



# BOULDER COUNTY BAR ONLINE NEWSLETTER

 **D E C E M B E R** **2 0 0 1** 

1942 BROADWAY, SUITE 205  
BOULDER, CO 80302

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## INSURANCE ISSUES FACING SMALL BUSINESSES

BY KURT HOFGARD

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In our practice we often come across the client who wishes to shift risk of liability and resulting damages, risk of loss of property or business, risk of financial loss due to disability or death. Attorneys in various fields help clients shift risk through many different contracts, arrangements, legal instruments (e.g., wills and trusts) and entities (e.g., limited liability companies, corporations). One of the most effective, inexpensive, and long-standing methods of risk shifting is insurance.

Business attorneys, corporate attorneys, estate and taxation attorneys and even general practitioners are often called on to answer insurance questions for small businesses. This is a basic outline and explanation of the kinds of insurance that a small business owner should consider, serving as a checklist for the small

business owner and her or his counsel. For purposes of this article, insurance is grouped into three categories: liability insurance, property insurance, and personal insurance.

I. Definition of "Insurance"  
Insurance law is essentially contract law. Black's Law Dictionary gives a definition of "insurance" that encapsulates its basic purposes, uses, and components: Insurance - a contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils. The party agreeing to make the compensation is usually called the "insurer" or underwriter; the other, the "insured" or assured; the agreed consideration, the premium; the written contract, a policy; the events insured against, "risks" or perils; and the subject, right, or interest to be protected, the "insurable interest."

When analyzing existing or prospective insurance coverage with a client, the practitioner must always keep in mind the above components of insurance and apply them to his or her client's

(continued on page 3)

### 3rd ANNUAL ETHICS FORUM • DECEMBER 6, 2001

Update from the Supreme Court Disciplinary Council, Steve Fatzinger; Malprevention Prevention, John Palmeri, Chair, CBA Professional Liability Committee and Charles Luce, Esq., *Ethics in Computers and the Practice of Law: How to Keep Your License.*

Chrisman, Bynum & Johnson from 8 a.m. - Noon

4 hours of ethics and general. \$65 for BCBA members, \$80 for non-members, and \$45 for young lawyers.

See page 9 for registration.

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				Natural Res.		1
2	3	4	5 Civil Rights Symp.	6 Ethics Forum Holiday Party	7	8
9	10	11 Employment	12 ADR / Real Est. / Criminal / Trial Tactics	13	14	15
16	17	18 Business	19	20	21	22
23	24	25	26 Tax estate	27	28	29

## 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.

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## INSURANCE ISSUES FACING SMALL BUSINESS *(continued from page 1)*

situation. Various parties must often be reminded of the basic nature of insurance. For example, clients must understand that most insurance policies are unilateral contracts, meaning that only one party (the insurance company) makes an enforceable promise. This means that, despite what the small business owner may believe from an insurance company's dire lapse warnings, the owner incurs no legal penalties (other than loss of coverage) by failure to continue premium payments. Another example of insurance as contract law and the primacy of a contract over probate is the life insurance beneficiary designation. Designation of a beneficiary other than the estate of the decedent removes life insurance death benefits from probate (though not necessarily federal and state estate taxation), and the beneficiary designation normally trumps provisions in the small business owner's estate planning documents such as wills and trusts.

### II. Liability Insurance

Liability insurance is designed to cover an insured for acts of negligence that create a legal obligation to a third party. Choice of entity is the liability shield issue on which most

attorneys advise small business owners. However, as a practical shield to excessive liability, proper kinds and amounts of liability insurance are as important as choice of entity and should be considered by counsel for the small business client.

Liability coverage for all facets of the small business owner's life should be analyzed and adjusted to maximize coverage through all available policies. Business or professional liability coverage can insure against malpractice within the insured's own business or profession and may even be statutorily required (e.g., for many Colorado professional service corporations). If professional liability coverage is inadequate to shift risk, personal liability and medical liability riders under homeowner and automobile policies can add coverage, as can personal umbrella excess liability insurance.

