This month we are announcing the pending retirement of our Executive Director, Christine Hylbert. Christine has been our fearless leader for 20 years and the only director many of our members have ever known. The BCBA has grown tremendously under her leadership from 1,000 to 1,800 members. We cannot overstate the contributions Christine has made to the bar, but we will attempt to share some with the articles in this issue. First, David Driscoll will reflect on Christine's beginning years with the BCBA. Then, Sonny Flowers will share his experiences during the Centennial. Finally, Abigail Smith has a very special tribute to Christine on her President's Page.

Christine will be officially retiring in June, but she will be helping with the transition for several months afterward. We wish her the best in her new adventure and look forward to welcoming her to future BCBA events in a less formal role.

Thank you, Christine, for all you do!

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AN INFUSION OF VITAMIN D
DAVID DRISCOLL

Helen Stone, Jerry Sloot and I sat pale and dejected. It was 1997. We were interviewing applicants for the position of Executive Director of the Boulder County Bar. Our last two ED’s had left on short notice after short stints, one to work for another non-profit and another to do something we’d barely heard of: Website design. The wheels had come off of the association. We had no staff. We couldn’t get the newsletter out. (It was delivered by mule in those days.) We were nearly broke. CLE’s had come to a halt. We knew we didn’t know enough about the accounts and the books. The first interviews had gone badly.

Then the door opened and in walked Christine Hylbert, smart, confident, experienced, funny, and ready to roll. That smile! The clouds parted and out came the sun. Christine took charge. We needed new members. No problem; she took us from 1,000 then to over 1,800 now.

We needed to activate the Committees and Sections. She was like the Medicis in the Renaissance. Suddenly, at the Boulderado, at Trio’s, and everywhere you looked, there were programs and CLE’s—Medical-Legal, Business Law, Criminal Law, Civil Litigation, and more. There was learning, interaction, revenue, and it was fun again!

We needed a bridge to the judges. In those days, they’d barely talk to us. We dispatched Christine, and before long the judges began showing up again. They re-engaged with the Bar. She did the same with the D.A.’s office. (OK, we’ll give Stan a little credit for this, too.)

We needed to do more to support legal services for those who couldn’t afford a lawyer. Christine had a brain storm. “We’ll do it with wine,” she said. She organized our first Legal Aid Wine Tasting, raising $6,000 for Legal Aid in the first year. She has organized it every year since, and now we’re raising more than $18,000 at the annual event.

Many of our younger lawyers were solos and didn’t know which end was up. Christine organized the mentor-mentee program so that the new lawyers had someone to call when the going got tough, as it inevitably does in this profession.

We needed to corral some of the experience of past presidents and past leaders—a completely uncorrollable group—so that when the judiciary was under attack or when the press or the community needed background on a particularly difficult, high profile case, it could be provided. Christine figured out how to do it, and the press and the legal system in this county have been better for it. She has done so much for us—with humor, energy, elbow grease, and uncommon competence and grace. She’s made us better, and made the community better. We’ll miss you, Christine, more than you will ever know.
OUR CENTENNIAL YEAR

SONNY FLOWERS

I had the great fortune of meeting Christine Hylbert over the years after she had taken on the directorship of the BCBA and had a great understanding of its history, its culture, and its membership. I met her as I attended a very few bar events and a number of CLE programs. I was a relatively old lawyer who had never really participated in the local bar, and had practiced in Boulder for a number of years and in Denver for nearly a decade. At some point, I was asked if I was interested in the leadership of the bar, and ultimately was invited to join the board. That board was vibrant and dynamic, and I quickly learned that a large part of that was the result of Christine’s ability to encourage participation, innovation, and opportunity for interested members.

As I went through the leadership ladder, I learned to listen to others, as Christine did, and to listen to Christine as she made the bar association the place for young lawyers to connect with the more established lawyers. I became president at a great time in the bar’s history, its Centennial Year. The Board Retreat in June was an eye-opener as I learned of all the different ideas that our individual board members wanted to explore, and the fact that many of these ideas had been considered by Christine before, and she was only waiting for the right person(s) to initiate them with their new energy. I next was exposed to the ABA at its annual meeting in July and its local leadership groups. Christine already knew these groups, and was able to introduce me to the most thoughtful and innovative of their members. I began to learn to lead, and to discover ways to encourage more of our members to participate.

