



# BOULDER COUNTY BAR ONLINE NEWSLETTER

1942 BROADWAY, SUITE 205  
BOULDER, CO 80302

303.440.4758  
FAX 303.402.6958



## D E C E M B E R 2 0 0 2



### CORPORATE FRAUD - IS ANYONE DOING ANYTHING?

BY RON JUNG AND MICHAEL RUDERMAN

#### CONTENTS

• CORPORATE FRAUD	1
• PRESIDENT'S PAGE	4
• CALENDAR OF EVENTS	6
• ANNOUNCEMENTS	7
• PRO BONO PAGE	11
• EAST COUNTY BEAT	12
• E-FILING IN 20TH J.D.	13

**20TH J.D. REQUIRED E-FILING FOR ALL DISTRICT COURT CIVIL CASES. PLEASE PLAN TO ATTEND INFORMATIONAL MEETINGS AND LEARN ABOUT THE PROCESS.**

**SEE PAGE 13 FOR DETAILS.**

In January 2002 the Federal Deposit Insurance Corporation announced that the number of publicly traded companies declaring bankruptcy had shot up to a record of 257. This was a 46% increase over the prior year's total, which itself had been a record. "These companies shunted \$259 billion in assets into protective custody - that is, away from shareholders." <sup>1</sup> It is estimated that 6% of corporate revenues will be lost in 2002 as a result of occupational fraud and abuse. Applied to the U.S. gross domestic product, this translates to losses of approximately \$600 billion, or about \$4,500 per employee. <sup>2</sup> These figures are up from \$400 billion in a similar study performed in 1996. As Richard Ketchen, CGA, put it, "Not only does fraud pay well, it's a growth industry."

In the wake of numerous scandals of mis-tated financial accounting and blatant fraud on the part of business executives, the federal government has addressed the problems with new legislation. What began as the Corporate Responsibility Act became the Public Company Accounting Reform and Investor Protection Act of 2002, or the Sarbanes-Oxley Act, when it was finally signed into law on July 30, 2002. <sup>3</sup> Corporate misconduct and this Act have already begun to produce a new environment for businesses, attorneys, accountants and the public.

The Act is wide-ranging and can be summarized only briefly in this short article. Sections of the Act amend the Securities Act of 1933 and Securities Exchange Act of 1934 as well as the criminal code. Over the past several months the BCBA Business Law Section has organized three CLE presentations for the Bar and the public on the issues raised by corporate and investment scandals, and these will be reviewed. We thank Professors Dale Oesterle and Ted Fiflis of the CU Law School, Lawrence P. Gelfond, CPA, securities fraud investigator, and Ashley Albright of the Colorado Attorney



**JOIN US FOR THE  
3rd ANNUAL BCBA HOLIDAY PARTY  
DECEMBER 12 th AT 5:30 PM  
CALL FOR RESERVATIONS AND LOCATION DIRECTIONS**

*(continued on page 3)*

**DECEMBER 2002** (Details for programs on page 6)



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2	3	4	5	6	7
8	9	10 Employment	11 Tax, Estate/Civil Lit.	12 Brd. Mtng. Holiday Party	13 Bankruptcy	14
15	16	17	18 Family	19	20	21
22	23	24	25	26	27	28
29	30	31				

*Wishing you a Joyful Holiday Season  
and a Happy New Year!*

*Thank you for a wonderful start for our new  
firm from Rich, Katie and Linda!*

**1031 SOLUTIONS**

We make it easy!

BOULDER/DENVER 303.440.1031

TOLL FREE 866.440.1031

---

## CORPORATE FRAUD - IS ANYONE DOING ANYTHING?*(continued from page 1)*

General's office for their participation in the presentations and contributions to our understanding of these important issues.

### THE SARBANES-OXLEY ACT OF 2002

The Act applies to all publicly traded companies subject to Securities and Exchange Commission rules. It establishes a new Public Company Accounting Oversight Board, a self-regulatory body subject to SEC oversight. The new board is to regulate the accounting profession, establish auditing standards, including quality control, independence and ethics, and investigate and enforce the standards among the public accounting firms. The Board will have the power to inspect and discipline accounting firms performing audits of publicly traded companies.<sup>4</sup>

In its effort to strengthen auditor independence, the Act requires boards of directors to maintain audit committees composed exclusively of independent directors and strengthens the powers of these committees. Audit committees must approve all audit and non-audit accounting services provided to the company. Outside company auditors will be prohibited from performing most non-audit services to help insulate them from potential conflicts of interest with their public audit function.<sup>5</sup>

The Act includes new rules on corporate governance and modifies the roles of senior management. The Act makes the audit committee, rather than management, responsible for hiring and firing the public auditor. Changes include certification of annual and quarterly reports by the CEO and CFO, prohibition of loans to directors and officers, forfeiture of bonuses and trading profits on accounting restatements and disqualification of directors for violations.