Small business owners should also be cognizant of premises and special events liability risks and insure accordingly. The attorney for the small business owner can help his or

*(continued on page 13)*



# EAST COUNTY BEAT

By Anton Dworak



Let me digress for a moment before continuing with this typically embarrassing bad column. I must say that serving on the BCBA board is a real hoot. (Please excuse my hokey Longmont colloquialisms.) I have really enjoyed attending the events I usually pass on, such as the annual dinner, judges' dinner and other social opportunities. It's sad to realize that I have missed attending these events in the past only because I really wasn't involved with the bar. So, to the rest of you, heed my words, like Marley (Jakob, not Bob) to Scrooge (Ebenezer, not McDuck) not to waste opportunities to take part in /attend some of these functions. You'll regret it if you don't.

Now to the news. I realize that by the time you read this, most of you will be going through your first round of insipid holiday parties, sucking down warm martinis and cold meatballs, but at writing time, we had just finished Halloween. What made this Halloween particularly fun was a new event in Longmont that not only raised gobs of cash for a worthy charity, but was also spearheaded by a LongmontLawyer.

I am referring to the first annual Longmont IOOF (Independent Order of Odd-Fellows) Masquerade Halloween Ball that was held last week. For those of you that don't know, Odd-Fellows is a fraternal society, not unlike the Elks or Moose, but in Longmont at least, perhaps a little more service-oriented than fraternal. The original mission in the 1800's was to "visit the sick, relieve the distressed, bury the dead and educate the orphan" (This was well before we had creatures like social workers).

The Longmont IOOF has been energized by a small but growing group of relatively young people, desirous of finding new ways to accomplish its original purpose. The Longmont IOOF owns, free and clear, one of the grandest and most beautiful buildings right in old town downtown. Inside you'll see a fine lodge, pool hall, kitchen and a room that reminds me of the old style gentlemen's clubs.

One of the new youngsters energizing the club is Longmont lawyer Clint Nash. It was Clint's idea to do a Halloween ball. He single-handedly got the liquor license, arranged for a band and rallied the troops. Clint is a 2001 CU Law graduate and an associate with Jerry Jorgensen's firm. It was a great party, complete with a Beatles tribute band, auction, lots of dancing and over 100 guests. Thousands of dollars were turned over to the Mountain States Children's Home (remember the "educate the orphan" goal). Now of course, most lawyers never get press about the good things they do, and that is why Clint should be congratulated. Yes, I am also an Odd-Fellow (no snickering please), but I couldn't help out at all with this event as I was in the process of being

nuptially shackled. Maybe next year the proceeds will go to my beloved cemetery board ("bury the dead!").

On that note, Happy Holidays to all of you loyal readers and see you next year.



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# PRESIDENT'S PAGE

## DECEMBER 7, 1941

### BY BRUCE FEST

On February 19, 1942, ten weeks after Pearl Harbor, President Franklin D. Roosevelt created by executive order the War Relocation Authority compelling the removal of Japanese Americans from the West Coast of the United States to internment camps in desolate areas of interior states in the West, including Colorado. The head of the War Relocation Authority was Milton Eisenhower, brother of the general and future President Dwight D. Eisenhower. The justification for this policy was to provide security against sabotage and espionage. About 110,000 people were uprooted from their homes in the Pacific states and herded at gunpoint into detention camps. No formal charges were brought against any of the internees. There were no trials. There was no opportunity to test individual loyalties.

In *Hirabayashi v. United States*, 320 U.S. 81 (1943), the United States Supreme Court upheld a criminal conviction for violation of the nighttime curfew for persons of Japanese ancestry, alien and citizen alike. In *Korematsu v. United States*, 323 U.S. 214 (1944), the Supreme Court upheld Fred Korematsu's conviction for violating the order excluding persons of Japanese ancestry from the coast.

*Ex parte Endo*, 323 U.S. 283 (1944) was decided on the same day as *Korematsu*. It was an ironic end to the sad tale of the law approving the wholesale deprivation of civil rights and liberties under a policy based on racism and fear. The day after the executive branch terminated the

detention of internees in the camps, the Supreme Court in *Ex parte Endo* held that President Roosevelt's executive order and the statute criminalizing violations of orders issued under it did *not* authorize detention of admittedly loyal citizens in the absence of individual suspicion. In other words, after the government stopped doing what it was doing, the Supreme Court held that the whole thing was unauthorized freelancing on the part of the War Relocation Authority and the U.S. Army.

According to Yale Law Professor Eugene Rostow, the internment of the Japanese Americans was "our worst wartime mistake." It need not have been so.

