

# BOULDER COUNTY BAR ASSOCIATION NEWSLETTER FEBRUARY 2016



## *Food · Wine · Jazz · Art*

AN EXCLUSIVE SOCIAL EVENT FOR A GREAT CAUSE!

100% ticket and sponsorship proceeds donated.

**February 17, 2016 at 5:30pm**  
eTown - 1535 Spruce Street - Boulder

Music and dancing by Phat Daddy.

Raffles and blind auction for art and unique experiences.

Food, wine and beer by local merchants and caterers.

SPECIAL Young Lawyers Lounge and Cocktails

Diamond Sponsor: Company Name

**Attendance Limited – Register now – Save the Date**

## CALENDAR OF EVENTS FOR FEBRUARY

**Thursday, February 4**  
**IN-HOUSE COUNSEL**  
**Anatomy of a Credit Agreement: Key Provisions for Loan Agreements and Term Sheets**

**Presenter: Eben Clark**  
**\$25 CLE, \$15 New/Young Lawyer, lunch included!**  
**Noon @ Holland & Hart**

**Tuesday, February 9**  
**EMPLOYMENT**  
**New Year's Resolution: Watch Out for Whistleblowers!**

**Presenter: Sarah Benjes**  
**\$25 CLE, \$15 New/Young Lawyer, brown bag lunch**  
**Noon @ Caplan & Earnest**

**Wednesday, February 10**  
**CRIMINAL**

**A View from Above – The Appellate Perspective**  
**Presenter: Kathy Gillespie and Karen Taylor**  
**\$25 CLE, \$15 New/Young Lawyer, brown bag lunch**  
**Noon @ Justice Center Training Room West**

**Friday, February 12**  
**AVAILABILITY OF LEGAL SERVICES**  
**Monthly Roundtable**  
**Noon @ Boulder County Legal Services**

**Tuesday, February 16**  
**ELDER and FAMILY**  
**The Convergence of Elder Law and Dissolution of Marriage**  
**Presenter: Lee Strickler, Peggy Goodbody, Rick Romeo and Alice Ierley**  
**\$25 CLE, \$15 New/Young Lawyer, brown bag lunch**  
**Noon @ Caplan & Earnest**


**Wednesday, February 17**  
**FAMILY and SOLO/SMALL FIRM**  
**Domestic Relations Collections: Using Judgment Remedies to Collect Child Support, Maintenance and Other Monetary Awards**  
**Presenter: John Barrett**  
**\$25 CLE, \$15 New/Young Lawyer, brown bag lunch**  
**Noon @ Justice Center Jury Assembly Room**

**Thursday, February 18**  
**REAL ESTATE and NATURAL RESOURCES/ENVIRONMENTAL**  
**Water Rights for Real Estate Attorneys**  
**Presenter: Kara Godbehere**  
**\$25 CLE, \$15 New/Young Lawyer, brown bag lunch**  
**Noon @ Fagre Baker Daniels**


**Thursday, February 18**  
**BANKRUPTCY**  
**Monthly Roundtable**  
**Noon @ Agave**

**Tuesday, February 23**  
**PARALEGAL**  
**Privilege & Confidentiality for the Private Sector**  
**Presenter: Timothy Reynolds**  
**\$12 lunch**  
**Noon @ Bryan Cave**

**Wednesday, February 24**  
**TAX, ESTATE PLANNING AND PROBATE**  
**Lawyer's Role in End of Life Planning**  
**Presenter: Grant Marylander**  
**Noon @ Dickens Tavern Longmont**



**Accord  
ADR  
Group**  
Mediation • Arbitration



**Schedule online at**  
[www.mediatelaw.com](http://www.mediatelaw.com)

*ADR in our offices  
or yours in the Denver Metro area.*

3223 Arapahoe Ave.,  
Suite 300, Boulder, CO 80303  
303-530-2137 | [www.mediatelaw.com](http://www.mediatelaw.com)

**Wednesday, February 3, 2016**  
**Collaborative Family Law - The Direction of the Future**  
**Presenters: Terry Harrington, PC; Deb Johnson ChFC, CDFA; Elizabeth Teaubert, LCSW, Rn, MS**

**BIDC meetings will be held at the Millennium Harvest House  
1345 28th Street, Boulder, CO 80302**

**11:30am - 1:15pm Networking:  
11:30am to Noon  
Lunch and Speaker: Noon - 1:15pm**

**LUNCH: \$25.00 IDC MEMBERS •  
\$30.00 NON-MEMBERS**

**You may pay at the door  
(cash or check), or online  
[www.boulderidc.org](http://www.boulderidc.org)**

**CLE credit 2 General and .3 Ethics**

# FIRST APPEARANCE CENTER AND OTHER CHANGES COMING TO BOULDER COUNTY COURT

As previously announced, the 20th Judicial District will lose its County Court Magistrate position effective June 30, 2016. Over the last twelve months, the County Court judicial officers and Chief Judge Berkenkotter have developed a plan to reallocate the roughly 4,000 cases in which Magistrate Hansson presides each year into the five Judges' Divisions.

