

Boulder COUNTY

BAR ASSOCIATION

SIDE BAR: MENTORING PROFESSIONAL IDENTITY

The BCBA is pleased to present our Side Bar program on Thursday, December 12 from 4:00-6:00 pm. The first hour will be a CLE presented by Ryann Peyton, Executive Director of the Colorado Attorney Mentoring Program on Mentoring Professional Identity. We will then have a networking and social hour with appetizers, wine and beer included.

The event will feature a CLE (1 General & 1 Ethics Credit) by the Colorado Attorney Mentoring Program (CAMP) on Mentoring a Professional Identity.

After that, we will introduce you to the new BCBA Lawyer Mentoring Program and you will have the opportunity to join small groups of mentors and mentees for brief conversations facilitated by BCBA mentors!

4:00: Mentoring Professional Identity CLE & Introduction to BCBA Mentoring Program

5:00: Speed Mentoring Event - Six mentors with specific mentoring topics. Groups change tables every five minutes

5:30: Networking & Sign Up to Participate in BCBA Mentoring Program

Please click [here](#) to register

Happy
Holidays to
all from the
BCBA!

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CALENDAR OF EVENTS

Wednesday, December 4

EMPLOYMENT

EEOC Briefing

Presented by Amy Burkholder & Lowell Pate

12:00 - 1:00 PM BCBA Offices (3269 28th Street)

\$35 CLE & Lunch, \$20 New Lawyer, \$10 No CLE

Please click here to register

Thursday, December 5

ALL SECTIONS LONGMONT CLE

Proactively Troubleshooting Ethics Issues

Presented by Karen Hammer

Noon - 1:00 pm @ Dickens Tavern (300 Main Street, Longmont)

\$41 CLE & Lunch, \$31 New/Young Lawyer, \$16 Lunch only

Please click here to register

Thursday, December 12

ALL SECTIONS SIDE BAR CLE

Mentoring Professional Identity

Presented by Ryann Peyton

4:00 - 6:00 PM @ BCBA Offices (3269 28th Street)

\$35 CLE and social, \$20 New Lawyer, \$10 No CLE

Please click here to register

Thursday, December 19

FREE LEGAL CLINIC IN BOULDER

5:30 PM @ BCBA Offices (3269 28th Street)

Please click here to volunteer



EXPLORE NEW MENTORING OPPORTUNITIES THROUGH THE BCBA!

The event will feature:

- Ethics CLE on Mentoring Professional Identity
- Overview of New BCBA Mentoring Program
- Small Group Speed Mentoring
- Peer Connection & Collaboration
- Drinks & Appetizers



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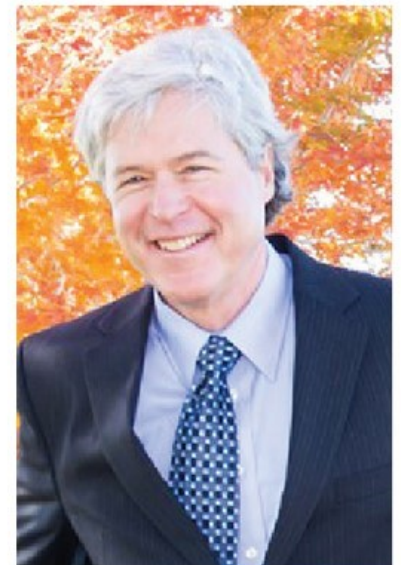
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EDUCATING CLIENTS ON THE PERILS OF EXERCISING "DISCRETION"

KAREN A HAMMER, ESQ., LLM

THE IMPORTANCE OF BEING A GOOD ADVISOR

Many business lawyers move on to other work after the client executes a contract they negotiated. The client takes its contract and goes off to reap the benefits. But do clients understand the legalese we have negotiated for them?

We can easily forget that clients aren't mind-readers – or typically attorneys. We can better serve our clients by helping them understand basic contractual concepts.

BUT THE CONTRACT SAYS . . .

For some clients, contracts languish in digital purgatory, never referred to again. Other clients are more meticulous and refer to contracts when questions arise day-to-day.