In the fall of 1941, stirred by increasing hostility with Japan, President Roosevelt ordered a secret investigation of persons of Japanese origin living in the United States. State Department Special Representative Curtis B. Munson undertook this task of evaluating the loyalty of the Japanese-Americans. Would they incite violence or terrorist activity in the event of war with Japan? Would they cooperate with U.S. officials and government? Would they have divided loyalties because of their Japanese heritage that would compromise their activities during wartime? The Munson report stated that "the vast majority [of the Japanese in the United States] were loyal to America." But this report was suppressed from the general public until 1946. It did not stop the Roosevelt administration from the wholesale internment of the Japanese

Americans.

While their mothers and fathers and siblings were in internment camps, young Japanese-American men were enlisting in the armed forces. Like African-Americans, they were segregated in separate units - primarily the 442nd Battalion that fought its way up the boot of Italy. The Fighting 442nd suffered heavy casualties. It was one of the most, if not *the* most, decorated battalion of World War II. These young Americans proved their loyalty with their lives and their blood. One of those was Daniel K. Inouye, who lost his right arm. In 1959 when Hawaii became a state, he was elected as its first congressperson and then as senator from 1961 to the present.

Here in Colorado we had a mixed record. This is illustrated on the one hand in the newspaper article "That's That," addressing the proposed relocation and internment of West Coast Japanese-Americans to this state. The Denver Post on March 1, 1942 screamed in bold capital letters: "COLORADO DOESN'T WANT THESE YELLOW DEVILS AND DOESN'T INTEND TO ALLOW THIS STATE TO BE TURNED INTO A SANCTUARY FOR ENEMIES OF THE AMERICAN PEOPLE." On the other hand, on April 3, 1942 Governor Carr courageously spoke out: "To the American-born citizens of Japanese parentage, we look for example and guidance. To those who have not been so fortunate as to have been born in this country, we offer the

(continued on page 12)

# 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.

December 6, 2001

## 3rd ANNUAL ETHICS FORUM

Presenters: Steve Fatzinger, Update from the Supreme Court Disciplinary Counsel; John Palmeri, CBA Professional Liability Committee Chair; Charles Luce, Esq., Ethics in Computers and the Practice of Law: How to Keep Your License.  
Chrisman, Bynum & Johnson  
8 a.m. - Noon

CLE 4 hours of ethics and general credits  
\$65 for BCBA members, \$80 for non-members, and \$45 for young lawyers

December 6, 2001

Natural Resources/Environmental Law Section

Topic: Citizen Suits

Presenter: TBA

Noon Brown Bag Lunch

Boulder Justice Center Courtroom E  
CLE \$12

## BCBA Holiday Party

Sponsored by ADR & Young Lawyers Section

7560 Monarch Road, Niwot  
Entertainment and refreshments  
5:30 p.m. You must make a reservation by 12/4

December 11, 2001

Employment Law Section

Topic: Employment Contract Provisions Relating to Non-competition, Non-solicitation and Trade Secrets.

Presenter: Brent Benrud, Stettner, Miller and Cohn

Noon at Chrisman, Bynum & Johnson  
Box Lunch \$10 (Turkey, Veggie or Beef)  
CLE \$12

December 12, 2001

Criminal Law & Young Law Sections

Topic: Nuts and Bolts of Criminal Law

Presenter: Tim Talkington

Noon Brown Bag Lunch

Boulder Justice Center Courtroom E  
CLE \$12, CLE \$5 for Young Lawyers

"Trial Tactics under the Economic Loss Rule"

Presenters: Ken Robinson, Brad Peterson, Lynn Guissing 11:45 a.m. to 1:45 p.m. at Hutchinson, Black & Cook in Boulder \$10  
Box lunch (veggie, beef or turkey)  
\$24 CLE applied for.