Required public disclosures have been increased. These include disclosure of a senior management code of ethics in annual reports, all transactions involving management, directors and principal stockholders, all material off-balance sheet transactions, creation and reporting of an internal control report identifying management controls for financial reporting and insider trading reports within two days of a transaction.<sup>6</sup>

The Act instructs the SEC to establish rules within one year governing the independence and objectivity of securities analysts. The conflict of interest inherent in a firm

which serves as both an investment banker for a public company and as research analyst and advisor to the investment public is to be addressed. The investment banking staff may not supervise or "clear" analyst reports. Analysts must disclose conflicts of interest and will be protected from retaliation for unfavorable stock recommendations.<sup>7</sup>

There will be increased enforcement and penalties for violations of these federal securities laws, assuming an adequate level of funding. SEC filings are to be reviewed more frequently. Misconduct, such as false certifications, records destruction and schemes to defraud, are criminalized. There are increased monetary and injunctive sanctions in SEC enforcement actions and increased penalties for securities-related criminal violations. The statute of limitations has been increased in securities fraud cases, and a private right of action has been added in certain circumstances.<sup>8</sup> Corporate whistleblowers are protected by a new criminal statute.<sup>9</sup>

### EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 "ERISA"

Prior to passage of the Sarbanes-Oxley Act of 2002, attorneys around the country were creatively drafting lawsuits to aid the group most severely affected by corporate corruption, company employees. Company employees had been persuaded to invest their retirement funds in company stock during the recent period of Wall Street prosperity. However, employees of Enron, WorldCom, Global Crossing and Qwest all found that their employers misled the public about their record-breaking growth and earnings in an effort to inflate share price. After the fallout, shares went in the tank and employees lost the value of their 401(k) retirement plans. Several groups of employees have brought ERISA class action lawsuits against their employer companies and their directors and officers. The suits allege that the directors and officers breached their fiduciary duties under ERISA by knowingly issuing false and misleading public statements about the companies' financial condition, which induced employees to invest and maintain their plan assets in company stock at artificially high prices.<sup>10</sup> This type of case has been brought against Enron Corp., Qwest, WorldCom, and Global Crossing.<sup>11</sup> These cases are pending. It is too early to predict how the courts will rule on the disclosure requirements of ERISA. It appears that the issue will be tied to whether disclosures were made to induce partici-

*continued on page 9*

---

# IN MEMORY OF SWEDE JOHNSON

BY PETER DIETZE

Swede Johnson was passionate about being informed. He would read several daily papers and numerous news magazines. Beyond that, there was not a period in his life when he was not reading a book. He prided himself in knowing a lot of stuff - his phrase. For the last 25 years, Swede and I would have lunch, more or less once a week. On many of these occasions he would lecture me on having interests that were too narrow. He would point out that I did not know enough stuff. It is true, a lot of stuff Swede found interesting that I did not. I counted on Swede to carry my load - he did, and let me know it.

Swede was a principled man. Yet, in affairs of daily life and matters business, Swede applied to problems his wonderful common sense. Without forsaking his principles, Swede was able to arrive at answers which made sense. Swede did not take himself too seriously. He laughed easily with others and at himself; he had a knack for sardonic humor which he employed to take the sting out of sticky situations. During the course of three decades, Swede and his partners built Boulder's largest law firm, Chrisman, Bynum & Johnson.

Swede was well known and respected for his political insights. He started his professional life as administrative aide and legal counsel to former

U.S. Senator Peter Dominick in Washington, D.C. More recently, Swede was an advisor to former U.S. Senator Hank Brown. For many years, Swede advised local and state-wide candidates in getting elected and staying elected. I benefited from his advice during the 18 years I served on the Board of Regents of the University of Colorado. Swede would listen and offer his advice, always insightful and savvy.

In the last few years, Swede began to prepare for retirement. He looked forward to concentrating on his family, in particular the growing number of his grandchildren. Because Swede was but sixty-five years of age and so deeply involved in the life of our community and his church, because he meant so much to his family and friends, his death was abrupt, leaving us stunned and wondering "why?" We must accept the fact that we will never know the answer. I know this: I am thankful for having known Swede and having been Swede's friend.

*Peter Dietze is a partner in Dietze & Davis, PC. He has been a good friend of Swede's for over 30 years.*

---

# PRESIDENT'S PAGE

## JUDICIAL SELECTION, LITMUS TESTS AND DOUBLESPEAK

BY SETH BENEZRA

During the recent national election campaign, Republicans repeatedly asserted that Democrats were unreasonably blocking judicial appointments and politicizing judicial selection by maintaining a "litmus test" for the appointment of judges. President George W. Bush has repeatedly decried opposition to his nominees by Democratic senators, charging that their resistance derives from "politics." Senate Republicans have accused Democrats of creating a vacancy crisis by delaying hearings for judicial nominees. But during the years when Clinton was President, Orrin Hatch, Trent Lott and their Republican allies conspicuously slowed the confirmation process to a crawl.

