



BOULDER COUNTY BAR ONLINE NEWSLETTER

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S E P T E M B E R 2 0 0 2



COULD THIS BE YOU? ATTORNEYS WHO MAKE A DIFFERENCE

By Elizabeth Moulton

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"I can't take a Housing Authority case. I don't have any experience in that area."

That's what Paul Bierbaum thought several years ago when he got a call from the pro bono coordinator of BCLS, asking him to represent Clara* in a dispute with the Housing Authority.

Clara was an elderly resident who was having problems in her assisted living situation. Because of her physical disabilities it was becoming increasingly difficult for Clara to make it to her apartment, which was above ground level. The Housing Authority had denied her request to move to a ground floor unit, saying that she could use the elevator to get to her own apartment and therefore was not entitled to move. Upon meeting Clara, Paul discovered that she had been

a child in Germany during WWII and that she had been buried in a small space for a substantial amount of time after a bombing raid. As a result, Clara was very claustrophobic and unable to use elevators. When she did attempt to use an elevator she experienced emotional distress so extreme that her blood pressure skyrocketed.

Despite Paul's lack of experience in housing law, he recognized immediately that Clara had a strong case for reasonable accommodation by the Housing Authority. He got Clara's doctors to provide documentation of her physical and emotional symptoms. Paul and Clara prevailed at the administrative hearing, and Clara was moved to a ground floor apartment soon thereafter. A few phone calls and a short hearing resulted in an accessible apartment for Clara and marked improvement in her quality of life.

Your skills and training can have an enormous impact on a person's life with a commitment of only a few hours. Although the majority of clients who come to Boulder County Legal Services

**DEATH PENALTY SYMPOSIUM
SEPTEMBER 25 AT CU LAW SCHOOL**

DETAILS ON PAGE 13

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

DETAILS ON PAGE 6

(continued on page 3)

SEPTEMBER 2002



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2	3	4	5	6	7
8	9	10 Employment	11 Family Law Nuts/Bolts	12	13 Bankruptcy	14
15	16	17 Business	18 Family Law Real Estate	19	20	21
22	23	24	25 Death Penalty Symposium	26 Family Law Nuts/Bolts	27	28 Young Lawyer BBQ
29	30	31				

PRO BONO SERVICES *(continued from page 1)*

have problems involving domestic relations law, a sizable number of clients request assistance in matters involving the Housing Authority or the Department of Social Services. A wide variety of civil cases are handled at BCLS, including consumer debt and collection actions, landlord/tenant problems, eligibility for public benefits, real property disputes, replevin, IRS issues, insurance disputes and health and elder issues.

Each year BCLS receives thousands of requests for advice and assistance. Every year dedicated Boulder County Bar Association members provide pro bono representation to more than 400 Boulder County families. Despite this level of support, BCLS must turn away many more people and has a waiting list of at least 2 - 3 months for family law cases. BCLS is constantly seeking to add to its roster of volunteer attorneys.

"I haven't provided direct representation for a client in years, and my expertise is in the area of criminal law, not civil law."

Pat Furman felt the same way as Paul Bierbaum until he got the call from Sue Parenteau to take a BCLS case involving grandparents' rights. BCLS takes only civil cases, so Pat's specialized knowledge was not needed. Pat knew that he would be "learning a new language," took advantage of a family law training session and jumped right in.

George* and Emma*, Pat's clients, were not seeking to become parents again. They had raised their kids and were ready for an empty nest, but things just hadn't worked out the way they had planned. When George and Emma came to BCLS, they were for all practical purposes the "parents" of their two grandchildren, but lacked the legal status to act as parents or even as legal guardians. Their son and the children's mother were having, as Pat delicately puts it, "difficulty discharging their parental responsibilities," and George and Emma had been forced to take over. George and Emma had tried repeatedly to get the children's parents involved again and had even sought the help of Social Services. They

(continued on page 12)

INSIDE THE PROFESSIONALISM COMMITTEE

BY BEV NELSON

The Boulder County Bar Association Professionalism Committee attempts to resolve local professionalism complaints and issues raised by the bar, bench and general public through informal interventions and education. Each member is on-call to receive and resolve professionalism complaints approximately five weeks a year. The on-call list is published in the Boulder County Bar newsletter, and the BCBA office refers calls to the on-call professionalism member.