Panel presentation on pleading and practice issues relating to the economic loss rule" under *Town of Alma v. Asco Construction, Inc.*

December 19, 2001

Family Law Section

Topic: Collaborative Family Law

Panel Members: Bert Dempsey, Pat Riley, Cindy Brewster, Ann Gushurst, Kathy Franco and moderator, Cathy Schultheis

Noon at Boulder Justice Center  
Courtroom E CLE \$12

January 3, 2002

Natural Resources/Environmental Law

Topic: Working with State and Federal Regulators

Presenter: Dean Miller  
Noon Brown Bag Lunch Boulder Justice Center Courtroom B CLE \$12

January 8, 2002

Business Law &

Employment Law Sections

Topic: Prospective Employee Interviews

Presenter: Chris Leh,

Noon at Chrisman, Bynum & Johnson  
Box Lunch \$10 (Turkey, Veggie or Beef)  
CLE \$12

January 9, 2002

Criminal Law Section

Topic: Investigation

Presenter: H. Ellis Armistead

Noon Brown Bag Lunch Boulder Justice Center Courtroom D, CLE \$12

January 16, 2002

Family Law Section

Program TBA

Noon Brown Bag Lunch Boulder Justice Center, Courtroom E CLE \$12

ADR & Business Law Sections

Topic: Use of ADR in Business Disputes.

Presenters: Steve Clymer, Steve Meyrich, Katie Goff  
Noon at Boulder Public Library Box Lunch \$10 (Turkey, Veggie or Beef) CLE \$12

**DON'T FORGET THE HOLIDAY PARTY  
THURSDAY, DECEMBER 6, 2001 5:30 P.M.**

**7560 MONARCH ROAD IN NIWOT**

**Please call the bar offices by Dec. 4 to make a reservation.**

**FREE ENTERTAINMENT, COCKTAILS, HOR'S D'OEUVRES, HOLIDAY CHEER**



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## CALENDAR OF EVENTS

### **DIVORCE CONFLICT SOLUTIONS**

A workshop to empower professionals with the skills to intervene and endure when working with high conflict couples as Med./Arb., PC, Special Advocate or Legal Representative for the child.

**January 11, 2001 8:30 a.m - 4 p.m.**  
**Trios Restaurant in Boulder**  
**Lunch Included**  
**\$130 by December 15**  
**\$150 after that date**  
**Authors of Working with High Conflict Families of Divorce**

Mitch Baris, Ph.D. Betsy Duvall, LCSW  
Elaine Johnson, J.D. Christie Coates, J.D.  
Carla Garrity, Ph.D. Bob LaCrosse, Ph.D.

**For registration and information**  
**call 303.665.2625 business hours**  
**303.443.8525 after hours**

### **NEED ETHICS CREDITS?**

**Let us help you out!**

### **THE 3RD ANNUAL ETHICS FORUM** **DECEMBER 6, 2001**

**4 HOURS OF ETHICS AND 4 GENERAL**

**8:15 A.M. - 12 NOON**

**1900 15TH STREET (Chrisman, Bynum & Johnson)**

### **ETHICS AND MALPRACTICE** **PREVENTION FORUM**

**PRESENTERS:**

**STEVE FATZINGER, ESQ. COLORADO SUPREME COURT**  
**ATTORNEY REGULATION COUNSEL.**  
**UPDATE ON ATTORNEY DISCIPLINE FROM THE**  
**REGULATION COUNSEL'S OFFICE.**

**JOHN PALMERI, ESQ., WHITE & STEELE PC.,**  
**CBA PROFESSIONAL LIABILITY COMMITTEE CHAIR.**  
**UPDATE ON ATTORNEY MALPRACTICE PREVENTION**

**CHARLES LUCE, ESQ.,**  
**MOYE GILES O'KEEFE VERMEIRE & GARRELL LLP**  
**ETHICS IN COMPUTERS AND THE PRACTICE OF LAW:**  
**HOW TO KEEP YOUR LICENSE**

**\$65 FOR BCBA MEMBERS**

**\$45 YOUNG LAWYERS**

**\$80 FOR NON-MEMBERS**

**PLEASE CALL NOW TO MAKE A RESERVATION**

**303.440.4758**

# LAWYER ANNOUNCEMENTS



## **George V. Berg, Jr.**

formerly a partner in Johnson Repucci & Berg LLP

## **David G. Hill**

formerly a shareholder in Chrisman Bynum & Johnson PC

## **Richard F. Greenleaf**

formerly a partner in Wells Love & Scoby LLC

## **Giovanni M. Ruscitti**

formerly of counsel to Johnson Repucci & Berg LLC

Are pleased to announce the formation of

## **BERG HILL GREENLEAF & RUSCITTI LLP**

ATTORNEYS & COUNSELORS AT LAW

BHGR will emphasize business disputes and other commercial litigation, technology law, bankruptcy, construction and surety law, business entity formation, real estate, water law & estate planning.