Our clients are likely to have a different perspective than we do on the term "discretion." A lay person to whom a contract delegates "discretion" might reasonably assume that she may properly do as she pleases.

Like many of us, our clients are rushed – they may take a quick glance at a contract about which they have a question, make a snap decision, and move on. In time management language, this event might be the proverbial "five minute task" the client is eager to check off her list.

We should reasonably assume that a client takes contract terms at face value – a contract giving a client "discretion" creates the initial impression of limitless power.

THE IMPLIED LEGAL TERMS OUR CLIENTS DON'T KNOW

We may forget that even sophisticated clients don't understand the legal meaning of contract terms. After all, even lawyers can at times lose touch with the technical meaning of words.

In many states, including Colorado, "discretion" carries with it implied covenants of good faith and fair dealing,

as well as reasonableness. Special constraints exist *especially* in areas where exercising discretion is permitted. To brush-up on this wrinkle, see, *Amoco Oil Co. v. Ervin*, 908 P.2d 493, 498 (Colo. 1995).

REAL WORLD EXAMPLE

Let's look at discretion in the context of a health care client. The patients of the health care organization typically sign a contract giving the organization the right to receive payment. These contracts also manage the relationship between the organization and patients, giving the client the power to terminate patients at its "discretion."

What if an employee accuses a patient of sexually harassing her? The client may gather the appropriate decision-makers to be briefed on the issue before swiftly protecting the employee (also attempting to prevent liability that might arise from ignoring work-place sexual harassment). Some organizations may simply send a polite letter saying the patient has thirty days to find a new health care provider.

Seems straightforward, right? Maybe not. Here are examples of potentially competing contractual provisions.

Did the client deal fairly with the patient? The patient was given thirty days to transition to new medical providers, that seems fair, right? But was the patient given an opportunity to give his side of the story? If not, the patient might believe that *assuming* he acted improperly is unfair. Maybe the client has even promised on its website that the patients' needs come first at ABC Healthcare.

Is the patient a beneficiary of any financial programs between the client and the federal government? If so, the client likely agreed not to discriminate based on disabilities. Does the patient have disabilities? Recall that disabilities are more than merely physically obvious things and include relatively invisible mental health issues. In the case I'm thinking of, the doctor was prescribing medication for anxiety and post-traumatic

EXERCISING "DISCRETION" CONTINUED

stress disorder. Did the patient have impulse control issues for which he was being treated? Was the patient's alleged misconduct a red flag for his medical provider to ask about the effectiveness of the medication the provider had been prescribing?

Is there a solution to the patient's problematic conduct short of terminating the patient relationship? Has the patient been notified about his misconduct and cautioned that future problems will result in his termination from treatment? Or was the patient's first notice of a problem the termination letter the client sent him?

ANSWERS AREN'T ALWAYS EASY

This article gives examples of issue-spotting opportunities for lawyers advising health care organizations. Answers aren't always obvious or easy. But it is fairly easy to misunderstand contract terms in a complex world.

Ultimately, the client may well need to terminate the patient (depending on the circumstances). But the process by which that decision is made is important. A client that assumes it can rely on the "discretion" we negotiated for it may act in haste and improperly.

Did the client seek legal advice prior to adopting its "we put our patients first" motto? Did the client understand

the implication of this marketing message?

When a lawyer negotiates client contracts, does she understand the impact on the client's current processes?

CONCLUSION

I think it's smart to find out what issues are on the client's mind - what keeps its managers awake at night? The more we as lawyers know about how our clients do business, the more value we are able to provide.

Karen Hammer has handled over two billion dollars of complex financial transactions involving businesses, government agencies, and quasi-governmental entities; does related types of litigation; and is a mediator. She is Secretary of the CBA Ethics Committee, chairs the CBA lawyer ethics hotline subcommittee, and is the former Secretary of the CBA/DBA Professionalism Coordinating Council. Hammer is a Hearing Panel member for the Office of Presiding Disciplinary Judge hearing attorney discipline cases. She chairs the Business Section of the BCBA and was Chair of the D.C. Bar's Real Estate, Housing, and Land Use Section and an appointee to the White House and Congressional Commission on Character Building in Education.