When a member receives a call, the caller is asked to identify the attorney involved and describe the nature of the complaint. If a complaint raises issues that should be referred to the Office of Attorney Regulation Counsel, the member gives the caller that number but does not follow up on the referral. Otherwise the member discusses the complaint with the caller and attempts to resolve or mediate it by contacting the subject attorney. Members confront fee disputes, make suggestions to improve communications and attempt to educate attorneys about questionable actions. Attorneys may call to seek assistance in evaluating their professional obligations in specific situations.

The committee resolves a range of common complaints, such as fee dis-

putes in which a written fee agreement has not been executed or the client receives a bill for an unexpected amount or failure of an attorney to return phone calls, leaving the client confused about the status of his/her case. Most of these situations are satisfactorily resolved when the attorney acknowledges the need for improved communication with the client or the ethical reasoning behind requirements for a written fee agreement. Ongoing conversations with clients to update them on fees that are being or will be incurred as well as the status of the case help keep clients from being disappointed or retaining unrealistic expectations.

The committee often resolves matters where the attorneys have become antagonistic with each other, resulting in hostile and even abusive letters, phone calls and even court hearings. Not surprisingly, many of the cases evolve from family law or other relationship cases where the clients' emotions run high. Most of these complaints are effectively resolved when the attorneys recognize the high potential for personalizing these cases and instead set their goal on being an objective advisor, which increases the likelihood of settling cases in the parties' best interests.

The committee consists of two district court judges, eight practicing attorneys and two attorneys who mediate exclusively. One attorney is from Longmont, one practices in Louisville and the rest are located in Boulder. Two lawyers are civil litigators, two are transactional attorneys, two are family law attorneys and two are criminal law attorneys.

The committee meets six times a year to review calls that have been received, plan educational efforts and discuss professionalism issues. A brief written report is submitted on each contact, but the reports are not available for public review, and the calls are otherwise confidential. The committee will keep statistics on the number and nature of calls, as well as their resolution, for an initial one-year period to determine if this information is valuable to the bar.

Trip DeMuth is chair of the Professionalism Committee for 2002-2003. Questions may be directed to Trip or to the committee member on call during the week.

PRESIDENT'S PAGE

JUDICIAL ELECTIONS: THE FIRST AMENDMENT AND PUBLIC PERCEPTIONS

BY SETH J. BENEZRA

Judge Priscilla Owen has been nominated by President Bush to fill a seat on the Fifth Circuit Court of Appeals. Judge Owen is a sitting member of the Texas Supreme Court. Texas requires candidates to run for judicial office and judicial candidates to raise funds for their races. In 1994 Judge Owen received an \$8,700 contribution from Enron's political action committee. This political contribution has become an issue in the confirmation battle involving Judge Owen. The Senate Judiciary Committee is questioning Judge Owen about an opinion she authored after receiving the Enron contribution that saved Enron more than \$200,000 in property taxes. The tax case involved a dispute between Enron and the Spring Independent School District over the date on which Enron would inventory natural gas stored in a salt dome. The inventory volume differed by \$15 million worth of gas between September 1, 1989 and January 1, 1990. Because Enron elected to use the earlier appraisal, the school district claimed it lost \$225,000 in tax revenue. Owen wrote the opinion for an unanimous Texas Supreme Court that reversed a ruling by Houston's Fourteenth Court of Appeals that a law classifying inventory sepa-

rately from other property was unconstitutional. Owen wrote, "The winter months are typically a period of peak demand for natural gas. It is not arbitrary or capricious for the Legislature to permit the taxable value of natural gas inventories to be determined on a date other than January 1, when inventories may be higher than at other times of the year."