### **Also joining the Firm Of Counsel**

NEIL C. KING ASSOCIATES

HEIDI C. FLETEMEYER &

KATHLEEN M. MORGAN

(Effective 02/01/02)

#### ADDRESS:

1942 BROADWAY, SUITE 314

BOULDER, COLORADO 80302

P.O. Box 1719

BOULDER, CO 80306

TELEPHONE: 303.402.1600

FAX: 303 402.1601

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### **Commerical Office Space Available (great location for attorneys)**

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303.443.6690 Fax 303.449.9349

## **Cooper, Tanis & McBain, P.C.**

Is Pleased to Announce that

## **Melody K. Fuller**

Formerly the Supervising Attorney for  
Boulder County Legal Services

Has Joined the Firm Of Counsel

42 Garden Center

Broomfield, Colorado 80020

Phone: 303.465.4605

Fax: 303.460.8957

[www.broomfieldlaw.com](http://www.broomfieldlaw.com)

Ms. Fuller may be reached by phone: 303.465.4605  
or e-mail: [mfuller@broomfieldlaw.com](mailto:mfuller@broomfieldlaw.com)

### **The Firm's Practice Will Continue To Emphasize All Aspects of Family Law**

Robert M. Cooper

Leonard D. Tanis

Marion McBain

Wendy L. Stevens

Melody K. Fuller, Of Counsel

## **Boulder County Bar Association Members are needed to be Mentors for 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 be a mentor to 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

### HUTCHINSON BLACK AND COOK, LLC

Is Pleased to Announce That

#### Constance Tromble Eysten

Has joined the firm as an associate.

*She graduated Cum Laude from Dartmouth College with a degree in English and Religion and was selected as an All-American Collegiate Women's Rugby player.*

*She attended the University of Colorado School of Law where she was an associate editor of the University of Colorado Law Review, President of the Women's Law Caucus and elected to receive the Coif and King Award.*

*After graduating from law school, she clerked for Justice Michael L. Bender of the Colorado Supreme Court.*

**921 WALNUT STREET, SUITE 200  
BOULDER, CO 80302  
TELEPHONE 303.442.6514  
FAX 303.442.6593**

**KATHLEEN A. FRANCO  
303.579.8604**

**PATRICIA S. RILEY  
303.635.1480**

**C. BERT DEMPSEY  
303 554.1415**

**are pleased to announce their  
certification as collaborative family  
law practitioners  
and the formation of  
The Collaborative Family Law Group  
Call for Information**

### Attention BCBA Members: RENEW YOUR JUSTICE CENTER ID FOR 2002

**As of January 1, 2002, all Justice Center  
Identification Cards will need a 2002  
sticker in order to meet security regulations.**

**If you would like to renew your card,  
please mail a check for \$10 to the  
Boulder County Bar Association or  
stop by the office at  
1942 Broadway, Suite 205  
to pick up your 2002 sticker.**

### The Boulder County Bar Association is Pleased to Welcome the Following New Members

Viva Moffat	Joleen Miller	Jeremiah McIntyre
Curt Ollila	Laura Page	Darcy Mohr
Jeanette	Thomas Swett	Laura A. Moore
Snodgrass	David Viotti	Karen Novotny
Graham Walker	Nancy Berman	Katharine Pieplow
Madoline Wallace	Julie Bernard	Paula Ray
Kenneth Diamond	Marc Callipari	Michael Repucci
John McCarthy	Jeffrey Dumas	John Seebohm
Carmel Gill	Douglas Foote	John Studholme
David Goosen	David Gosser	Michael Tompkins
Cinthia Manzano	Marc Graboyes	E. Richard Toray
Prentice Ehret	Toni Gray	Romney Philpott
Christopher	James Graziano	Gabriel Carter
Friedman	Barbara Green	Leslee Morris
Philip Goiran	Pter Hamilton	Stephanie Stewart
Jennifer Hall	Melissa Heidman	Neil Arney
Carolyn McClean	Roslyn Kitchen	Charles
Ann Miller	David Kuosman	Brownman
		Carol Flowers

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# THOUGHTS FROM SEPTEMBER 11

BY ADELE REESTER

I received my copy of the Boulder County Bar Newsletter today and read the *Recollections of September 11*, which brought back an incredible flood of emotions. Having grown up in New Jersey, with family and friends still living there, and gone to law school in Washington D.C., again with other family and friends still living there, there are no words to describe what happened on September 11.