In the face of these political charges and counter-charges, many Americans complain that the appointment process has been contaminated by politics. Many contend that the disputes over judgeships are a new and dangerous development, that those on both the right and left are wrong and that deference should be given to the President's choice in deciding whether to confirm his or her selection.

This analysis misses the point. First, the "deference analysis" ignores the historical reality that the appointment process has always been "political." Second, it ignores the fact that the Constitution envisions a very "political" selection process. Third, individual senators, by fearing that they will be accused of wrongfully "politicizing" the process, are induced to conjure up untrue reasons for

opposing candidates that in turn undermine the credibility of appointed judges.

Historical reality: The Senate rejected George Washington's nomination of John Rutledge as Chief Justice, even though Rutledge had been confirmed as an Associate Justice and was already serving as Chief Justice thanks to a recess appointment. The reason the Senate rebuffed this nomination was because Rutledge had criticized the Jay Treaty with Great Britain, prompting a political backlash.

Similarly, President Herbert Hoover's Supreme Court nominee Judge John Parker was rebuffed by the Senate in 1930 because of his perceived aversion to the labor movement and to civil rights for African-Americans. There are numerous other examples.

Second, the Constitution implies nothing about Senatorial "deference" to judicial nominees. The Constitution vests the President alone with the power to nominate federal judges and directs the President to obtain "the advice and consent" of the Senate. This gives

the Senate a veto over the President's judicial selections. Expecting senators to ignore politics when exercising this responsibility is practically and intellectually ludicrous. Judges are policy makers. They exercise discretion, they express values and they weigh consequences in reaching conclusions. They can and do change the course of the law and they serve for life. Whether one thinks that a judge will perform his/her tasks well is largely influenced by a senator's own political beliefs. Senators should not only evaluate the competency of nominees but, as a practical matter, also assess a potential judge's philosophy, attitude toward the law (is the person a strict constructionist, does he or she view the law as an instrument of social change), ideology and political views.

The real problem with the harsh criticism of senators for "politicizing" the selection process is that it prompts senators to come up with untrue reasons for their opposition to a particular candidate. Nominees may be unjustly labeled as racist or extremist or accused of having been involved in a scandal. Taking such positions

*(continued on page 10)*

---

# CALENDAR OF EVENTS

---

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 \$10 per hour for members of the Young Lawyer Section practicing 3 years or less. Materials are \$5 without CLE credit.

**December 3, 2002**

***Availability of Legal Services***

Eviction Defense; Public and Subsidized Housing

Presenters: Pat Mayne, County Attorney  
Jenifer Knight, Attorney, CLS  
12 Noon at Hutchinson, Black and Cook  
921 Walnut Street, Suite 200  
Free CLE for attorneys who agree to take a pro bono case  
CLE \$30, Boxed Lunch \$10  
(turkey, veggie or beef)

**December 10, 2002**

***Employment Law/ Business Section***

Immigration Issues

Speaker: Betsy Bedient

Caplan & Earnest, LLC

12 Noon

CLE \$15, Boxed Lunch \$10

(turkey, veggie or beef)

**December 11, 2001**

***Tax, Estate Planning & Probate and Civil Litigation Sections***

Estate Planning in Civil Litigation

Speaker: Martha Ridgway

12 Noon at Hutchinson, Black and Cook

CLE \$15, Boxed Lunch \$10

(turkey, veggie or beef)

**December 12, 2002**

***BCBA Holiday Party***

Rachael (Doan) Lattimer's Residence

Call Bar office for reservations and directions

**December 13, 2003**

***Bankruptcy Section***

Roundtable Discussion

12 Noon

Dolan's Restaurant in Boulder

**December 17, 2002**

***E-Filing Orientation Meeting***

Boulder County Justice Center

4:30 PM

Bar attorneys and staff welcome  
Location posted at Court Security

**December 18, 2002**

***Family Law Section***

Panel Discussion: Mediation

and Arbitration in Family Law

and E-Filing Meeting

Boulder County Justice Center

Courtroom E

12 Noon Brown Bag Lunch

CLE \$15

**January 14, 2003**

***Employment Law Section***

Annual Update

Speaker: Allan Taggart

at Caplan & Earnest, LLC

12 Noon

CLE \$15, Boxed Lunch \$10

(turkey, veggie or beef)

**January 14, 2003**

***E-Filing Orientation Meeting***

Boulder County Justice Center

4:30 PM

Bar attorneys and staff welcome  
Location will be posted at Court Security

**January 15, 2003**

***Family Law and Bankruptcy Sections***

Bankruptcy Issues in

Family Law

Speaker: Barton Balis

Boulder County Justice Center

Courtroom E

12 Noon Brown Bag Lunch

CLE \$15

**January 16, 2003**

***Civil Litigation / Medical-Legal Section***

Issues in Chiropractic Care - From

Treatment to IME

Speakers: Dr. Michael Nehring,

Dr. Evan Katz and James Hult Esq.