In August the Centennial Committee, made up of all the past BCBA past presidents, met to discuss ways to celebrate the life of a 100-year old local bar association. At the same time, there was no reduction in the ordinary, but special, events of the bar – the section meetings, the CLEs, the New Lawyers social gatherings, the Happy Hours, the production of the Newsletter with its educational articles, etc. Meanwhile ideas for the Centennial were beginning to take shape. Many of the past presidents wrote newsletter articles about each decade of the bar’s existence. They are still available in past newsletters. By December, the Board had some good ideas of what it wanted to happen in the Centennial Year, ideas that would just put more of a burden on Christine and her staff (Lynne Barnett), and those she could convince, cajole, or trick into doing the work that needed to be done.

In February of 2008, the BCBA hosted another winetasting fundraiser for the Legal Aid Foundation, at the St. Julien Hotel. With the help of each of the members of the Board and the quiet direction of Christine Hylbert, it was a rousing success! The Happy Hours, CLE seminars, newsletter articles and other educational activities continued despite the hours that were spent arranging and hosting the special event of consuming wine and hors d’oeuvres and perusing and buying arts and crafts. In May, as the other BCBA events continued to be full of energy and enthusiasm, we held the Past Presidents’ Dinner, to add to that sense of continuity of the bar, its members and leaders recognizing the past and connecting to the future. And the year continued, right on through the Annual Meeting in June and the follow-up Board Retreat.

The energy and unwavering enthusiasm, welcoming smiles and hugs of Christine Hylbert, and the spreading camaraderie carried the Boulder County Bar Association through the first half of that eventful Centennial Year. How could that have occurred without her?! I sure couldn’t tell you, but I know it was a lot of fun, friendship and bonhomie. Irreplaceable, but I guess we have to, huh?
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CALENDAR OF EVENTS

Tuesday, January 10
EMPLOYMENT
Employer Outreach - Employee Misclassification
Presenter: Devin Neiberger
Noon @ Dickens Tavern, Longmont
$25 CLE, $15 New/Young Lawyer, $13 Lunch
Register and pay online here

Wednesday, January 11
BUSINESS
10 Legal Documents Every Startup Needs
Presenter: Jack Donenfeld
Noon @ BCBA Conference Room
$25 CLE, $15 New/Young Lawyer
Register and pay online here

Thursday, January 12
NATURAL RESOURCES/ENVIRONMENTAL LAW
Ethical Considerations Dakota Pipeline Struggle
Presenter: Carla Fredericks
Noon @ BCBA Conference Room
$25 CLE, $15 New/Young Lawyer
Register and pay online here

Thursday, January 12
CIVIL LITIGATION
Human Trafficking: Update on the Situation in CO
Presenters: Candace Joyce & Janet Drake
Noon @ Justice Center Training Room East
$25 CLE, $15 New/Young Lawyer
Register and pay online here

Tuesday, January 17
ELDER
ABLE, the Newest Tool in your Planning Toolbox
Presenter: Megan Brand & Susie Germany
Noon @ BCBA Conference Room
$25 CLE, $15 New/Young Lawyer
Register and pay online here

Wednesday, January 18
FAMILY
Case Law Update
Presenters: Ron Litvak and Tim Mehrtens
Noon @ Justice Center Training Room East
$25 CLE, $15 New/Young Lawyer
Register and pay online here

Wednesday, January 18
TRIAL PRACTICE SERIES
Presenter: Pat Furman
Noon @ BCBA Conference Room
$15 CLE, Free if you volunteer for mock trials
Email laura@boulder-bar.org to register

Wednesday, January 18
CBA Presidential Visit
President Patricia Jarzobski
Noon @ The Boulder Cork
$25 Lunch
Register and pay online here

Thursday, January 19
REAL ESTATE
City of Boulder Occupancy Laws and Enforcement
Presenter: Tom Carr
Noon @ BCBA Conference Room
$25 CLE, $15 New/Young Lawyer
Register and pay online here

Thursday, January 19
BANKRUPTCY
Monthly Lunch and Roundtable
Noon @ Kathmandu

Tuesday, January 24
ALTERNATIVE DISPUTE RESOLUTION
Mediator Neutrality: What Does It Mean and Can / Should We Maintain It?
Presenter: Peter Fabish, Chris Sarson, & Jamie Klein
Noon @ BCBA Conference Room
Register and pay online here

Wednesday, January 25
TAX, ESTATE PLANNING AND PROBATE
Asset Protection Structures
Presenter: Ed Brown
Noon @ BCBA Conference Room
Register and pay online here

Friday, January 27
AVAILABILITY OF LEGAL SERVICES
Monthly Roundtable
Noon @ BCLS

BOULDER IDC – THURSDAY, JANUARY 19

Parenting Adolescents
Presenter: Naomi Rucker
11:30 @ Dairy Arts Center, $27 IDC Members, $32 Non-Members, $35 Walk in
2 General CLE and .3 Ethics  To RSVP, go to boulderidc.org
It all began at 7:30 a.m. on a frigid Saturday in February. I was a new lawyer who had just moved back to Colorado. I had volunteered as a scoring judge for the Colorado High School Mock Trial Tournament in Boulder County in the hope that I could start building a network here. I thought my best opportunity to meet other lawyers would be to get involved with the Boulder County Bar Association.