I am not sure what other type of articles you may be using about this day, but thought I would share some of my husband's thoughts as he was still trying to get home from Calgary, Canada where he was on business on September 11th. As I attempted to function here in Colorado for the rest of that week, Keith remained stranded in Canada. Here is the email that I received from him in the early morning hours of September 14th; it was titled "Hopefully Home."

"I wanted to send a brief message to let you know that I think I may be home in Colorado by late, late Friday night. As I write this I am in Billings, Montana after having spent 18 hours in a truck yesterday driving in to the US from Canada. I also spent nearly 3 hours at the border with many others, confronted with the reality of immigration officials with M-16's. Which I support.

To sum up this week, I want to thank everyone who was supportive of myself and my family this week. For many in the Western US this is a disaster, but for me and my family this cuts very close to home, having lived and knowing friends and family in all four areas directly impacted by this tragedy.

At this point I personally still have one friend unaccounted for at the WTC; that number is much higher for Adele and her family as they live and work just across the Hudson from the WTC. Several of their neighbors, friends, and business associates are still missing. Our sister-in-law Christine's MP unit was mobilized earlier this week at Fort Dix, and Dave and Natalie are waiting for her safe return.

Also, as many of you know, my brother is a UAL employee, as was his wife until recently. It has only been a short time since they were working at Boston's Logan Airport, and Amy was serving in-flight services on the Boston-LA route. They have personally lost 12 close friends and co-workers on the 2 flights lost to this tragedy. In addition, my brother has worked through this situation to support his employees, company, and the air travel situation we are all faced with. My sister, with HHS in DC, was on the metro to her stop at the Pentagon, where she works across the street, when the plane crashed there. She was fortunate to be able to walk home, unlike many who likely ride that same train with her each morning.

For all of us this has been a week of tragedy and terror; I personally am looking forward to finally being home with my family. Not only has this tragedy struck close to home for me, but I have spent the week in a foreign country. A country that is supportive, but is still not the United States. And to spend this time across the border with only a phone

and email to connect with those whom you want most to see is challenging.

This evening I received a phone call from a client who chastised me for not getting him a file this week, he was stuck in Georgia and even though I was stuck too, such a thing should not have slipped my mind. Needless to say I told him that I would try to remedy that situation today, but quietly reminded him that NY, Boston, Washington, DC, and UAL are where I am from and where my family is. I hope that soon we can begin to return to normal, that my brother and his wife can step aside from their dramatic efforts to reopen our skies safely and take the time they need to grieve and heal, that those unaccounted for can be found, and those who are stranded can finally reach those they most want to be with. Like all of us have this week, we continue to lean on each other, pray, and know that we will not only survive this tragedy but build a better world for us all."

## CLAIRE B. LEVY, LLC

Experienced in land use, zoning, and local government law.

Accepting referrals and requests for co-counsel.

3172 REDSTONE ROAD  
BOULDER, CO 80305  
303.543.7275  
clevy1@qwest.net

## PRO BONO PAGE

Thirty cases were referred during the month of October. Thank you to the following attorneys:

Norm Aaronson  
Jack Alexson  
Jennifer Bales  
John Barrett  
Bill Benjamin  
Peter Dietze  
Christina Ebner  
Kathy Franco  
Kim Gent  
Peggy Goodbody  
Pam Graham  
Christopher Hawk  
Cameron Grant  
Dan Kapsak  
Kim Lord  
Marion McBain  
Keith Moskowitz  
Kristin Moseley  
Joan Norman  
Scott Osgood  
Lee Robinson  
Wendy Stevens  
Sharon Svendsen  
Lenny Tanis  
Mike Woodford

Thank you to Norm Aaronson and the students at **CU Legal Aid & Defender Program** for accepting another 8 pro bono cases. Thank you to mediators Steve Clymer and Kathy Franco for accepting pro bono referrals.

### Pro Se Program volunteers

Ann Mygatt                      Bev Nelson  
Georgiana Scott              Patty Roberts  
Ralph Strebel

### 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 October:

Paul Bierbaum              Tina Burkhardt  
Gabriella Gergely        Ann Mygatt  
Rich Nehls                    Kristan Tucker

**Pro Bono Corner:** BCLS is seeking to expand its panel of pro bono attorneys willing to provide advice only or representation to defendants in PI, tort or insurance cases. Please call Sue Parenteau @ 303.449.2197.