The Academy, 970 Aurora

12 Noon

CLE \$15. Lunch \$13

**January 21, 2003**

***Business Law Section***

Speaker: Stuart Kingsbery, JD, CPA

Business Theft and Fraud Prevention

through Internal Controls

Dolan's Restaurant, Boulder

12 Noon

CLE \$15, Lunch \$13

**January 22, 2003**

***Tax, Estate Planning and Probate***

Business Valuation Issues

Alex Baris, CPA

12 Noon at The Academy

970 Aurora, Boulder

CLE \$15, Lunch \$13

## LAWYERS' ANNOUNCEMENTS

### **GILBERT Y. MARCHAND, JR.**

announces the formation of  
Gilbert Y. Marchand, Jr., P.C.  
and his new location as of December 1, 2002

**Gilbert Y. Marchand, Jr., P.C.**  
2737 Mapleton Avenue, Suite 202  
Boulder, CO 80304-3835  
Telephone: 303.444.4256  
Fax: 303.444.5901  
email: [gymlaw.earthnet.net](mailto:gymlaw.earthnet.net)

**Alperstine & Covell, P.C.**  
remain of counsel and are still located at:  
2350 Colorado State Bank Building  
1600 Broadway  
Denver, Colorado 80202-4923  
Telephone 303.894.8191

### **LAMM AND BUTLER, LLC**

is pleased to announce that

### **DAVID A. WEYRENS**

has become associated with the firm.

Mr. Weyrens joins the firm's personal injury,  
litigation and criminal law practice.  
Mr. Weyrens is also taking referrals  
for family law matters.

287 Century Circle, Suite 201  
Louisville, CO 80027  
Telephone: 303.664.9103  
Fax: 303.664.9105

[dweyrens@lammlaw.com](mailto:dweyrens@lammlaw.com)

### **Legal Resolution Center**

is Proud to Announce that

### **Judge Michael R. Enwall**

former Chief Judge of the  
Twentieth Judicial District in Boulder

has become a Judicial Officer with LRC

Judge Enwall is providing ADR services  
throughout the Rocky Mountain West

#### **Legal Resolution Center**

7907 Zenobia Street  
Westminster, Colorado 80030-4444  
1-888-881-7365  
[www.legalres.com](http://www.legalres.com)

Westminster • Denver • Denver Tech Center • Colorado Springs • Cheyenne

### **JACQUELINE ST. JOAN**

FORMER DENVER COUNTY JUDGE  
ANNOUNCES THE OPENING OF HER LAW PRACTICE

**SPECIAL ADVOCACY  
LEGAL REPRESENTATION OF CHILDREN**

**MEDIATION/ARBITRATION**

**SETTLEMENT CONFERENCES  
FAMILY LAW APPEALS**

**INTERLOCKEN:**  
11001 W. 120TH AVE, #400  
BROOMFIELD, CO 80021  
303.410.4323  
FAX: 303.410.4299

**LoDo:**  
1400 16TH ST., #400  
DENVER, CO 80202  
720.932.8192  
FAX: 720.932.8100

**SHE WILL CONTINUE TO SERVE AS PRESIDING JUDGE,  
BROOMFIELD MUNICIPAL COURT, ON A PART-TIME BASIS.**

## LAWYERS' ANNOUNCEMENTS

### **ESPAÑOL LEGAL**

**ARE YOU INTERESTED IN IMPROVING  
YOUR SPANISH AND CULTURAL  
UNDERSTANDING WITH YOUR CLIENTS?**

THERE WILL BE AN 8-WEEK COURSE SPECIFICALLY  
DESIGNED FOR LAWYERS, LAW OFFICE AND COURT  
PERSONNEL TO DEVELOP LANGUAGE SKILLS AND  
CULTURAL UNDERSTANDING THAT ARE DIRECTLY  
APPLICABLE TO THE LEGAL ARENA.

The instructor is a certified language instructor  
and federal court interpreter with 15 years experience.  
The instructor has been teaching Spanish courses for  
court personnel and attorneys for the past 11 years  
through the 20th J.D. and CU School of Law.

The course has the option of beginning  
February 1, 2003 and will meet  
twice a week for one hour.