Texas has been regularly criticized for its high-dollar Supreme Court races. Candidates for the Texas Supreme Court have raised a total of \$9 million to fund one such race. According to a court spokesperson, "Nobody on this Court is going to dispute that the system is broken and needs to be corrected, but it's the system we have until the Texas Legislature gives Texas voters the chance to change it."

Of course the Senate and the public are scrutinizing Judge Owen because the Enron contribution and her subsequent decision in the property tax case. The Owen confirmation process exemplifies how the acceptance of contributions and the system of public elections can call into question judicial impartiality and seriously undermine the integrity of the judicial system.

A recent United States Supreme Court decision promises only to further degrade public confidence in a system of elected judges. In *Minnesota Republican Party v. White*, No. 01-521, a June 2002 decision, the court ruled 5 to 4 that candidates for judge have a right to take stands on controversial issues that may come before them.

The ruling declared unconstitutional the judicial codes in Minnesota and eight other states that say a judicial candidate shall not "announce his or her views on disputed legal and political issues." Those codes are based on the American Bar Association's 1972 Model Code of Judicial Conduct, which has since been revised. But the Supreme Court also undercut an even more widely used model canon adopted by the ABA in 1990 that forbids candidates from making statements that "commit or appear to commit" them on issues that could come before their Court. Justice Scalia, writing for the majority in *Minnesota Republican Party*, held that states may not hold judicial elections and then muffle the judicial candidates. "The announce clause both prohibits speech on the basis of its content and burdens a category of speech that is at the core of our First Amendment freedoms."

Thirty-nine states directly elect their judges. As Justice Sandra Day O'Connor noted in her concurring opinion in the Minnesota case, "Contested elections generally entail campaigning and campaigning for a judicial post requires substantial funds. Unless the pool of judicial candidates is limited to those wealthy enough to independently fund their campaigns, a limitation unrelated to judicial skill,

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CALENDAR OF EVENTS

that Pre-registration is required for all BCBA CLE programs. 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.

September 10, 2002

Employment Law Section

Colorado Civil Rights Division Practice
Tips and Agency Update
Speaker: Wendell Pryor,
Georgia Roberts, CCRD
12 noon at Caplan & Earnest,
2595 Canyon Blvd. #400
Boxed Lunch \$10 (beef, veggie, turkey)
CLE \$15

0.3 Ethics credit, 1 General

September 11, 2002

Family Law Nuts and Bolts

Technical Basics, Trial Strategies and
Early Preparation
Presenter: Elaine Johnson, Esq.
CU Law School 7-9 • 2 general, 1.1 ethics
See page 12 for registration

September 13, 2002

Bankruptcy Law Section

Round-Table Discussion
Dolan's Restaurant
CLE \$15, Lunch \$13

September 17, 2002

Business Law Section

Sarbanes-Oxley Act of 2002
Corporate Accountability &
Responsibility Act
Presenter: Professor Dale Oesterle
The Academy, 970 Aurora, Boulder
Noon, Lunch \$14 CLE \$15
0.1 Ethics Credit, 1 General

September 18, 2002

Family Law Section

Qualities of a Good Lawyer in the
Area of Domestic Relations
Presenter: Judge Frank Dubofsky
Noon Brown Bag Lunch
Boulder Justice Center
Courtroom C CLE \$15
0.3 Ethics Credit, 1 General

September 18, 2002

Real Estate Law

CCIOA
Presenter: Mark Payne, Esq.
Dolan's Restaurant, Boulder
Noon, Lunch \$13
CLE \$15

September 26, 2002

Family Law Nuts and Bolts

Decision Making, Parenting Time, Child
Support, Client Preparation for
Parenting Evaluation
Presenters: Elaine Johnson, Esq.
and Dr. Helena Unger
CU Law School 7-9 • 2 general, 1.1 ethics
See page 12 for registration