## SAFE EXCHANGE PROGRAM BY JUDGE ROXANNE BAILIN

A couple of months ago, I told you about the wonderful new program run by the Counseling Center in Boulder called the Safe Exchange Program. It allows parents to safely exchange their children without harm and hostility. The program is slowly receiving calls; but the need is much greater than these calls demonstrate. Please take advantage of this wonderful program so that the funding can continue. The Counseling Center is also happy to announce that it can begin supervised parenting time now. Therapeutic supervised visitation is now available. Soon supervised "eyes-and-ears" visitation will also be available. This type of visitation is not supervised by a clinical professional but *does* protect children from physical and emotional harm, and is sufficient in most cases. Although the hours of operation have been limited, they have now been expanded. The supervised visitation hours are very flexible. Please call the program at 303-546-9100. The Director is Trish Williams, M.A. Brochures are available.

A similar program is now available in Longmont. It is called the S.A.F.E. Center. You can call S.A.F.E. at 303.776.5348 or use their email at svpc@usa.net. The Center also has a website at stvrainparents.org. S.A.F.E. is open many hours a week and offers a number of support groups and educational programs. Brochures are available.

I am very excited about these programs. They have been a long time in coming and required the work and dedication of many people in our community. Use them for our children's sake!!

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### BCBA Professionalism Committee On-call Schedule

Dec. 3     Steve Meyrich 440-8238  
Dec. 10    Chuck Saxton 776-6911  
Dec. 17    John Miller    772-0165  
Dec. 24    Karen Burns 443-4660  
Dec. 31    Helen Stone 442-0802

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## PRESIDENT'S PAGE *(continued from page 5)*

hand of friendship, secure in the knowledge that they will be as truly American as the rest of us. This is a difficult time for all Japanese-speaking people. We must work together for the preservation of our American system and the continuation of our theory of universal brotherhood."

Then, in southern Colorado, Governor Carr stared down an angry crowd demonstrating against the arrival of the Nikkei (people of Japanese ethnicity) being relocated from the West Coast. "If you harm them, you must harm me. I was brought up in a small town where I knew the shame and dis-

honor of race hatred. I grew to despise it because it threatened the happiness of you and you and you."

The Republican governor staked his political future on this issue, stating, "If I'm wrong you can oust me at the next election." Colorado did just that. When Ralph Carr ran for the U.S. Senate in 1944, he lost by 3,000 votes out of more than 300,000 votes cast. At the same time his Republican colleagues in other statewide contests were winning their races by 40,000 -vote margins.

This was the aftermath of December

7. Now sixty years later we are grappling with that of September 11. Somewhere between 1,000 and 1,200 people (the government itself does not know the exact figure) have been "detained" in custody since September 11. Most of the detainees have not been linked to terrorism by any evidence. Many have been imprisoned for weeks without access to telephones or Muslim meals. An unusually wide net has been cast around potential suspects, material witnesses and those with minor immigration violations. The U.S. Attorney General is proposing to eavesdrop on the confidential communications between the detainees and their attorneys without any court review or authorization.

What has happened to the right to counsel, habeas corpus, no arrest without probable cause, the right to know the charges against you? What has happened to the Bill of Rights? Are we repeating "our worst wartime mistake"? My fear is that we are well on our way to doing so.

Don't forget the December 5, Civil Rights Symposium at CU School of Law Lindley Memorial Courtroom from 7-9 P.M. CLE general and ethics credits have been applied for. See page 14 for further information.

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

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## INSURANCE ISSUES FACING SMALL BUSINESSES *(continued from page 3)*

her client by analyzing policy language to determine losses covered, limits of coverage and retention amounts (a dollar amount or percentage that the insured must pay before the insurance company pays).

### III. Property and Casualty Insurance

Proper kinds and amounts of property and casualty insurance can keep the financial burdens of the small business owner's personal liabilities from spilling over into the vital operations and financial viability of the business. A homeowner's policy typically provides protection against a number of perils in one policy, including damage to and replacement of the home and other structures, personal property within the home, loss of use or additional living expenses, personal liability and medical payments.