**BOULDER COUNTY BAR
FOUNDATION**

Invest in justice.

Invest in the future.

Invest in the community.

The Boulder County Bar Foundation is a 501(c)(3) that invests donations from its Fellows in an endowment fund, the proceeds of which are awarded to legally-related 501(c)(3) organizations in Boulder County. Grants have regularly been awarded to help fund legal services for low income, immigrant and displaced members of the community; high school mock trial teams and court-ordered co-parenting classes as well as court access for victims of domestic violence. The Foundation always has grant applications for more than it can give. Become a Fellow and help grow the endowment - it's good for justice, it's good for the future, it's good for the community and it's good for you.

**Invest in yourself.
Become a Foundation Fellow today.**

PRESIDENT'S PAGE

JENNIFER LORENZ

For several years the Boulder County Bar Association members have helped make gifts for the holidays possible for numerous children and teens in Boulder County through A Precious Child.

The Precious Child program collects donated new toys, gift cards and gifts for children (babies through teenagers) in the most need in the community. They make incredible efforts to make sure that children do not wake up Christmas morning without a present.

Every year my family sponsors a child. This year we sponsored a 16 year old girl. Her wish list included make-up brushes, a flat iron and Vans sneakers. I was a bit out of my element. I have not owned a pair of Vans since the 1990s. Fortunately, I was able to channel my younger self and take a trip to the mall where all of my shopping problems were resolved.

Last year, one of the children we sponsored was an 8 year old boy. His Precious Child list included new clothes, dinosaur toys and a BIKE. My husband and I were thrilled to help deliver a new bike to this little boy. During our search for a new kid's bike, we met a retired Auto Worker who now lives in Lafayette, Colorado. This incredible man spends his retirement fixing-up and donating gently used bikes to the community. He works out of his house and has bikes available for sale or donation- depending on your need. You can drive past his house in Lafayette and see his display of available bikes. It's amazing. He also donates bikes



to Community Cycles, and is happy to donate bikes to charities in need. His focus is not just children's bikes, but adult bikes as well. Many individuals are dependent upon their bikes to commute to and from work.

If you have any bikes collecting dust in your garage, considering donating them to a worthy cause and giving the bike and its eventual recipient a new life. A bike can change a life and make things that were previously inaccessible, accessible. <https://communitycycles.org/>

It's not too late to make a donation, sponsor a child and make a difference. Check out- <https://apreciouschild.org/what-we-do/precious-gift/>

Or, call Laura and Kyle at the BCBA and they can send you a name and Precious Gift list.

Happy Holidays!



PRECIOUS GIFT TOY DRIVE



Donate new toys and
bring joy to Colorado
kids in need!

Precious Gift
A PROGRAM OF A PRECIOUS CHILD

**We have 20 children still in
need of your generosity!!!**

Please email Kyle here if you
would like to participate.

2020 PROBATE COURT DATES

Beginning January 2020 the Probate days for the Boulder County District Court will be Tuesday for Division 3, Wednesday for Division 2, and Thursday for Division 5.

January 14 for division 3
January 15 for division 2
January 16 for division 5
February 05 for division 2
February 11 for division 3
February 13 for division 5
March 10 for division 3
March 11 for division 2
March 12 for division 5
April 7 for division 3
April 8 for division 2
April 9 for division 5

May 5 for division 3
May 6 for division 2
May 7 for division 5
June 2 for division 3
June 3 for division 2
June 4 for division 5
July 14 for division 3
July 15 for division 2
July 16 for division 5
August 11 for division 3
August 12 for division 2
No Probate docket for division 5

September 8 for division 3
September 9 for division 2
September 10 for division 5
October 6 for division 3
October 7 for division 2
October 8 for division 5
November 3 for division 3
November 4 for division 2
November 5 for division 5
December 1 for division 3
December 2 for division 2
December 3 for division 5

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Deirdre Ostrowski



Ross Pulkrabek



Lidiana Rios



Melissa Sullivan



Bradley Unkeless



Robert Wagner



Daniel Wartell



Zachary Warzel

PERSONAL INJURY. WORKERS' COMPENSATION. BUSINESS LITIGATION. INSURANCE DISPUTES.