**IF INTERESTED, PLEASE CALL THE BAR OFFICE  
FOR DETAILS BY DECEMBER 20, 2002.**

**MARTIN & MEHAFFY, LLC**  
is pleased to announced that

**MECHELLE Y. FAULK**

**Has Joined the Firm as an Associate.**

**Boulder office**

1655 Walnut St.

Suite 300

Boulder, CO 80302

Tele: 303.442.3375

Facsimile: 303.444.8398

**Brighton Office**

21 N. 1st Ave., #290

Brighton, CO 80601

Tele: 303.659.0731

Facsimile: 303.659.0752

email: [mfaulk@mmlc.com](mailto:mfaulk@mmlc.com)



## **DOLAN'S RESTAURANT**

2319 Arapahoe • Boulder, CO • 303.444.8758 • [www.dolansrestaurant.com](http://www.dolansrestaurant.com)

**LOBSTER \$16**

**Every Night, While They Last**



**FEATURED WINES \$2**

**By The Glass**

Sauvignon blanc by CANYON ROAD

Chardonnay By TALUS

Riesling by FOREST VILLE

Pinot Noir by NICHOLAS

Cabernet Sauvignon by CAMELOT

Syrah by SAVONA

Wine promotion only available in the bar area

## CORPORATE FRAUD - IS ANYONE DOING ANYTHING? *(continued from page 3)*

pants to invest their plan assets in company stock.

### THE IMPACT ON BUSINESS ATTORNEYS

As a result of the scandals and the response thus far, it is likely that, in addition to the new rules and regulations described above, old laws will be applied more strictly. Although the Act applies only to publicly traded companies subject to the SEC, business attorneys should be aware that at least some of the standards that emerge from implementation of the Act will probably be viewed by accountants, regulators and courts as applicable to non-publicly traded companies. Therefore, all attorneys advising businesses should pay attention to the development of the rules and regulations over the next year. For example, the new Act requires certification by the CEO and CFO that financial reports contain no material misrepresentations or omissions. The standard for certification is not GAAP (Generally Accepted Accounting Practices), but that financial statements comply with the securities acts and fairly present the balance sheet and income statement. Precisely what that means is unknown, but a standard may emerge that is applicable beyond just the publicly traded companies.

Another subject expressly addressed in the Act is a new Federal Code of Professional Responsibility for securities lawyers transacting business with the SEC. The Act requires that the SEC to prescribe minimum standards of conduct for attorneys who practice before the SEC and who represent publicly traded companies. Attorneys will have an affirmative duty to report material violations of

securities law or breach of fiduciary duty to the chief legal counsel, CEO, audit committee, independent directors and ultimately the entire board.<sup>12</sup> We may expect many states, possibility including Colorado, to follow suit with their own modifications of professional codes for attorneys.

Regulation of corporations has generally been a mix of federal and state statutes. This Act represents a swing to federalizing controls, at least for publicly traded companies. All attorneys, whether corporate or plaintiffs' counsel, can anticipate a much more invigorated SEC, as well as a political environment more willing to impose legislative controls.

The Colorado Attorney General's Office is responsible for enforcing

laws against fraudulent business practices within our state, not restricted to publicly traded companies. Many deceptive trade practices can be addressed, either by the state or by private citizens, through the Colorado Consumer Protection Act. The AG's office also works with the Division of Insurance, Division of Securities and Board of Accountancy to enforce fraud-related statutes in those industries. Because of the state's limited budget, however, we are unlikely to see any new state legislation in this area that would require new funding for enforcement. Furthermore, enforcement of existing statutes by the AG's office is very restricted by lack of funding. The office is unable to investigate and pursue many actions that may be violations. Therefore, if any conduct is

*continued on page 14*

### SEIDMAN DEPOSITION REPORTING

*Serving the Boulder County Bar since 1960.*

Registered MERIT Reporters  
Certified Shorthand Reporters  
Certified Legal Video Specialists  
Registered Professional Reporters

#### BOULDER'S ONLY LOCALLY OWNED FULL-SERVICE COURT REPORTING FIRM

Depositions • Hearings • Arbitrations  
Videotaping • ASCII & Discovery Disks  
Realtime • Conference Rooms • Mini or Full Sized Pages  
Exhibit Management • Word Indexing

Irwin Seidman  
Sara Goldenberg  
John J. Spera  
Elizabeth K. Ellis

Janet S. Lawder  
Molly B. Kell  
Nicholas A. Francis  
Kathleen Pratt

P.O. Box 4689  
Boulder, CO 80306  
303.444.4669 FAX 303.440.9968 Cell 303.909.4707

undermines public confidence in the judiciary. Not acknowledging a dispute over a candidate's views leads the public to perceive that the judge is flawed for other reasons. We would be far better off if senators openly opposed nominees for their substantive legal views, rather than pretextual ones.

Senators should be free to oppose candidates on the basis of educated perceptions of what those candidates are likely to do if confirmed. Trying to banish politics from the process is both a waste of time and a bad idea. Judges are endowed with tenure for life and the ability to strike down legislation. The role of senators in examining candidates, ascertaining their ideological beliefs and confirming their appointment is a critical, constitutionally-mandated activity.