September 28, 2002

Longmont Young Lawyers' BBQ

4 pm
Anton Dworak's
Residence in Longmont
Call the Bar office for directions

October 2, 2002

Criminal Law Section

Ethics and the Pautler Decision
Presenter: H. Patrick Furman
Noon Brown Bag Lunch at the
Justice Center Courtroom D, CLE \$15
1 Ethics Credit, 1 General

October 2, 2002

Family Law Nuts and Bolts

Property, Debt, Maintenance,
Temporary Orders
Presenters: Magistrate Norma Sierra
Bev Nelson, Esq.
CU Law School 7-9
2 general, 1.1 ethics credits

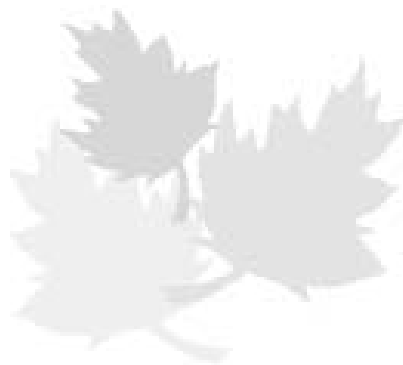
October 9, 2002

Family Law Nuts and Bolts

Evidence in Domestic Relations
Cases and Trial Overview:
The Judge's Perspective
Presenters: David Johnson, Esq. and
Judge Carol Glowinsky
CU Law School 7-9 • 2 general, 1.1 ethics

October 10, 2002

4 pm Board Meeting In Longmont
Happy Hour 5:30



September 18, 2002

Family Law Nuts and Bolts

Case Management and Discovery
Presenters: Mike Miner, Esq.
and Judge Dan Hale
CU Law School 7-9 • 2 general, 1.1 ethics
See page 12 for registration

September 25, 2002

Death Penalty Symposium

7-9 CU School of Law
Fleming Law Building

Tax, Estate Planning & Probate

GST and the Impact of EGTRRA
Speaker: Shelly D. Merritt, J.D., CPA
Hutchinson, Black and Cook
Noon
CLE \$15, Boxed Lunch \$10
(turkey, veggie, or beef)

LAWYERS' ANNOUNCEMENTS

LARRY D. LEE

Is Pleased to Announce the
Relocation of his office to

EASTPARK
1790 38TH STREET, SUITE 205
BOULDER, CO 80301

PHONE 303.499.1111
FAX 303.442.2515

larrydlee@leelawpc.com

Larry will continue to focus his practice on
personal injury and insurance disputes.

GERALD C. SLOAT, P.C.

Is Pleased to Announce that

P. RANDOLPH NICHOLSON

Has Joined the Firm

Our practice will continue to
emphasize personal injury and
professional malpractice.

Gerald C. Sloat, P.C.
1823 Folsom Street
Boulder, CO 80302
303.447.1144

NATIVE AMERICAN LAW STUDENTS' ASSOCIATION UNIVERSITY OF DENVER COLLEGE OF LAW 1ST ANNUAL GOLF TOURNAMENT

Saturday, September 14th, 2002

7 a.m. Shotgun Start

Overland Golf Course, 1801 S. Huron Street in Denver
303.777.7331

Cost: \$100

To register call 720.941.8355 or email
trstephe@student.law.du.edu or visit
<http://www.law.du.edu/nalsa>

THE UNIVERSITY OF DENVER COLLEGE OF LAW MOOT COURT BOARD SEEKING LAWYERS TO BE JUDGES FOR 2002-2003 MOOT COURT COMPETITIONS

Dates and competitions:

September 21, 2002, Negotiations Competition
October 18-21, 2002, Hoffman Cup Trial Advocacy Competition
November 17, 2002, Natural Resources Appellate Competition

Please email Katie Carter at
kcarter@student.law.du.edu if you are interested!