One significant change involves the creation of a First Appearance Center (FAC), much like the ones in other jurisdictions around the state. The FAC will be the first court setting for summonses issued in traffic and misdemeanor cases as well as bond returns. It will open on January 20 in Boulder and March 16 in Longmont. Each week, the county court judge in intake will preside in the FAC in the morning before proceeding to the jail in the afternoon. Following is a short overview of how the FAC will operate:

The judges have approved a list of charges that defendants can resolve directly with the District Attorney's Office through plea-bargaining, without a judge's involvement. These will include charges of no proof of insurance, no operator's license, drug paraphernalia, minor in possession, traffic cases where no jail is imposed, county ordinances, and parks violations. If a defendant accepts the plea offered, the defendant will complete the Rule 11 advisement and other applicable documents, proceed to obtain the sentencing document from the FAC staff, and then go to the Clerk's window to address fines and costs. The judges have approved a fine schedule that FAC staff will utilize to assess the applicable fine.

If a defendant rejects a plea offer, wants to retain private counsel or seeks representation by a public defender, the defendant will be referred to FAC staff. The case will be set for an appearance in the division eight to ten weeks later. A separate list of charges is approved of cases where defendants must see a

judge, either due to the nature of the charge, the imposition of a mandatory protection order, or the potential sentence. Examples of these cases include DUI and DWAI cases, assault, harassment, and all domestic violence offenses. Defendants appearing on a failure to comply for a probation complaint will also need to be seen by a judge.

The FAC will be located in Courtroom F, Mag. Hansson's existing courtroom. Two Court Judicial Assistants (CJAs) will be situated immediately outside the courtroom each morning and will check in defendants as they come in. Cases will be categorized depending on whether defendants must see a judge or not, and defendants in each group will be prioritized in the order in which they check. The typical morning schedule will be:

7:45 Courtroom F opens

8:00 Return time stated on the summons

8:05 Rule 5 video advisement plays in English and Spanish

8:15 District attorney intern begins to plea bargain cases with defendants.

Some cases begin resolving.

9:00 Judge takes the bench

Depending on the facts of a case, the Deputy District Attorney may request that a defendant who is otherwise eligible to resolve their case remain in

the courtroom to be seen by the judge. The DA's office has agreed to fully train law students and interns and ensure compliance with the Student Practice Act. A Deputy district attorney will be available to approve all dispositions and to review documents such as proof of insurance, car registration renewal and dismiss a case if applicable.

From discussions with other districts, the court expects that as many as 80% of cases will be resolved through the FAC, with the remainder being set in the divisions. The Longmont first appearance court will operate the same as the FAC in Boulder.

Attorneys may be interested to know that certain practices will remain the same:

- When an attorney enters an appearance on a case, the FAC setting will be vacated and the case will be set in the Judge's division

- If a defendant has another case in another division, the FAC case will be set to trail the case in the division if the case in the division is a pre-judgment case or if the date of offense is earlier. This is consistent with current trailing practices.

- Probation complaints, if not resolved at the FAC, will be set into the original sentencing division for subsequent proceedings.

*(continued on the next page)*



**Over Sixteen Years of Experience with**

- **Mediation**
  - **Arbitration**
  - **Settlement Conference Services**
- Also accepting referrals for personal injury civil and criminal litigation.**

Past President of Colorado Trial Lawyers and Boulder County Bar Association; Colorado Super Lawyer 2007-2014.

**Jim Christoph, JD**

**303.381.2560 christophlaw@comcast.net**



(continued from page 3)

- Failures to appear will follow a 48-hour rule. If a defendant calls in advance or within two business days, the appearance may be reset once. This practice is not available if a defendant is on bond or if the case has been continued once before.

Another significant impact of the reallocation is that the County Court Judges will no longer have the considerable amount of time it takes to conduct DUI Integrated Treatment Court ("DITC") dockets. The DITC Steering Committee

has developed an alternative probation program that is known as DITT that will be a sentencing option for individuals who previously met DITC criteria.

The County Court dockets and weekly rotation schedules will also change in advance of losing the County Court Magistrate FTE to allow the County Court Judge Divisions to absorb the Magistrate Division's cases. A chart reflecting the new schedules is set forth below for the four Boulder County Court Judge Divisions and for Longmont.