**3RD ANNUAL LEGAL AID  
FOUNDATION WINE TASTING  
FUNDRAISER**



**WEDNESDAY,  
FEBRUARY 19, 2003**

**THE DAIRY CENTER FOR THE ARTS  
2590 WALNUT STREET IN BOULDER**

**5:30 P. M.  
\$50 PER PERSON  
SPONSORED BY LIQUOR MART**

**EXCELLENT SILENT AUCTION AND  
WINES FROM AROUND THE WORLD**

**LAW FIRM SPONSORSHIPS AND  
VOLUNTEERS ARE NEEDED FOR THIS VERY  
SUCCESSFUL EVENT. LAST YEAR WE MADE  
OVER \$8,000 FOR LEGAL SERVICES.  
WE HOPE TO BREAK THAT RECORD!**

**MARK YOUR CALENDARS**

**CALL THE BAR TO VOLUNTEER  
AND ORDER TICKETS  
303.440.4758**

## PRO BONO PAGE

Thank you to the following attorneys who accepted 32 referrals from BCLS during the month of October.

Norm Aaronson  
Don Alspaugh  
Jeff Ballas  
Bill Benjamin  
Ben Blaugrund  
Susan Bryant  
Clark Edwards  
Bruce Fest  
Melody Fuller  
Anne Jorgensen  
Barbara Lavender  
Gary Merenstein  
Keith Moskowitz  
Andrew Newell  
Keith Olivia  
Neil Piller  
Karen Radakovich  
Ralph Strebel  
Sharon Svendsen  
Cameron Tyler  
Brent Warkentine  
Norm Aaronson's CULADP students

Thank you to **Arlene Brownell & Tom Bache-Wiig** of Connection Partners for a pro bono mediation in a contested family law matter.

**Boulder County Legal Services pro se family clinic volunteers:**

Christie Coates  
Stefan Fredricksmeier  
Mike Miner  
Bev Nelson  
Georgiana Scott  
Tim Spang

**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 April:

Paul Bierbaum  
Bruce Johnson

**Pro Bono Corner:**

BCLS has many CU law students interested in volunteering. If you have a pro bono case, please consider using a law student to assist you. Call Sue @ 303-449-2197 for more information.

### BCBA Professionalism Committee On-Call Schedule

Dec. 2	Pat Murphy	442.3366
Dec. 9	Mark Langston	440.9684
Dec. 16	Bev Nelson	554.7030
Dec. 23	Christie Coates	443.8524
Dec. 30	Steve Meyrich	440.8238

## Ridgway, Romeo & Vincent, LLC

~ Boulder County's Elder and Disability Law Firm ~

Emphasizing the legal needs of the elderly,  
the disabled, and their families

Now Accepting Referrals in

Probate & Trust Litigation  
Contested Guardianships & Conservatorships  
Elder Abuse & Financial Exploitation

Contact:

Martha Ridgway  
or Rick Romeo

Boulder County Office 303-604-6030

Denver Metro Office 303-770-0673

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

---

## EAST COUNTY BEAT

BY ANTON DWORAK

Imagine this: A war-torn country still recovering from years of bombing and despotic leadership. A country, as it tries to recover, still rife with intrigue, deception and danger. Then imagine a man, sent by the United States government on a special mission to help bring order to this country, Serbia, using whatever means he can muster. Who is this international man of mystery? His name is Lyons, Dick Lyons, and he lives in Longmont.

Is any of this true? Well of course it is: would a nice Longmont boy like me lie? Dick Lyons, of Bernard, Lyons, Gaddis & Kahn, was in fact sent in September to Serbia by the U.S. State Department. His mission was not one of intrigue but as part of an international team charged with monitoring the country's presidential elections. Please remember that Serbia and Montenegro are two republics that make up the former Yugoslavia. I, of course, knew this off the top of my head - didn't you?

Dick arrived in Serbia on September 24. His first stop was Belgrade, to receive a briefing on the situation and get assigned to a region of the country to observe. He said the briefing was fascinating, especially on the political situation. The election procedure portion was pretty much what we do in the states, but they have so few rules that close observation of problems was key. It was anticipated that several parties would try ballot-stuffing.

Dick said that the food was great. (If you know Dick, you know that food analysis rates high on his list of priorities). Several of his team went

downtown to the old part of Belgrade, which rivals the 16th St Mall in Denver, full of shops, restaurants and night spots. An art show was going on as well as several political parades. He had broiled lamb, braised potatoes and lots of cucumbers, onions and tomatoes (which are served at every meal) and Serbian Baked Beans, which are just like ours! GREAT desserts ! Dick never misses dessert.

OK, enough of the restaurant review. Dick was assigned to Cacak, a mining and industrial community about 130 kilometers southwest of Belgrade. He stayed in a horrible little hotel in Cacak. He was teamed with Inger, from Finland, a quiet professional lady who was all business, about his age, and unfortunately acted it (I sure hope she doesn't read East County Beat.)