Automobile insurance, mandated by state law for individuals to maintain drivers' licenses, should be purchased for business vehicles as well. In particular, uninsured/underinsured motorist coverage in an automobile policy effectively shifts risks by covering the difference between actual losses sustained and what an insured can collect from an at-fault uninsured or underinsured driver (up to policy limits). Depending on the business of the clients, other kinds of insurance to consider are renter's insurance, condominium owner's insurance and flood or other natural disaster insurance.

### IV. Personal Insurance

The category of personal insurance includes health insurance, life insurance, disability insurance and other employee benefit plans. Small business owners (including attorneys themselves) need to be aware of

health insurance choices both for themselves and their employees to save costs while maintaining adequate health care. An excellent primer on health insurance for small businesses is "Membership Services - Special 2001 Health Insurance Update," *The Colorado Lawyer*, vol. 30, no. 9 (July 2001). Life (buy-sell, split dollar, key person) and disability (buy-out, key person, business overhead) insurance can often make the difference between a business dying with the owner's death or disability or continuing with the next generation, other partners or remaining employees. By

virtue of being part of a business, owners and employees can often obtain life, health, and disability insurance at favorable group rates without exclusions or denial due to pre-existing health conditions. Personal insurance is also a vital part of business owners' individual estate plans. Practitioners in all fields are increasingly called on by small business owners to interpret and argue claims provisions from life, health, and disability insurance with insurance carriers.

*This article was submitted by the BCBA Business Law Section. The author, Kurt Hofgard, is a Business & Estate Planning attorney in Boulder and a Chartered Life Underwriter (CLU).*

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# SECURITY: HOW MUCH IS TOO MUCH?

A Symposium on Civil Rights After September 11

A Community Service Presentation by the  
Boulder County Bar Association

**WEDNESDAY, DECEMBER 5, 2001**  
**UNIVERSITY OF COLORADO SCHOOL OF LAW**  
**LINDSLEY MEMORIAL COURTROOM**  
**7 - 9 P.M.**

**FREE AND OPEN TO THE PUBLIC**

**CLE (ETHICS AND GENERAL) APPLIED FOR**

## **Guest Panelists:**

**Bill Hosokawa, retired Denver Post Editorial Page Editor**, Japanese internment camp survivor, author of *Nisei: The Quiet Americans*. Bill will provide a historical perspective on war-time racial segregation.

**Ibrahim Kazeroni, Imam, Ahl al-Beit Islamic Center**, will share concerns about present restraints on freedom and civil rights.

**Clay Evans, Assistant Editor, The Boulder Daily Camera**, will discuss media responsibility on reporting terrorism threats and governmental action and reaction: Can the media provide too much information?

**Hon. John Suthers, Esq., United States Attorney for the District of Colorado**, will disclose appropriate measures to ensure safety and discuss the need for the new Anti-terrorism Act.

**Moderator: Professor William Pizzi, University of Colorado School of Law.**  
Free CLE for attorneys -- 2 general and 1 ethics CLE credit

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## CLASSIFIED ADS

**PREEMINENT BOULDER** real estate, land use, water, commercial litigation, business law and intellectual property firm has an immediate opening for a detail-oriented associate with 2-4 years litigation experience. Applicant must possess substantial law school credentials, have proven analytic and writing skills and be a highly motivated self-starter. Send resume to Patricia Forbes, 1401 Walnut St. #500, Boulder, CO 80302.

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**WELLS FARGO BANK, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF ELIZABETH FAGUY-COTE,** seeks information from any attorneys who may have done any estate planning/will drafting for Ms. Faguy-Cote. Please contact Alan Tang at 303.441.0320.

### **COLORADO LAWYERS FOR THE ARTS SEEKS PART-TIME EXECUTIVE DIRECTOR**

**Colorado Lawyers for the Arts ("COLA"), a non-profit arts organization, is seeking applications for the position of part-time Executive Director.** This position involves directing a legal referral service and mediation program and setting up educational programs around the state of Colorado. The ideal candidate will be a licensed Colorado attorney with experience working with legal issues in the arts world and experience in non-profit administration, including fundraising, grantwriting, event planning, volunteer coordination, public relations, and basic financial operation.

Applications will be accepted by mail to: Executive Director Search Committee, Colorado Lawyers for the Arts, P.O. Box 48148, Denver, CO 80204.

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### **ESTABLISHED BOULDER LAW FIRM SEEKS ASSOCIATE WITH 1-10 YEARS EXPERIENCE**

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FAX 303.449.9349  
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