Beginning March 2016, the appearance now called a Status Conference in misdemeanor cases will revert to being called a pre-trial conference. The change is due to confusion with status conferences in felony cases. This is only a change in name and does not indicate a return to pre-trial conferences with the DA.

FAC/POs 10:30 jail files	FAC/POs 10:30 jail files	FAC/POs 10:30 jail files	FAC/POs 10:30 jail files	FED/ Name changes/ POs 10:30 jail files
2:30 Jail	Jail	Jail	Jail	Jail
Criminal	Jury Trial	Jury Trial/ Civil Trial	Criminal	Criminal
Small Claims			Criminal	Small Claims
Criminal	PPOs/Civ	PPOs/Civ	Criminal	Criminal/ PPOs
Small Claims/ PPOs	Civil Settings/PPOs	Civil PTC/ PPOs	Criminal/ PPOs	Small Claims/ PPOs
Prelims	Jury Trial	Jury Trial/ Civil Trial	Prelims	Criminal
Prelims			Prelims	Criminal

## Longmont

Criminal	Jury Trial	PPOs/ Civil	Criminal	FED/Name changes/ Arraignments- Serious
Criminal		Arraignments -General	Criminal	Infractions/ PPOs/ Civil

## DAVID J. DRISCOLL

Representing plaintiffs in personal injury and insurance bad faith cases with integrity, diligence, and results



**DRISCOLL ROSE** LLC  
Attorneys

☎ 303.926.4222

1650 38th Street, Ste 101E  
Boulder, CO 80301

ONLINE AT:  
**WWW.DRISCOLLROSE.COM**



## LAWYERS ANNOUNCEMENTS

**HutchinsonBlackandCook,LLC**  
Attorneys at Law

HBC is very pleased to announce that:



**John C. Clune**  
Title IX Litigation, Civil Rights and Victim Representation  
Has Become a Member of the Firm  
January 1, 2016

[www.hbcboulder.com](http://www.hbcboulder.com) **HBC**

921 Walnut Street | Suite 200 | Boulder, CO 80302  
Telephone 303.442.6514 | Fax 303.442.6593

**HutchinsonBlackandCook,LLC**  
Attorneys at Law

HBC is pleased to welcome to the Firm:



**Robert B. LaManna**  
Formerly an associate with  
Gibson, Dunn & Crutcher, LLP.  
Admitted to the State Bar of  
California

A 2013 graduate of the University of Chicago Law School, Rob will continue to emphasize corporate and partnership tax, business transactions, venture capital financing and counseling emerging companies at all stages of development, including formation, funding, and mergers and acquisitions.

[www.hbcboulder.com](http://www.hbcboulder.com) **HBC**

921 Walnut Street | Suite 200 | Boulder, CO 80302  
Telephone 303.442.6514 | Fax 303.442.6593

### Affordable and Effective Family Law Mediation

Attorney mediators with extensive courtroom and negotiating experience, offering mediation services at our convenient Boulder offices.

We shepherd *pro se* and represented parties through family transitions consciously: uncovering their real interests, finding creative ways to meet those interests, and helping them emerge with a greater ability to resolve future conflict.



**Fabish | Hoelle**  
CONSCIOUS LAWYERS

(303) 415-2040  
[www.fabishhoelle.com](http://www.fabishhoelle.com)



**FlatironsPI.com**

You are an outstanding attorney, *exceptionally knowledgeable*...but there is one problem. You are busy, you cannot dedicate as much time as each case deserves.

**You need more support.**

Leverage my team's experience to your firm or client's benefit. We specialize in Criminal/Civil cases, Surveillance, Divorce and Custody Investigations, Witness/Suspect Interviews, Background Investigations and Serving Subpoenas. Contact us today.

720-724-7374

[bcba@FlatironsPI.com](mailto:bcba@FlatironsPI.com)

# HutchinsonBlackandCookLLC

Attorneys at Law

Since 1891

is pleased to welcome as of counsel to the Firm:

## Robert A. Schuetze and Glen F. Gordon

Formerly of Schuetze & Gordon LLP



Bob Schuetze and Glen Gordon are among Colorado's most successful attorneys representing plaintiffs in significant personal injury cases. In their combined 63 years of experience, Bob and Glen have handled hundreds of personal injury claims and have tried numerous cases to juries and arbitration panels involving matters ranging from automobile products liability, ski lift and ski area liability, transportation and aviation to cases involving catastrophic brain injury, spinal cord injury and wrongful death.