THE COLORADO INDIAN BAR ASSOCIATION Announces Its Second Annual Run/Walk To Benefit the CIBA Scholarship Fund for Native American Law Students at Colorado Law Schools.

Saturday, September 21, 2002

Race Start Time: 10 a.m. at Boulder Reservoir

Please Arrive by 9:30 on Race Day. Entry Fees: \$25.00

Return registration to: CIBA 5K
1075 S. Boulder Road, Suite 305, Louisville, CO 80027
Register on-line at www.active.com

The Keller Center for the Study of the First Amendment and The Byron R. White Center for the Study of American Constitutional Law University of Colorado in Boulder


Present

Ken Greenawalt, Columbia University
Wednesday, September 25 • 5:30 pm
Old Main Chapel

Professor Greenawalt will speak about religion
disputes in high schools
Free and open to the public

5TH ANNUAL BENCH / ADR DIALOGUE

By Catherine M. Schultheis



For the fifth year in a row, the Alternative Dispute Resolution Section of the Boulder County Bar Association and CCMO (Colorado Council of Mediators/Arbitrators Organization) co-sponsored Civil and Domestic Dialogues with the 20th Judicial District Judges and Magistrates last spring.

Four members of the Bench and more than 35 participants attended the civil dialogue moderated by mediator Cathy Schultheis. The dialogue provided a forum for ADR professionals and lawyers to address questions, ideas and concerns about their experience in the court. Judge Bailin began by discussing the County Court Pilot Program, a result of the high number of collection cases filing in court. Many of the defendants present erroneous legal defenses. Judge Archuleta has used a simplified procedure in these cases in Longmont.

Magistrate Hamilton-Fieldman discussed settlement conferences, mandatory ADR compliance and trial settings, stressing that settlement conferences are not a substitute for mandatory ADR. Judge Sandstead commented that when mediation takes place before discovery is completed, it may occur too early in the process. Judge Dubofsky discussed the difference between a mediated and non-mediated agreement and the necessity of a written and signed agreement in mediation.

The setting for the civil dialogue was informal and provided an opportunity for clear communication between ADR providers and the bench. The judges and magistrates reported that ADR services have been useful overall to the court as well as to individuals. One of the few negative comments came from

a plaintiff's attorney, who said that "mediation is a waste of time when certain insurance companies are involved." The judges and magistrates reported a lack of adequate and/or timely compliance in filing the Certificate of Alternative Dispute Resolution Compliance. The form is available on-line at www.boulderbar.org. The plaintiff's bar commented on the importance of experts in meaningful ADR exchanges in PI and medical malpractice cases.

Another issue confronted in the dialogue was assessing mediation costs. Judge Glowinsky remarked that there is no specific authority on this issue and that judges may differ on this point. Judge Bailin, for instance, does not assess costs unless an offer of settlement has been made. Judge Dubofsky has that assessing costs might deter access to the courts.

Judge Bailin suggested that a subcommittee be formed to coordinate specific issues in future dialogue meetings. A roundtable discussion was held in June to discuss scheduling CLEs, getting cases to mediation earlier, and how the entire process can be made more "user friendly." The subcommittee will meet Monday, October 7 at the Oasis at noon. Please call the bar office to attend.

The 5th Annual Domestic Dialogue was facilitated by Robin Amadei and attended by at least 35 lawyers and ADR professionals and five members of the bench. First we discussed the importance of distinguishing between legal education and legal advice. The majority of mediators encourage clients to obtain legal advice to make informed decisions both before and during mediation. Some attorney ADR professionals participate only in sessions where the parties are represented and their attorneys are present.

The bench supports mediators providing legal education but agrees that a distinction must be made. Kerry Helmuth, new family court facilitator, said that, if asked, she would be willing to act as mediator on post-dissolution cases.

