

# BoulderCOUNTRY

## BAR ASSOCIATION

## BCBA ANNUAL MEETING AND OPEN HOUSE THURSDAY, JUNE 6

The Boulder County Bar Association Annual Meeting and Reception is this Thursday, June 6 at 5:00 pm after an open house showcasing your new office and coworking space from 3:00 - 5:00 pm.

We will vote on new board member Emily Ellison, Secretary/Treasurer Jeff Rose, and present awards for the following:

- Ron Porter Award of Merit - Richard Irvin
- Outstanding Young Lawyer of the Year - William Doyle Bode
- Recognition for our Section Co-Chairs
- Passing of the gavel from current president Brad Hall to president-elect Jennifer Lorenz.

This year, we will be hosting the meeting at a fun new location, The Rayback Collective. Please join us for a great night of conversation and networking, plus delicious food and drinks.

Open House - 3269 28th Street, 2nd Floor from 3:00 - 5:00 pm

Annual Meeting - 2775 Valmont Road from 5:00 - 7:00 pm

**BCLS Pro  
Bono  
Luncheon  
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**[Register online and pay here](#)**

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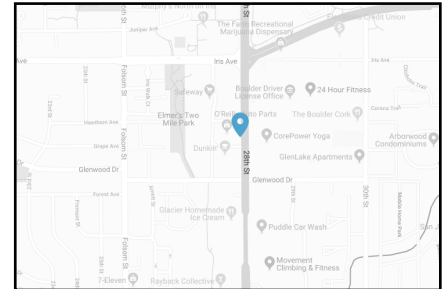
# CALENDAR OF EVENTS

## BCBA ANNUAL MEETING THURSDAY 6/6

We look forward to seeing you at the annual meeting and open house on Thursday. When you come to the new office, please use the parking in the back of the building and keep the front spaces free for the merchants. If you need elevator access, call 303-440-4758 and we will unlock the lift for you. The Rayback Collective is 2 blocks away.

Parking can be limited at Rayback, so we recommend biking or taking Uber or Lyft. If you do drive, additional parking can be found on Glenwood Drive.

[Register online and pay here](#)



## COMMUNITY OPEN HOUSE THURSDAY 6/13

The Boulder County Bar Association move will open up valuable new opportunities and benefits for our membership and local non-profit partners. The increased space and convenient location in central Boulder will enable the BCBA to offer a robust line-up of onsite education classes, provide coworking and office resources to legal professionals, and host a variety of community events in our spacious new facilities.

The BCBA is committed to our local community. We understand finding meeting spaces for nonprofits can be tough. One of our goals with this move is to partner with other nonprofits to co-host events or offer meeting and event space to other Boulder County organizations.

**Thursday, June 13 from 4:00-6:00 pm**  
**3269 28th Street, Second Floor**  
[Please RSVP to Kyle here](#)

**Thursday, June 20**

**FREE LEGAL CLINIC IN BOULDER**

5:30 PM @ Sacred Heart of Jesus Church (1318 Mapleton Ave)

[Please click here to volunteer](#)

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# PRESIDENT'S PAGE

## BRAD HALL

A short eleven months ago I sat down at the keyboard and stared at the blank page in front of me, the blinking cursor mocking my inability to get the first word out of my head and onto the screen. The cure, my partner, friend, and former BCBA president Anton Dworak told me, was to sit down with a tall glass of my favorite libation and just start writing. When the drink is gone, the column is done without excuse. That little piece of advice has seen me through the past year. So, with a tall glass of lemonade in hand, here is my last President's page.

In the September President's page, I shared the goal setting which took place at the board retreat last summer. As a board we wanted to start the process of forging a closer relationship with the Colorado Bar Association as well as form a young lawyer's division which would have its own officers and set its own goals. The purpose of the new division was to increase the participation of young lawyers in bar activities and develop future leaders. We knew going into this process that both would take well in excess of one year. I wish I could report that both have been fabulous successes. Our connection to the CBA is indeed starting to grow. Past BCBA president Judson Hite was selected to fill a vacant vice president seat and was recently re-elected to that position. Current secretary/treasurer Ron Jung spearheaded a real estate litigation CLE which included Denver Judicial officers on the panel. The board is hopeful that such continued efforts will further increase the ties between the two organizations all with an eye to benefitting BCBA members. On the other hand, the establishment of a Young Lawyers Division did not get off the ground after many fits and starts. The purpose of starting the division remains as relevant as ever, but it may be that the approach just didn't fit the need. I'm sure the engagement of young lawyers in bar activities and leadership roles will continue to be a top priority for the board as we move forward.