Bob and Glen join HBC's existing team of accomplished attorneys, including those long recognized for their work on behalf of personal injury and medical malpractice plaintiffs. HBC's attorneys work hard to provide the highest quality representation of and advocacy for clients who have suffered serious injuries and losses.



921 Walnut Street | Suite 200 | Boulder, CO 80302 | Telephone 303.442.6514 | [www.hbcboulder.com](http://www.hbcboulder.com)



### Juli J. Ellen Private Investigator

Local Boulder Investigator  
Former Mediator

Professional Surveillance  
Child /Family Investigations  
Custody Disputes  
Insurance Fraud  
Internet & Database Research  
Crime Scene Investigations  
Cheating Spouses  
Cold Case Investigations  
Secret Shopper Services  
Medical/Disability Investigations  
Juror Backgrounds  
Political Investigations  
Public Record Research

720-215-0876  
[piboulder@gmail.com](mailto:piboulder@gmail.com)

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

Since 1992  
Licensed & Bonded

## HutchinsonBlackandCookLLC

Attorneys at Law

HBC is very pleased to announce that:



**Keith M. Edwards**

Commercial and General Civil Litigation

Has Become a Member of the Firm

January 1, 2016

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



921 Walnut Street | Suite 200 | Boulder, CO 80302  
Telephone 303.442.6514 | Fax 303.442.6509



## PRESIDENTS PAGE

By CRAIG SMALL



Hello Boulder County Bar!

As we settle into the new year and start remembering to write "2016" on our checks, we should take this opportunity to remember our loved ones on that most special of days in February...February 14th...Statehood Day in Arizona!

I don't know about the rest of you but I will be celebrating Arizona Statehood Day a few days late at the Boulder County Bar Association Food Wine Jazz Art Event on February 17th at eTown starting at 5:30 PM.

I know what some of you fellas, and maybe some ladies, are thinking...another big box, corporate, artificially manufactured holiday designed to play on our in-born guilt complex that we do not say, "I Love You!" to our loved ones enough. On any other year I would have said, "Feh! Stop kvetshing you goys, yentas and yiddisher kops. You may not give a bupkus or gornisht helfn and that takes bissel chutzpah. Be a mentsh! Your baleboste and mishpocheh deserves Arizona Statehood Day and it would be mishegas for you not to recognize this."

Well don't plotz! Shlep yourself, your tuches and your baleboste to eTown on February 17th and get schmaltzy with him or her. We will schmooze, give spiels about our legal services and get a little shmutz on our shoes as we dance to Phat Daddy, enjoy some lovely Manischewitz courtesy of The Boulder Wine

Merchant and delicious craft beers from the West Flanders Brewing Company.

The nosh will be beautifully prepared for us by Front Range Catering and may or may not be kosher. I just don't know.

Let's see if we can kvetsh some shekels out of you for a good cause and try to make this a record-breaking fundraising year for Colorado Legal Services!

You are highly encouraged to bring your loved ones, clients, friends, family, acquaintances, neighbors, Arizonans, non-Arizonans and strangers to this years Food Wine Jazz Art extravaganza.

**\*Breaking News\*** I have just been informed that I may be getting Arizona State Day confused with another holiday. Something called Valentines Day. Not familiar with it. But if that is your holiday of choice then I suppose celebrating with us at Food Wine Jazz Art on February 17th at eTown at 5:30 PM would work for that holiday as well.

See you there!

Yiddish translations can be found at <http://www.dailywritingtips.com/the-yiddish-handbook-40-words-you-should-know/>.

## Complete Private Banking Services For Your Client. Complete Peace Of Mind For You.

You've earned your clients' trust. Your reputation depends on it. That's why we offer local, tenured professionals to meet your clients' needs. Comprehensive solutions. And consideration for your clients' security, not just their money. We know the value of trust. And we'll protect yours. Give us a call, or better yet, let us come see you.



Private Banking | Fiduciary Services | Investment Management  
Wealth Advisory Services | Specialty Asset Management

Mimi Goodman: 720.562.5525 | Lisa O'Brien: 720.562.5527

1505 Pearl St., Suite 105 | Boulder, CO 80302 | [www.csbt.com](http://www.csbt.com)

# PERSONAL JURISDICTION FOR FOREIGN SUPPORT ORDERS: RECENT REVISIONS TO UIFSA AND IRM LOHMAN

BY: JENNIFER H. WALKER

Although international family support cases are not overly common, many, if not most, family law attorneys have been confronted with at least one case that has international implications. If you have not, then it is only a matter of time, as the globalization of the workforce and Boulder's growth as a hub of technology and international business guarantee that these cases will grow only more common. At first glance, the myriad statutes that comprise the Uniform Interstate Family Support Act ("UIFSA") can appear intimidating; however, recent revisions to UIFSA and recent case law from the Colorado Court of Appeals, *In re Marriage of Lohman*, 2015COA134 (2015) have clarified the requirements for personal jurisdiction relating to international family support cases and have con-

firmed that the jurisdictional provisions of UIFSA parallel the requirements for personal jurisdiction under the Due Process Clause of the United States Constitution.