Overall, Dick said it was a great experience, personally enriching and tremendously rewarding, and very humbling. Serbia is a very poor nation, still trying to recover from Milosevic's rule, wars and the ethnic divisions which he created. Dick met great people, warm and friendly, the powerful (member of parliament, mayors etc.) and the humble (farmers, villagers, and laborers), all of whom were very eager to join the world community and improve the future for their children. He didn't observe any naughty voting behavior, but he's pretty sure it was happening in other areas.

Who won, anyway? Well, the election ended up in a runoff between Vojislav Kostunica and Mirosljub Labus, but it seems as though they

didn't exactly capture the hearts of the voters. The runoff election didn't have the required voter turnout (50%), so right now, no one wins. A new election will be held in December, as the current president's term expires in January. An anticlimactic end to a great story.

Dick's next stop? Florida!



---

## BOULDER COUNTY DISTRICT COURT ELECTRONIC FILING

The Boulder County District Court started accepting electronic case filings in November 2001. The electronic filing project has been a joint effort of attorneys practicing in the Boulder courts, court staff, the State judicial information systems staff and Lexis-Nexis CourtLink. Currently, approximately 75% of civil cases are filed electronically by attorneys and approximately 90% of mailings by the court to attorneys are done electronically.

Recently Boulder was selected to serve as one of five model electronic filing courts in Colorado. The Boulder project will focus on district court civil and domestic filings. The purpose of the statewide project is to study filings of particular case types and to fine-tune the electronic filing process to insure that it is meeting the needs of attorneys and court staff. The short term goal of the Boulder County project is to move toward a requirement that all

district court civil cases be filed electronically. The long term goal is to have a majority of district court domestic cases filed electronically as well.

With the assistance of the Boulder County Bar Association, several meetings have been scheduled to provide attorneys and their staff with an opportunity to meet and discuss how the e-filing process works and to present ideas for improvements to the system. Debbie Crosser, Clerk of the Court, and Amy Waddle, District Court Administrator, will provide an overview of the electronic filing system. Representatives from the Judicial Branch information systems office and Lexis-Nexis CourtLink will be available to answer questions.

E-filing informational meetings have been scheduled for the following dates and times:

**Tuesday, December 17, 4:30 p.m.**  
**(Location will be posted at Court Security)**

**Wednesday, December 18, Noon - Family Law Section meeting - Courtroom E**

**Tuesday, January 14, 4:30 p.m.**  
**(Location will be posted at Court Security)**

You are encouraged to attend or send staff to one of the meetings. If you have questions or concerns about district court civil or domestic electronic filing and are not able to attend one of the meetings, please call Debbie Crosser, clerk of the court, at 303-441-3750 or Amy Waddle at 441-3882.

---

## CORPORATE FRAUD - IS ANYONE DOING ANYTHING? *(continued from page 9)*

addressable by a private right of action, an attorney should consider it and not assume that inaction by the AG's office indicates permissible behavior.

*Ron Jung and Mike Ruderman are co-chairs of the BCBA Business Law Section. Mike is a sole practitioner in Boulder and Ron is a partner in Jung & Haight P.C. in Gunbarrel.*

### FOOTNOTES

1. *Enough is Enough*, Fortune Magazine, March 18, 2002
2. 2002 Report to the Nation, Association of Certified Fraud Examiners
3. See Public Law 107-204
4. *Id.* Title I, Sec. 101-109
5. *Id.* Title II, Sec. 201-209
6. *Id.* Title IV, Sec. 401-409
7. *Id.* Title V, Sec. 501
8. *Id.* Title VIII, Sec. 801-807, Title IX, Sec. 901-906, Title XI, Sec. 1101-1106
9. *Id.* Title XI, Sec. 1107, 18 U.S.C. § 1514A
10. *Corporate Fiduciary Liability Claims in the Post Enron Era*, David M. Gische and Jo Ann Abramson; Ross, Dixon & Bell, LLP, Washington, D.C.
11. *Pamela Tittle, et al. v. Enron Corp., et al.*, C.A. No. H-01-3913 (S.D. Texas); *In re Qwest Savings and Retirement Plan ERISA Litigation*, No. 02-RB-46 (D. Colo.); *Judy Wilson Rambo, et al. v. WorldCom, Inc. et al.*, No. 3:02-CV-1088 (S. Miss.); and *Jagdeo Ramkissoon et al. v. Gary Winnick, et al.*, No. 02-CV-1478 (W.D. Cal.).
12. Public Law 107-204, Title III, Sec. 301-308

### CTX MORTGAGE COMPANY

A SUBSIDIARY OF CENTEX FINANCIAL SERVICES

**AMANDA SESSA**  
HOME LOAN CONSULTANT  
BRANCH MANAGER

1470 WALNUT STREET, SUITE 100  
BOULDER, CO 80302  
OFFICE 303 545-9600 877 3 ASK CTX  
FAX 303.545.2590 CELL 303.883.8858  
EMAIL: AMANDA\_SESSA@CTXMORT.COM

---

## CLASSIFIED ADS

**M.L. EDWARDS, ATTORNEY AVAILABLE TO DO RESEARCH AND COMPLEX DRAFTING ON A CASE-BY-CASE BASIS.** Specialties include Dom. Rel., Criminal and Mental Health. 13 years experience, quick turn-over, \$30.00 per hour. Call 720.581.4804

**FULL TIME OPPORTUNITY OPENING IN OUR VAIL LOCATION!** Hard-working attorney needed to join busy, energetic law firm. Seeking person with excellent writing, communication and people skills to join diverse, 6 member litigation-oriented practice. Please submit resumes to Andy Littman at [Littman@slb-llc.com](mailto:Littman@slb-llc.com) or fax to 303.449.9349.