As I'm sure you all know by now, the biggest thing to happen to the BCBA is moving the office of the bar out of downtown Boulder to 28th street near Iris. The new office space will allow the bar much more flexibility in meeting the needs of its members. We hope you all join



us at the open house on June 6 and get a look at the new offices for yourselves.

In addition to the implementation of the goal setting that goes on at the retreat, the important business of the bar continues to run smoothly. Social gatherings, the Justice for All Ball and the annual Judges Dinner continue to play an important role. Section meetings and CLEs continue to address the specific practice needs of the members. And, the financial picture of the bar remains strong.

I'd like to thank all the volunteers who make these activities and services run smoothly. Our section chairs work tirelessly to bring quality CLE programs to their members. I've had the opportunity to attend each section's Longmont CLE program and they have all been outstanding. Thanks also to the board members, Renee Ezer, Jenifer Lorenz, Ron Jung, Jeff Rose, Jack Peters, Patricia Riley, Kurt Hofgard, and Brett Landis who give so much of their time, often early in the morning. Thank you to all the former board members who stepped back in to help when needed. Thank you to my law partners who were all so supportive of me this year. Thanks to all of you who have had a kind word during the course of the year. And to Laura and Kyle whose enthusiasm for the organization and its mission is ceaseless you are the engine that makes this whole thing go. We would be lost without you.

And mostly thanks to my wonderful wife Mary who puts up with me.



# BCLS PRO BONO LUNCHEON

## ERIKA MARTINEZ

Boulder County Legal Services (BCLS) celebrated the outstanding tradition of pro bono service in Boulder County at the Annual Pro Bono Luncheon, held April 29th, 2019, at the Boulder Marriott. BCLS honored local attorneys, mediators, law students, and paralegals who volunteered 4,574 hours in 2018 to provide legal services to low-income residents of Boulder County.

The Boulder County Bar Association honored Michael Morphew with the John Robert Marshall Award for his dedication in providing legal services to the poor. Bradley Hall, president of the Boulder County Bar Association, presented the award, which is bestowed annually in honor of John Robert Marshall, a local attorney who tirelessly advocated for the poor. Michael Morphew was recognized for his exemplary commitment to pro bono service and his passion in advocating for access to justice. Colleagues remarked on his professionalism, genuine compassion for his clients, and his service to the community.

Justice Melissa Hart and judges and magistrates of the 20th Judicial District presented awards for pro bono service. Colorado Legal Services Executive Director, Jonathan Asher gave the opening address. Chief Judge Ingrid Bakke gave the keynote talk, recognizing the important role of pro bono service in the justice system.

The law students of the CU Legal Aid and Defender Program under the direction of Professor Norman Aaronson were recognized for their outstanding contribution of 901 pro bono hours serving clients of BCLS with family law cases during 2018.

Pro Bono Awards were presented in the following categories:

50 - 75 Pro Bono Hours - Howard Bernstein, Christina Ebner, Kathleen Franco, Graham Fuller, Glen Gordon, Judson Hite, Tucker Katz, Jeffrey Skovron, Thomas Ward

75 - 100 Pro Bono Hours - Rebecca Boyle, Clinton Burke, Eve Canfield, Chris Jeffers, Michael Morphew, Bruce Wiener

100 - 200 Pro Bono Hours - Susan Bryant, Elizabeth Meyer, Jana Milford, Todd Stahly

200 - 300 Pro Bono Hours - Michael Miner

300 - 400 Pro Bono Hours - Ugyen Tshering, Michael Uhl

100% Firm Participation in Pro Bono - Cooper & Tanis PC, Dietze and Davis PC, Howard O. Bernstein, P.C., Hutchinson Black and Cook LLC, Jung Associates PC, Vincent Romeo & Rodriguez LLC, Warren Carlson & Moore LLP

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Melissa Hailey



Michael Keating



Deirdre Ostrowski



Ross Pulkabek



Lidiana Rios



Melissa Sullivan



Bradley Unkeless



Robert Wagner



Daniel Wartell



Zachary Warzel

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



# BCLS 2019 PRO BONO LUNCHEON



Colorado Legal Services Executive Director Jon Asher opened the 2018 BCLS Pro Bono Awards presentation.