The purpose of this article is to provide an overview of the requirements for personal jurisdiction in international child and spousal-support cases (collectively referred to as "family support" cases), specifically by examining the recent amendments to UIFSA, which were enacted by the Colorado General Assembly effective July 1, 2015, and discussing *In re Marriage of Lohman*, 2015COA134 (2015), which addresses the enforcement of a foreign support order in Colorado. This article will begin by addressing the reasons for the recent revisions to UIFSA and providing a brief

summary of those revisions. Then, it will discuss the requirements for personal jurisdiction to establish, enforce, and modify a foreign support order. Finally, it will provide some practical takeaways and a short summary of the requirements for personal jurisdiction.

As discussed at length by the Prefatory Note to UIFSA incorporated into Title 14 Art. 5 of the Colorado Revised Statutes, the Uniform Law Commission, which is the non-profit association that drafts and promotes enactment of uniform state laws, amended UIFSA in 2008 so that its provisions regarding international family support disputes would be consistent with the 2007 Hague Convention on the International Recovery of

## Good lawyers helping good businesses

Businesses need sound legal advice to grow and protect hard-earned results. Since 1969, we've worked closely with local businesses and referring legal firms.

- Litigation
- Contracts, leases, LLCs, corporations
- Employment agreements
- Termination counseling and defense
- Selling, buying, partnerships
- Immigration strategies
- HR training on legal matters



William A. Ahlstrand



Lynn David Bird



James C. Brannum



Coulter M. Bump



Richard E. Bump



Alyssa C. Burghardt



Kristin C. Edgar



Elizabeth Francis



Elizabeth R. Friel



Christian Griffin



Brad J. Hendrick



Madoche Jean



Gregory S. Lindquist



Meghan E. Pound



Michael Schreiner



Linda L. Siderius



Kristofer M. Simms



Gregory J. Smith



Douglas A. Stevens



Stuart Stuller



Jennifer A. Sullivan



Matthew Ullrich



John Vaughan



Toni J. Wehman



Gwyneth Whalen

CAPLAN  
AND  
EARNEST  
LLC

303-443-8010 | [www.celaw.com](http://www.celaw.com)

Est. 1969



## FOREIGN SUPPORT ORDERS (continued from page 8)

Child Support and Other Forms of Family Maintenance ("Convention"), of which the United States is a signatory. In September 2014, Congress enacted Public Law 113-183, the Preventing Sex Trafficking and Strengthening Families Act, requiring all states to adopt the 2008 amendments to UIFSA by year-end 2015. In this way, the relevant provisions of the Convention are being incorporated uniformly into state law across the nation. According to the Uniform Law Commission, by December 2015, all but four states have enacted these amendments.

The greater part of the 2008 amendments are made in the new Part 7 of UIFSA, integrated in to State law by C.R.S. § 14-5-701, *et. seq.* The new Part 7 applies only to international family support matters involving other countries that have ratified the Convention, and it sets forth procedures for the registration, recognition, enforcement, and modification of family support orders from countries that are parties to the Convention. *See generally* C.R.S. § 14-5-105(c); *Id.* § 14-5-701, *et. seq.* The Uniform Law Commission provides a useful summary of Part 7 (referred to as Section 7), as follows:

Specifically, Section 7 provides that a support order from a country that has

acceded to the Convention must be registered immediately unless a tribunal in the state where the registration is sought determines that the language of the order goes against the policy of the state. Once registered, the non-registering party receives notice and is allowed the opportunity to challenge the order on certain grounds. Unless one of the grounds for denying recognition is established, the order is to be enforced.<sup>1</sup>

Part 7 also creates a strong role for the child support enforcement agency, C.R.S. § 14-5-704, while preserving the right of a petitioner to file a direct request for establishment, modification, and/or recognition and enforcement of a support order, thereby also retaining a role for private counsel, C.R.S. § 14-5-704. Parts 1 through 6 of UIFSA similarly were revised to add language to distinguish between support orders issued by another state of the United States and those issued by a foreign country; to provide consistency with the Convention where uniformity is the desired outcome; and, in certain cases, to differentiate between support orders from Convention countries and support orders of non-Convention countries.