**ROZ LYNN DORF, M.A. FREELANCE PARALEGAL SERVICES** 25 years' experience. Complex civil and criminal litigation. Real Estate. Corporations. Research. Drafting. 303.494.6935

**WINDOW OFFICE** in suite with 4 attorneys, 1/2 block off of Pearl Street Mall. \$650 per month. Call 303.440.5098.

**OFFICE SPACE AVAILABLE IN BOULDER** Individual offices available at 325 Canyon Boulevard, across from the Justice Center. Off-street parking, phone and internet system available, conference room, other common areas. Possibility of sharing receptionist and overflow work in criminal/domestic relations practice. Call Jim at 303.449.9960. Price range between \$650 and \$750 per month.

**OFFICE SPACE** furnished with computer, internet, legal research, janitorial, reception area, kitchenette, high speed copier, fax, and on site parking, 2 blocks from Justice Center, \$550 per month. Potential for overflow work. 255 Canyon Partnership, 303.443.1426.

**OLD TOWN LAFAYETTE** Office Space. 800 +/- sq. feet. Nicely detailed large office with separate reception/conference and copy/file areas. \$1100 month includes utilities. Call 303.604.1600 or 303.665.6500.

**SEEKING OFFICE SHARE.** Experienced attorney starting elder law practice seeking office with shared reception and conference room. Can handle overflow in corporate, trusts and estates, real estate and elder law. Please call Brandon at 303.246.7643 or e-mail at [brandon.fields@attbi.com](mailto:brandon.fields@attbi.com).

**SHARE SUITE** in one of Downtown Boulder's Most Desirable Buildings. Flatiron views, good company, all services. 303.442.3535.

**2 SPACIOUS OFFICES,** available 11/01/02. On-site parking, library, conference room, storage. Near Justice Center, receptionist, daily mail and court runs. Fax and copier available. Call Linda at 303.449.1873.

**CANYON PROFESSIONAL BLDG. OFFICE SPACE** across from Justice Center with full services including receptionist, conference room, library, utilities, parking and many common area amenities, \$650 per month. Call 303.444.1700.

**OFFICES AVAILABLE WITH SUITE OF LAWYERS.** Located at South Boulder Road and the turnpike. Convenient access to all areas of county and Denver. Plenty of free parking. Two conference rooms fax; copier. Two offices (one executive) and 3 secretarial stations available. Steve Cook (or staff) 303.543.1000.

---

THE BOULDER COUNTY BAR ASSOCIATION NEWSLETTER IS PUBLISHED MONTHLY BY THE BOULDER COUNTY BAR ASSOCIATION. ARTICLES BY GUEST LAWYERS MAY NOT BE REPRODUCED WITHOUT PERMISSION FROM THE AUTHORS. DEADLINE FOR ARTICLES IS THE 1ST OF THE MONTH AND DEADLINE FOR ADS IS THE 10TH OF THE MONTH PRIOR TO PUBLICATION.

**Phone: 303.440.4758**  
**Fax: 303.402.6958**  
**1942 Broadway, Suite 205**  
**Boulder, CO 80302**  
**E-mail: [bcba@bsuites.com](mailto:bcba@bsuites.com)**  
**<http://www.boulder-bar.org>**

**Executive Director and  
Newsletter Editor  
Christine Hylbert  
Executive Assistant  
Heather L. Holbrooks-Kuratek  
Barry Satlow, Editorial Assistance**

**Board of Directors  
2002-2003**  
**President: Seth Benezra, 303.716.0254**  
**Past President: Bruce Fest, 303.494.5600**  
**President Elect: Virginia Chavez, 303.572.1919**  
**Sec./Treasurer: Melody Fuller, 303.465.4605**  
**Rachael Doan, 303.928.2315**  
**Pat Furman, 303.492.8126**  
**Fern O'Brien, 303.546.1300**  
**Tony Dworak, 303.776.9900**  
**Trip DeMuth, 303.546.1300**

**Boulder County Bar Association**  
**1942 Broadway, Suite 205**  
**Boulder, Colorado 80302**

*Return Service Requested*

**PRESORTED STANDARD**  
**U.S. POSTAGE**  
**PAID**  
**PERMIT #661**  
**BOULDER, CO**