Chief Judge Ingrid Bakke gave the keynote address, praising the remarkable pro bono contributions made in Boulder County and stressing the vital role of pro bono attorneys in providing access to justice for the indigent and vulnerable.



Justice Melissa Hart, far right, presented awards for 100% Firm Participation. Accepting the awards L.to R. are: Richard Vincent – Vincent Romeo & Rodriguez LLC; Ronald Jung – Jung Associates PC; David Driscoll – Hutchinson Black and Cook LLC; Josh Anderson – Dietze and Davis PC.



Michael Morphew receives the John Robert Marshall Award for outstanding pro bono service, presented by Bar president Bradley Hall.



Judge Andrew Macdonald recognized Professor Aaronson and his students, who contributed 901 pro bono hours. Front row L to R Christina Gonsalves, Tiffany Vu, Victoria Guzman. Back row L. to R Sean Di Ciolli, Shelby Morbach, Nicole Green, Professor Norman Aaronson, Judge Andrew Macdonald.



BCLS honored retiring CU Professor Norman Aaronson for his 40-year long collaboration in representing BCLS clients through his Legal Aid and Defender Program. Judge Judith Labuda, his former law student, gave a moving tribute, focusing on his inspiring advocacy for the poor and his commitment to teaching his students how to advocate for those most vulnerable.



Judge Thomas Mulvahill, right, presented certificates for 75 – 100 Pro Bono hours to: Ls to R. Bruce Wiener, Clinton Burke, Chris Jeffers, and Michael Morphew.



Judge David Archuleta recognizes BCLS In-House Pro Bono attorney Ugyen Tshering for 300-400 Pro Bono hours.

# ON PATENT ISSUANCE

## SHIREEN MARSHALL

Entrepreneurs aren't known for their patience. They're used to working at a frenetic pace, where opportunities might be lost if they slow down to sleep more than four hours a night. Therefore, it's no surprise when an entrepreneur says "they need a patent yesterday," and they want to know every option for speeding up the process.

Luckily, entrepreneurs are open to contrarian ideas, so let's discuss this one: **a pending patent application is arguably more valuable than an issued patent.** Therefore, patent issuance might actually *decrease* the value of your intellectual property portfolio.

Just as a plot of land is defined by geographical lines, the boundaries of patent coverage are set by the words in the claims (the numbered sentences at the end of the patent). During examination, the claims can be amended, meaning the property lines are fluid, but once a patent issues the boundaries are set. The only way to preserve the opportunity to move the property lines in the future is to file a continuation patent application (a child application) *before* the parent application becomes an issued patent.

Companies with large legal budgets can allow patents to issue and keep filing continuation applications to preserve their flexibility. But solo inventors and entities with smaller budgets are typically juggling priorities and managing cash flow, so they often settle for one issued patent and no continuation applications. Consequently, they have no ability to move the property lines. But why would you need to move property lines?

Well, for example, if you don't like how close a competitor is walking to the edge of your property, and you have the ability to move the property line, you may be able to catch the competitor "trespassing" by amending claims in a pending application, which will put you in a favorable position to bring an infringement action when the patent issues. The possibility of such a lawsuit will discourage risk-averse competitors from venturing too close to an undetermined property line for fear they might invest resources in a product that will ultimately be infringing later-issued claims. Thus, the uncertainty generated by a pending patent application gives the patent applicant a buffer from competitive pressure that disappears once a patent issues without any child applications pending.

In this scenario, you see one time when an issued patent is

more valuable than an application, namely, when you need to enforce your patent rights against an infringer. In recognition of this need, some patent offices will expedite examination when active infringement exists.