As the scope of this article is too narrow to address all of the procedural and sub-

stantive provisions of the 2008 UIFSA amendments, the focus of the remainder of the article will be to address the foundational issue of personal jurisdiction to establish, modify, and enforce foreign family support orders in Colorado.<sup>2</sup> Consistent with UIFSA, C.R.S. § 14-5-102, "obligor" will be used to refer to the party who owes, or is alleged to owe, a duty of family support, and "obligee" will be used to refer to the party to whom a duty of support is owed or by whom a duty of support is alleged.

As would be anticipated, in order to establish an *initial* family support order involving a foreign obligor, the Colorado Court must have personal jurisdiction over the non-resident obligor. Personal jurisdiction over the obligor is both a statutory requirement under UIFSA and a Constitutional mandate, as held by the Court of Appeals in *Marriage of Lohman*. The statutory requirement for personal jurisdiction to establish a support order in Colorado is stated in C.R.S. § 14-5-201(a), which was not substantively revised by the 2015 UIFSA amendments, and which sets forth several bases, any one of which will provide the Colorado Court with personal jurisdiction over a non-resident, including, among others, the following: that the obligor resided

(continued on the next page)

## HELPING BUSINESSES AND LAWYERS IMPROVE THEIR DOCUMENTS BY USING PLAIN ENGLISH.



MARK COHEN, J.D., LL.M.  
LAWYER

MARK@COHENSLAW.COM ~ WWW.COHENSLAW.COM  
P.O. BOX 974, NEDERLAND, CO 80466

*"Legalese is out. The plain English movement is surging. Why not be on the forefront of it? Plain English lowers costs, improves productivity, increases credibility, reduces misunderstandings, and lowers the risk of litigation."*

**Call me or email your document to me for a FREE ESTIMATE**

Mr. Cohen served as an Air Force JAG, a Special Asst. U.S. Attorney, a prosecutor, a Boulder Municipal Judge, on the Executive Board of the Colorado Municipal League, and on the Editorial Board of The Colorado Lawyer. He wrote six articles published in the American Jurisprudence Proof of Facts series. He taught an advanced legal writing class at the University of Arkansas School of Law. His two mysteries, published by Time Warner, won high praise, and one was a Book Sense® top ten mystery pick. His non-legal articles have appeared in magazines such as Inside Kung Fu, Camping & RV, and Modern Dad. He is a member of the Institute of General Semantics.

**Start Early. Work Hard. Finish.®**

**(303) 638-3410**

## FOREIGN SUPPORT ORDERS (continued from page 9)

with the child in Colorado; that the obligor resided in Colorado and provided prenatal support for the child; that the child may have been conceived in Colorado; and the catchall of “any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.”

Although *Marriage of Lohman* addresses the limited issue of enforcement of a foreign support order in Colorado, the expansive language of the Lohman Opinion affirms the fundamental rule that the “Due Process Clause of the United States Constitution prohibits a United States court from issuing, recognizing, or enforcing a judgment unless the court that issued the judgment had personal jurisdiction over the defendant.” 2015COA134 24. The Lohman Court also notes that Section 14-5-201(a), which sets forth the statutory bases for personal jurisdiction, “parallel[s] the minimum contacts test”. Id. 40.

As to the enforcement of a family support order that already has been issued by a foreign nation, *Marriage of Lohman* provides that, for a Colorado Court to recognize and enforce a foreign support order, the United States Constitution requires not only that the foreign court exercised jurisdiction consistent with its own laws but also that the foreign court’s exercise of jurisdiction was permissible under the Due Process Clause of the United States Constitution, i.e. that there were sufficient minimum contacts between the obligor and the forum court. Id. ¶¶24-29, 33-35. Because it is a Constitutional mandate, this rule applies regardless of whether the foreign support order was issued by a Convention or non-Convention nation and regardless of whether the foreign support order was issued before or after the recent revisions to UIFSA. See generally id.

As *Lohman* explains, this Constitutional mandate was incorporated im-

plicitly into the statutory text of the pre-2015 version of UIFSA, C.R.S. § 14-5-607(a)(1), which provides that an obligor may contest enforcement on the basis that the issuing court lacked personal jurisdiction over the obligor, and which the Lohman Court construes as personal jurisdiction both under the law of the forum court and under the Due Process Clause. Id. ¶¶ 31, 34-35. Because C.R.S. § 14-5-607 was not substantively amended, this rule applies to the contest of the registration and enforcement of a non-Convention foreign support order and to the contest of any foreign support order if that contest was filed prior to July 1, 2015.