Magistrate Kingery, discussing a ruling by Judge Dubofsky's, said the statute is clear that if an agreement is not in writing and signed by both parties, the agreement is not enforceable. He recommended that mediators prepare a bulleted point-by-point outline of the agreement during the mediation and sign the document after all parties have agreed to each provision.

Magistrate Sierra is working to enforce mandatory mediation compliance. As of now, there is a low level of compliance in hearings set for two hours or longer, and hearings often proceed

ADR DIALOGUE *(continued from page 8)*

without compliance. Further more ADR provisions need to state clearly the process to be used (mediation or med/arb).

New Child Support Guidelines will go into effect January 1, 2003. (Custom Legal Software has promised a revised computer program by mid-September to calculate child support under the new law.) Members of the bench requested that mediators work with pro se parties so that the appropriate documents accompany memorandums of agreement containing child support provisions.

Judge Montgomery has held status conferences pursuant to the Simplified Dissolution Program and reports litigant approval. There are more and more pro se filings. It was suggested that mediators add notary blocks after signatures on memorandums of understanding.

The ADR section and CCMO thank Chief Judge Roxanne Bailin and other members of the bench for their support of and active participation in these dialogues. We are also grateful to Steve Clymer for obtaining Boulder Mayor Will Toor's endorsement of mediation in the declaring May 2002 Mediation Month. The Declaration stated in part that "promoting the use of mediation can help to create more cooperative communities and assist in resolving many conflicts that impact the quality of life for many people."

Cathy Schultheis has been a co-chair of the BCBA ADR Section for three years.

Non-Adversarial Communication Training

For ADR professionals/attorneys who want to help difficult clients better meet their needs while increasing satisfaction -- your own and your client's!

Two-Day Workshop Dates:
Tuesday & Wednesday, October 1, 2
Friday & Saturday, November 15, 16

Facilitated By:
CONNECTION PARTNERS, INC.
Arlene Brownell, Ph.D., Co-president of Boulder CCMO
Tom Bache-Wiig, Past President, Boulder CCMO

Cost \$260 (15 days prior to training date)
To register and for more information,
contact Connection Partners, Inc.
303.449.2553 or www.connectionpartners.com

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FAMILY LAW NUTS AND BOLTS SERIES

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

- Sept. 11, 2002 Technical Basics, Trial Strategies and Early Preparation, 1.1 ethics, 2 general CLE credits
- Sept. 18, 2002 Case Management and Discovery, 1.1 ethics, 2 general CLE credits
- Sept. 26, 2002 Decision Making, Parenting Time, Child Support, 1.1 ethics, 2 general CLE credits
Client Preparation for Parenting Evaluation (this program is on a Thursday evening)
- Oct. 2, 2002 Property, Debt, Maintenance, Temporary Orders, 1.1 ethics, 2 general CLE credits
- Oct. 9, 2002 Evidence and Trial Overview: The Judge's Perspective, 1.1 ethics, 2 general CLE credits
- Oct. 16, 2002 Final Agreements, Mediation and ADR
The Trial and Final Preparations, 1.1 ethics, 2 general CLE credits

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



YOUNG LAWYERS' FALL BARBECUE SIGN UP

Saturday, September 28

The Dworak Residence

1474 Clover Creek Drive

Longmont, Colorado 80503




Yes, I would like to attend the Young Lawyers' Barbecue.

Name _____

Phone Number _____

Please fax to the BCBA at 303.402.6958 or call 303.440.4758 for reservations and directions.

