague and Boulder County Bar Association Board of Directors member. It should make for a lively and interesting conversation. We encourage you all to attend. Details will follow in a forthcoming issue of the Newsletter.

FOOTNOTES

1. Neal also sought assurances that he could smoke cigarettes in the jail and would be isolated from other detainees.
2. CRPC 4.3 declares, in pertinent part, as follows: "In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall state that the lawyer is representing a client and shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give advice to the unrepresented person other than to secure counsel." CRPC 8.4(c) states as follows: "It is professional misconduct for a lawyer to: . . . (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation."
3. The Hearing Board made the original recommendation for a three-month suspended sentence. Under the rules, the Court was required to uphold the discipline unless it found the discipline to be "unreasonable." See CRPC 251.27(b). The Court's opinion notes that the Hearing Board found as mitigators Mr. Pautler's lack of prior discipline and full cooperation with the Office of Attorney Regulation.

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