Now, back to the advantages of pending patent applications. Suppose you have developed the next generation of your product, which will supersede the original version for which you have already filed a patent application. In many cases, the original patent application will be a sunk cost, and you will need to file a new application for the next gen product. But sometimes, it is possible to revamp the claims of the pending application to cover the next gen product, thereby saving time and money on patenting. This ability to "recycle" a pending application is dependent upon the related features of the two products and where in the examination cycle the original application is, but avoiding the urge to rush to patent issuance, at least, leaves this possibility open for a longer time.

I would also argue that avoiding a rush to patent issuance, in order to maintain a pending patent application, demonstrates a refined understanding of patent strategy, which savvy investors should appreciate. There is a false notion in the startup community that in order to attract investors you need an issued patent. As an investor, I would much rather see a pending patent application than an issued patent with no pending child applications. As discussed above, a pending application offers the ability to adjust the property lines, a buffer from competitive pressure, and a potential cost savings vehicle for next gen products. It also allows me, the investor, (i) to participate in the ongoing examination, (ii) to correct mistakes in the record, if necessary, (while it's still relatively cheap and easy to do so), and (iii) to expand the patent portfolio by filing child applications. In addition, a slow approach to patenting tells me that the founders are being conservative with their legal budget. That's not the best news for patent attorneys, and I'm sure many will disagree with the approach I've advocated here, but at least now you've heard the contrarian perspective.

About the author: Shireen Marshall, Ph.D. is a patent attorney and the founder of Elevated IP, LLC. She can be reached at [smarshall@elevatedip.com](mailto:smarshall@elevatedip.com).

## PROFESSIONALISM ON CALL

June 3	Mark Langston	303.440.9684
June 10	Meghan Pound	303.443.8010
June 17	Tom Rodriguez	303.604.6030
June 24	Karl Kumli	303.447.7775

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 Free Legal Clinics at the Sacred Heart of Jesus Church (1318 Mapleton Avenue), 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](mailto:laura@boulder-bar.org) if you can help in Boulder or Lafayette, or [susan.spaulding@longmontcolorado.gov](mailto:susan.spaulding@longmontcolorado.gov) if you can help in Longmont.

**Longmont: August 27, November 19**

**Boulder: June 20, September TBD, December TBD**

**Lafayette: July 16, October 15**

## PRO BONO REFERRALS

Fourteen cases were referred during the month of April. Thank you to the following attorneys:

**Donald Alspaugh**  
**Susan Bryant**  
**Christina Ebner**  
**Constance Eyster**  
**Judson Hite**  
**Kurt Hofgard**  
**Kimberly Lord**  
**Charles Martien**  
**Timothy Reynolds**  
**Jeffrey Skovron**  
**Jennifer Terry**

Thank you to the following mediators who accepted pro bono referrals in April:

**Beth Ornstein**

## PRO SE VOLUNTEERS

**Josh Anderson**  
**Kathleen Franco**  
**Chris Jeffers**  
**Tucker Katz**  
**Zachary LaFramboise**  
**Michael Morphew**  
**Patricia Riley**

## PRO BONO CORNER

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



# LAWYER ANNOUNCEMENTS



## Maxfield Gunning, LLP

Eric Maxfield, formerly First Assistant Attorney General, and Rob Gunning, formerly District Court Magistrate, proudly announce the formation of Maxfield Gunning, LLP.

Eric Maxfield is available to assist individuals facing professional license complaints and to advocate for individuals in employment, civil rights, and ADA disputes. Mr. Maxfield also handles Sunshine Law claims.

Rob Gunning is available to conduct mediations and arbitrations in civil and domestic relations matters, and is accepting referrals on a range of appellate and civil litigation matters.

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## WELCOME NEW BCBA MEMBERS

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Edgar Bristow  
Tiffany Gengelbach

Colleen Lisowski  
Janice Loudon  
Michael Pritzkau

# CLASSIFIED ADS

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**DOWNTOWN BOULDER OFFICE SUITE.** Suite of four offices at 2060 Broadway. Suite includes reception area, conference room, kitchen. Some parking garage permits. Please contact Fern O'Brien: 303.443.2626; [fobrien@fobrienlaw.com](mailto:fobrien@fobrienlaw.com).

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