The new C.R.S. § 14-5-708 applies to the contest of the recognition and enforcement of a foreign support order issued by a Convention nation and explicitly provides that a court may refuse to recognize a Convention foreign support order on the basis that the issuing tribunal lacked personal jurisdiction consistent with C.R.S. § 14-5-201, which is the statutory parallel of the minimum contacts standard. See *Lohman*, 2015COA134 ¶ 40. Thus, *Lohman* directs that the exercise of jurisdiction by the foreign court must comport with both “the jurisdictional requirements of section 14-5-201 and the Due Process Clause for enforcement in Colorado.” Id. ¶ 68.

The personal jurisdiction requirement also applies to the modification of a foreign support order pursuant to the revised C.R.S. § 14-5-615 and the new C.R.S. § 14-5-711 (again relating only to Convention support orders), which should be read in conjunction. Section 14-5-615 provides that a Colorado Court may modify a foreign support order if the forum country lacks or refuses to exercise jurisdiction to modify its own child support order under its law, and the modification order will bind “all individuals subject to the personal jurisdiction” of the Colorado Court. C.R.S. § 14-5-615(a). As to Convention support orders only, Section 14-5-711 adds the requirement that the Colorado Court may not modify a Convention support order if the obligee remains a resident of the forum country unless the

obligee submits to the jurisdiction of Colorado. In this way Section 14-5-711 does not alter, but simply adds to, the personal jurisdiction requirement established in Section 14-5-615 for Convention support orders. See Comment to C.R.S. § 14-5-711(a).

*Marriage of Lohman* provides one of the most important takeaways from this article: the potential to collaterally attack a foreign support order for lack of personal jurisdiction under the Due Process Clause and the consequences of losing such an attack. In *Lohman*, the obligor was a resident of Colorado, while the obligee and the child were residents of England. The obligee sought a divorce and the establishment of support in England and notified the obligor by serving him in Colorado. The obligor did not respond to the action in England and instead chose to attack the English support order for lack of personal jurisdiction when the obligee sought to enforce the support order in Colorado. The Court of Appeals determined that in order to enforce the English support order in Colorado the English court must have had personal jurisdiction over the obligor both under English law and under the Due Process Clause of the United States Constitution, i.e. minimum contacts, and it remanded the case back to the Colorado District Court to determine whether the English court exercised personal jurisdiction consistent with the Due Process Clause.

*Lohman* describes the two options available when an action to establish a support order is filed against your Colorado client in another country. The Colorado obligor has two choices: either enter an appearance and challenge jurisdiction in the foreign country; or, as in *Lohman*, default in the forum court

(continued on page 12)

## PRO BONO PAGE

### Pro Bono Referrals

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

**Weston Cole**  
**Daniel Flynn**  
**Chris Jeffers**  
**Gary Merenstein**  
**Curt Rautenstrauss**  
**Jeff Skovron**  
**Craig Small**  
**Richard Vincent**

Thank you to the following mediators who accepted referrals in December:

**James Christoph**  
**Christine Coates**  
**John Tweedy**

### Pro Se Program Volunteers

**Sheila Carrigan**  
**M.L. Edwards**  
**Toni Gray**  
**Michael Morphew**  
**Craig Small**

### BCAP Volunteers

There were no requests for pro bono referrals for the Boulder County AIDS Project in December.

### Pro Bono Corner

**Interested in a Pro Bono case?**

**Please call**  
**Erika at 303-449-2197.**  
**CLE credits available for pro bono service.**

### PROFESSIONALISM ON-CALL LIST

Feb 1,	Karl Kumli	303-447-1375
Feb 8,	Trip DeMuth	303-447-7775
Feb 15	Peggy Goodbody	303-440-5736
Feb 22	Anton Dworak	303-776-9900
Feb 29	Steve Meyrich	303-440-8238

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 cotrary 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.



## FOREIGN SUPPORT ORDERS (continued from page 11)

and collaterally attack the foreign support order on the basis of personal jurisdiction in the enforcement court. 2015COA134 ¶ 25. If the latter strategy is chosen, Lohman cautions that the attack is limited to jurisdiction only. Consequently, if jurisdiction is found to be adequate, the obligor may not challenge the merits of the foreign support order. *Id.*

This means that the obligor will be stuck with the foreign support order no matter how inequitable or discriminatory. The broad definition of “support” employed by the *Lohman* Court as any obligation that “has the purpose and effect of providing support for the spouse”, *id.* ¶ 56, means that so long as the foreign court credibly identifies an award as intended for support and not as property division, the obligor who loses the collateral attack cannot object to it. In *Lohman*, this included the award of £423,000 to the obligee to purchase a home.