PROFESSIONALISM ON CALL

December 2	Tripp DeMuth	303.447.7775
December 9	Peggy Goodbody	303.440.5736
December 16	Anton Dworak	303.776.9900
December 23	Steve Clymer	303.530.2137
December 30	Mike Rafik	303.444.9292

The Professionalism Committee assists lawyers, clients, and other members of the community with questions or complaints about behavior by lawyers that fails to meet generally accepted standards of professionalism and courtesy, or that is contrary to the BCBA Principles of Professionalism.

The Professionalism Committee does not address allegations of criminal or ethical violations by lawyers, as regulated by the Colorado Rules of Professional Conduct, and any such violations should be addressed to the Office of Attorney Regulation Counsel.

BOULDER COUNTY FREE LEGAL CLINIC

The dates have been set for the 2019/2020 Free Legal Clinics at the BCBA Office (3269 28th Street, 2nd Floor), the Lafayette Senior Center (103 Iowa Avenue), and the Longmont Senior Center (910 Longs Peak Ave) from 5:30 - 7:30 pm. Volunteers are always needed. Please contact Laura at laura@boulder-bar.org if you can help in Boulder or Lafayette, or susan.spaulding@longmontcolorado.gov if you can help in Longmont.

Lafayette: January 14, April 14, July 14

Longmont: February 25, May 19, August 25

Boulder: December 19, March 19, June 18

THANKS TO OUR VOLUNTEERS

The Longmont Free Legal Clinic was held on November 19. Thank you to the attorneys who were able to serve as volunteers:

Don Alspaugh
Ben Thompson
Judson Hite
Ozzie Mendoza
Jeff Larson
Autumn Nelson
Emily Ellison
Laurel Herndon

Richard Selinger
Beth Montague
Timothy Edstrom
Sarah Pheral
Stephanie Fournier
Jodi Martin
Karen Burns
Kate Keiser

PRO BONO REFERRALS

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

Howard Bernstein
Heather Kurland
Bruce Wiener

PRO SE VOLUNTEERS

Josh Anderson
Kathleen Franco
Shawn Ettingoff
Tucker Katz
Zachary LaFramboise
Michael Morpew

PRO BONO CORNER

Interested in a Pro Bono case? Please call Erika at 303-449-2197. CLE credits available for pro bono service.



CLASSIFIED ADS

TRANSACTIONAL POSITION AVAILABLE. Stinson LLP seeks a highly motivated transactional attorney with 3-5 years of experience for our Denver office. Excellent academic credentials, strong writing, analytical, organizational, research and communication skills required. Cover letter, resume, transcript and writing sample required. Apply on-line at <https://bit.ly/2qMWGzA>. For more information, visit www.stinson.com or contact Eleanor McCall at recruiting@stinson.com.

OFFICE SPACE FOR LEASE. Boulder: 2400 Broadway. Beautiful brand-new downtown office spaces in building owned by on-site immigrant rights attorney. Construction to be complete February 2020. Conference room, kitchen, shower, bike storage, basement storage and parking available. Walk to Pearl, Sanitas, Ideal Market. \$1100-\$1500. Brandt Milstein - brandt@milsteinlawoffice.com

PART-TIME POSITION. Boulder law firm is seeking a licensed attorney who can assist in the practice areas of estate planning, probate administration, business law and tax controversy. This is a part-time, hourly position with pay based on billable hours worked. Workload would be project-dependent, and hours can be flexible. Ideal candidate would have 3-5 years of experience in estate planning and business law. Tax controversy experience would be a plus. We are seeking candidates with a great work ethic, attention to detail and strong communication skills. Please reply with resume, cover letter and hourly rate requirement: [click here to apply](#).

OFFICE SPACE FOR LEASE. Ideal Louisville location. Great natural light. 1/2 mile from Main Street. 855 - 1,706 sq ft professional office suite. Abundant parking. 3-6 offices, large conference room, storage, kitchenette, private bathroom. Monthly rent: \$1,781 to \$3,554, depending on size of suite. For more information contact Jeff Levy at The Colorado Group (720.722.1810 or jeff@coloradogroup.com) or [click here to view more](#).