PRO BONO PAGE



Thirty-six cases were referred during the month of July. Thank you to the following attorneys:

Don Alspaugh
Jeff Ballas
Seth Benezra
Kristin Berdan
Bill Benjamin
Susan Bryant
Stephanie Carter
Robert Cooper
Rachael Doan
David Dougherty
Steve Erickson
Melody Fuller
Kurt Hofgard
Joan Heard
Chris Jeffers
Bruce Joss
Kenlyn Kolleen
Rachel Maizes
John Miller
Laura Moore
Keith Moskowitz
Brigette Paige
Rich Poley
Robert Pierce
Barry Satlow
Ralph Strebel
Louisa Young

Pro Se Program volunteers:

Mike Miner
Bev Nelson
Patty Roberts
Georgiana Scott
Ralph Strebel

Pro Bono Mediators:

Kathy Franco
Pete Rogers



Boulder County AIDS Project:

Thank you to the following attorneys for accepting pro bono referrals for the Boulder County AIDS Project during July:
Paul Bierbaum
Christina Ebner
Steven Taffet

BCBA Professionalism Committee On-call Schedule		
Sept. 2	Chuck Saxton	776-6911
Sept. 9	Helen Stone	442-0802
Sept. 16	Trip DeMuth	546-1300
Sept. 23	Pat Murphy	449-3891
Sept. 30	Mark Langston	440-9684

ATTORNEYS WHO MAKE A DIFFERENCE *(continued from page 3)*

came to BCLS after they had tried everything they could think of to help the children and their parents. Pat negotiated with the children's parents and ultimately they agreed that it was best for the children to live with George and Emma. In addition to resolving the legal matter Pat also helped his clients navigate the Human Services network in Boulder County, aiding them in getting the benefits that they were entitled to as legal guardians. For George and Emma, this was the most important form of assistance. Just having an attorney helped them obtain resources they were unable to get on their own.

Although Pat's assistance in this particular case did not entail going to hearing, he was satisfied that he'd found the best solution for this family. Pat observes "Sometimes being a good lawyer also means being open to solutions outside of the traditional court system and simply acting as a 'champion' for people who cannot fight for themselves."

Many attorneys choose to take cases for BCLS in their area of expertise, but many others use pro bono work as an opportunity to expand their skills. "After a while we start to think, 'I'm not a lawyer, I'm a tax lawyer.' Taking on a case in an area outside of our expertise is what we are trained perfectly for. After all, we were taught to 'think like a lawyer' and to use our analytical skills and abilities to make a persuasive argument. Taking a pro bono case in an unfamiliar area of practice keeps us sharp. Anybody with legal training," Pat says, "can figure his way through it."

"I just graduated from law school, how can I help?"

Attorneys who take a case through

BCLS are offered support and resources. BCLS, with the bar's support, provides mentoring, co-counsel services and advice from experienced attorneys. When Wendy Stevens graduated from law school, she started volunteering at BCLS and assisting with the pro se clinic.

The pro se clinic is a program operated by BCLS for clients with relatively simple domestic relations problems. BCLS deems these cases resolvable without direct representation. Instead, clients are given support and guidance through the clinic. Volunteer attorneys, paralegals and law students meet with clients at BCLS every Thursday afternoon from 3:30 to 5:30 to help pro se litigants through various stages of the legal process: developing goals and strategies, completing forms or drafting motions and, perhaps most importantly, learning how the legal system operates and why certain procedures must be followed. Most pro se litigants are overwhelmed by the length and number of forms but are capable of representing themselves with some assistance. Pro se litigants may return to the clinic as often as needed for the duration of their case to get the legal advice they need.

Through her experience with the pro se clinic, Wendy realized that she could also take on county court restraining order hearings. Going to court with a victim of domestic violence not only provides a valuable service to clients who are struggling to get free of abusive relationships, but offers attorneys the opportunity to get into court (and then out of the case) quickly. Even though a permanent restraining order hearing may take very little time to prepare for and conduct, it can have an important impact on the client's life,

empowering the client to take the first step on his or her way to independence. While achieving these results for her clients was reward in itself, Wendy noticed another benefit to representing these clients. When she started volunteering at BCLS, Wendy had very little experience practicing law, but she learned quickly and decided that family law was the area in which she wanted to practice. The training she received through BCLS and contacts she made in the community led her to her first job.