There will be no easy answer when advising your client whether or not to challenge personal jurisdiction in the foreign court, or whether to wait and later attempt a collateral attack.

Under these circumstances, a wise attorney will gather as many facts as possible and try to learn about the law and legal system in the foreign country, if necessary consulting with a local practitioner in domestic law.<sup>3</sup>

In conclusion, despite the complex nature of this subject, the issue of personal jurisdiction for international family support cases can be summarized as follows. First, to establish a family support order over a resident of a foreign country, Colorado must have personal jurisdiction over the obligor under the bases set forth in C.R.S. § 14-5-201 and the Due Process Clause of the United States Constitution. Second, to enforce a support order of a foreign court in Colorado, the foreign court must have had personal jurisdiction over the defendant both under its own laws and under the jurisdictional requirements of C.R.S. § 14-5-201 and the Due Process Clause of the United States Constitution, i.e. minimum contacts. Third, to modify a foreign support order, the Colorado Court must have personal jurisdiction over the parties; the foreign court must lack or refuse to exercise jurisdiction over its own support

order; and, for a Convention support order, the obligee also must submit to Colorado jurisdiction if the obligee still resides in the forum country.

Finally, because of the myriad factual differences between cases, which makes the practice of family law so fascinating, it will be vital for the attorney who has an international family support case to take the time to carefully read and apply the UIFSA statutes. Hopefully, this article has provided a starting point for that examination.

### FOOTNOTES

1. THE UNIFORM INTERSTATE FAMILY SUPPORT ACT AMENDMENTS (2008): A Summary, <http://www.uniformlaws.org/shared/docs/interstate%20family%20support/UIFSA%202008%20Summary.pdf>.

2. The following statutes address subject matter jurisdiction to establish a support order or modify a foreign support order: C.R.S. § 14-5-401 (to establish a support order); C.R.S. § 14-5-615 (to modify a foreign, non-Convention support order); C.R.S. § 14-5-711 (to modify a Convention support order).

3. Many thanks to Andy Littman and Craig Weinberg for generously giving their time to discuss their experience in arguing the *Lohman* case and the practical implications of the Opinion for the domestic attorney.

## CLASSIFIED ADS

**TSCERTIFIED SIGNING AGENT/MOBILE NOTARY AND CONTRACT PARALEGAL SERVICES.** Litigation specialist, Civil Litigation. ADC/CJA. Roz Lynn Dorf, M.A. 303.494.6935

**Office for Rent: Private office in SE Boulder. Ideal person would be a sole practitioner with family law experience or a complementary practice.** Paralegal space also available. Potential overflow/contract work. Furnished, conference room, kitchen facilities. Possible trade contract work for rent. Share with family law mediator/practitioner. If interested contact Sheila Carrigan at carriganlaw@gmail.com .

**Perfect office space located at 1790 30th Street, Boulder, CO.** Share an office suite with three lawyers. Free Parking, two conference rooms and office space for growth, legal assistant, or receptionist. Call Scott Hamerslogh, 720.415.0322

**CONTRACT BOOKKEEPER. Get your books in order, maximize cash flow.** Using Quickbooks/ PClaw software. Trust/ general banking. A/P, A/R, invoicing, financial reporting, payroll. CHRISTINA STANTON 720.254.2935 or clmstanton@gmail.com. PERSONAL INJURY PARALEGAL (Boulder)

**Small, established, highly rated Boulder personal injury law firm seeking exceptional paralegal / legal assistant with personal injury and litigation experience.** Excellent Word, Excel and writing skills required. Please submit resume, cover letter and salary requirements to books@sloatlaw.com.

**Large windowed office, across from the Justice Center** with full services including receptionist, copy and fax, parking, conference room and other amenities.  
**Gross rent \$800.00/month 303-444-1700**



**LAWPAY<sup>®</sup>**  
CREDIT CARD PROCESSING

**PAYMENT PROCESSING,  
EXCLUSIVELY  
FOR ATTORNEYS.**

BOULDER COUNTY BAR ASSOCIATION  
Proud Member Benefit Provider

1.95% & 20¢ per transaction | No swipe required | No equipment needed

[www.LawPay.com/bcba](http://www.LawPay.com/bcba) | 866.376.0950

AffiniPay is a registered ISO/MSP of BMO Harris Bank, N.A., Chicago, IL

**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.**

**COMMERCIAL ADVERTISING INFORMATION  
IS AVAILABLE BY CONTACTING  
[christine@boulder-bar.org](mailto:christine@boulder-bar.org)**

**OR THE BAR'S WEBSITE  
[www.boulder-bar.org](http://www.boulder-bar.org)**