PERSONAL INJURY LITIGATION PARALEGAL. Small, established, highly rated Boulder personal injury law firm seeking paralegal / legal assistant with litigation and personal injury experience; excellent Word, Excel and writing skills required. Dog friendly office with VSP, health, vision, dental insurance and 401k. Please submit resume, cover letter and salary requirements to lawyers@sloatlaw.com.

OFFICE SPACE FOR LEASE. Single 190 sq. ft. office in office suite with a CPA firm and financial advisor. Convenient location at 1510 28th Street, plenty of parking. Includes use of conference room, kitchen and internet access. Monthly rent \$1,000. Contact Brian at brian@gibbscpas.com, or 303-449-7334.

LEGAL RESEARCH AND WRITING SERVICES. Lots of Appellate Experience. Please call Betty at 720-438-1562 or send me an email at Coloradoskiers6@gmail.com

VIRTUAL PARALEGAL. Have a virtual office? You need a virtual paralegal. Civil. Criminal. Mobile Notary. References. Roz Lynn Dorf, M.A., Freelance Paralegal Services. (303) 494-6935 .

KNIGHT NICASTRO IS HIRING FULL TIME ATTORNEYS WITH EXPERIENCE IN CIVIL LITIGATION. Preferred candidate would have experience in trials, taking depositions and arguing motions. Some travel required. Competitive compensation, CLE budget, medical, dental, company matching 401(k). Email resume to mcminn@knightnicastro.com

OFFICE SPACE FOR LEASE. Incredible Flatirons Views, located at 2575 Pearl Street, Suite 230, Boulder. Furnished office space with 2 executive offices, glassed-in conference room, kitchen/work room, and reception area. 850 Square Feet. Monthly rent: \$2,950. Call Todd at (303) 859-3840.

LEGAL SUPPLIES FREE FOR A NEW ATTORNEY. Legal materials available: 300+ dividers for litigation notebooks, some large empty notebooks, 1-125 series, deposition binder & misc. supplies. Contact sharris555@comcast.net.

WELCOME NEW BCBA MEMBERS

Andrew Kuchinski
Hanna J Bustillo
Lauren Bennett
Jacqualine Lim
Spencer R Belleful
Alexander R Bibisi
Hannah E Armentrout
Andrew C Baker
Steven A Avena

Lucas Knudsen
Sloane Dreyer
Sonja Avena
Allison Hester
Taylor S Matthews
Alicia Villarreal
Kokomo K Metzger
Deshawna K Zazueta
Anne L Stuller

Leslie E Mueller
Shelby Krantz
McKenna G Mayfield
Thomas J Bealer
Dakota Spence-Zurek
Hillary Hammond
Andrea C Maciejewski
Rachel L Hammond
Bethany Fitzgerald

LAWYER ANNOUNCEMENTS



Lyons Gaddis is pleased to announce
Brian L. Allard
has joined the Government Practice Group
as an Associate Attorney.
Brian brings his litigation experience to our firm where
his practice will focus on representation of schools, employers,
and special districts.



LYONS GADDIS

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BCBA JOBS BOARD NOW ACTIVE

We have added a Jobs Board and classified page to the BCBA website; [please click here to view](#). Do you have a job posting or classified you would like listed on the BCBA Jobs Board? The pricing for these listings is for 30 days: \$40 for current BCBA members, \$60 for non-members. Submitted listings will also run in the BCBA newsletter. [Please click here](#) to submit your listing.

Boulder^{COUNTY} BAR ASSOCIATION

THE BCBA NEWSLETTER IS A MONTHLY ELECTRONIC PUBLICATION BY THE BOULDER COUNTY BAR ASSOCIATION. ARTICLES BY GUEST LAWYERS MAY NOT BE REPRODUCED WITHOUT PERMISSION FROM THE BOULDER COUNTY BAR ASSOCIATION OR THE AUTHORS.

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OR THE BAR'S WEBSITE
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