Without pro bono attorneys, many residents of Boulder County, including children and elders, would not have equal access to our justice system. In 2001 pro bono attorneys in Boulder County contributed thousands of hours and helped hundreds of indigent and elderly clients with pressing legal issues. Pro bono attorneys maintained housing for low income families, helped protect children and victims of domestic violence from further abuse, ensured that parents received benefits to feed their families and secured medical assistance for many disabled and elderly members of our community.

THIS COULD BE YOU! To volunteer, please call Sue Parenteau, BCLS Pro Bono Coordinator, at 303.449.2197, or e-mail suep@bcls-cla.org.

*** Client's names have been changed to protect confidentiality.**

THE BOULDER COUNTY BAR ASSOCIATION
PRESENTS

SYMPOSIUM ON THE DEATH PENALTY

THURSDAY, SEPTEMBER 25, 2002 at 7 P.M.

UNIVERSITY OF COLORADO SCHOOL OF LAW
LINDSLEY MEMORIAL COURTROOM

PANEL PRESENTATIONS:

MICHAEL RADELET, SOCIOLOGIST
ROBERT GRANT, DISTRICT ATTORNEY, 17TH JUDICIAL DISTRICT
SHARLENE REYNOLDS, CHIEF TRIAL DEPUTY PUBLIC DEFENDER (DENVER)

FREE CLE FOR ATTORNEYS • 2 GENERAL AND 1.1 ETHICS

Call the Bar Association for information 303.440.4758

JUDICIAL ELECTIONS *(continued from page 5)*

the cost of campaigning requires candidates for judgeships to engage in substantial fundraising. Of course, relying on campaign donations may leave judges feeling indebted to contributors." As Justice O'Connor also noted, "The mere possibility that judges' decisions may be motivated by the desire to repay campaign contributors undermines the public's confidence in an independent judiciary. See Greenberg Quinlan Rosner Research, Inc., and American Viewpoint, National Public Opinion Survey Frequency Questionnaire for 2001 (available at <http://www.justiceatstake.org/files/jasnationalsurveyresults.pdf>) (describing survey results indicating that 76% of registered voters believe that campaign contributions influence judicial decisions); *Id.* at 7 (describing survey results indicating that 2/3rds of registered voters believe individuals and groups who give money to judicial candidates often receive favorable treatment)."

In contrast to the 39 courts that permit direct elections, other states, including Colorado, have adopted a modified system of judicial selection known as the Missouri Plan. Under the Missouri Plan, judges are appointed by a high elected official, generally from a list of nominees submitted by a non-partisan nominating commission and then stand for unopposed retention elections in which voters are asked whether the judges should be recalled. If a judge is recalled, the vacancy is filled through a new nomination and appointment. This system obviously reduces threats to judicial impartiality, even if it does not eliminate all popular pressure on judges.

The Colorado (Missouri Plan) system was repeatedly attacked prior to Governor Owen's election by groups who have urged either a system of direct election of judges or term limits.

These groups have, for example, circulated petitions seeking to amend the Colorado Constitution to permit judicial elections. No such measures or ballot initiatives are pending.

These periodic efforts to amend Colorado's Constitution require our persistent opposition. After all, even Justice O'Connor, who signed on to Scalia's opinion, wrote in her concurrence that states should reconsider elections for judges, stating "If the state has a problem with judicial impartiality, it is largely one that the state brought upon itself."

ABA President Robert E. Hirshon has called the United States Supreme Court's decision in *Minnesota Republican Party v. White*, "a bad decision [that] will open a Pandora's Box. We are now going to have judicial candidates running for office by announcing their positions on particular issues. That is not impartial justice."

Incoming ABA President Alfred P. Carlton has made the elimination of judicial elections one of the cornerstones of his activities as ABA president. We should lend our voices to his campaign. Only an appointed judiciary can be perceived by the public as independent.

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