I walked into the Jury Assembly Room at the Boulder County Justice Center, half asleep, with my travel mug clutched tightly in my hand. I was terribly nervous, as I often am when I walk into a room filled with unfamiliar faces. As I anxiously searched for an empty chair, I received a warm greeting. “Welcome! I'm Christine, Executive Director of the Boulder County Bar Association.” I couldn't help but smile back. And then I started to relax. I explained that I was a new lawyer, that I had just returned to Boulder County, and that I didn't know any other lawyers here. Before the day was through, Christine promised to follow up with me. It was a promise she kept.

I began attending events more regularly. Although I remained apprehensive about walking into a room full of people I didn't know, I could always count on Christine’s warm greeting and her effortless ability to integrate me into conversation. After some months of regular event attendance, I received an email from Christine asking if I would become co-chair of the Intellectual Property section. You may laugh, but I was so honored and proud to receive that email. I happily accepted and enjoyed three years of organizing CLEs and the occasional special event.

I can’t remember exactly what prompted me to apply for a position on the Board of Directors. Looking back, I think it was mostly that I wanted to give more to the Association that had done so much for me. I don't remember much about my early morning interview – a byproduct of my terrible nerves – but I do remember telling the Board that the Boulder County Bar Association is my home. It was Christine who later called to tell me that I had been nominated to the Board.

Long story short, Christine has been absolutely instrumental to my involvement in the Association. Even so, it wasn't until I joined the Board that I began to understand how much Christine actually does for us.

Our Board is comprised of volunteers, who generally serve a 3-year term. Of course, if you choose to run for an officer position, you've just committed yourself to a few more years. Terms are staggered, so we welcome a new class of Directors every year. New ideas and new leadership are wonderful for a whole host of reasons, but it can be easy to overlook an important element: consistency. Oh, and institutional memory. And that is where Christine comes in.

Our Executive Director is tasked with a long list of responsibilities. Everything from maintaining our
membership roll, arranging all our meetings, keeping records of our finances, and maintaining relationships with other bar associations - and that's just some of it. Most importantly, our Executive Director advises Association leaders in the discharge of their duties. Christine's guidance is invaluable to the Board. Her insight into everything from past Board decisions to failed initiatives allows us to successfully direct the Association. And her ready knowledge of the facts about the Association – everything from the number of members, to the section breakdown to the best person to ask for help in any situation – is priceless. Knowledge and insight are a powerful combination, but Christine possesses an even greater skill: she is a powerful relationship builder.

Relationships are an essential element of a successful bar association. In order to remain relevant to our members and adherent to our mission, our Association must maintain a relationship with our members, the community, the judiciary, the University of Colorado Law School, the Colorado Bar Association and other local bar associations, to name a few. The ability to build and maintain these relationships is a key component of Christine's success as our Executive Director. When I first met Christine, I gave no indication that I would be a particularly promising or valuable addition to the Association. But she developed a relationship with me anyway. She encouraged me to stretch and to grow. As a result of that encouragement, I have developed the network that I wanted way back when I first met Christine. More importantly, I have a whole series of relationships, experiences and opportunities that I can trace back to Christine. Consider this: the entire time I have known Christine, she has been responsible for arranging all our meetings, keeping track of all our members, watching over our finances, maintaining relationships with the community and other bar associations, all while being the public face of our Association – and she still made the time to nurture an individual relationship with me.

If I'm perfectly honest, this has been very difficult to write. I'm generally verbose, loquacious, and all those other words that basically mean "she talks a lot." Even so, I have struggled to find the words that could adequately describe what Christine has meant to me personally. Worse, I can't find a way to express the size and scope of what she has accomplished professionally as Executive Director of the Association. So, I will try to keep it simple: as for me, I can confidently say that I would not be where I am today without Christine. I am equally confident in declaring that the Boulder County Bar Association would not be the successful organization it is today without Christine. She does a million things that we never knew we needed, but now can't live without. Which is why it will be so difficult to say goodbye.

Christine is an incredibly hard worker, and she has accomplished much over her 20-year tenure as our Executive Director. I hope you enjoy remembering some of her achievements in the articles included in this newsletter. I encourage each of you to reflect on what Christine has meant to you and share those fond memories with her.

Finally, I want to take a moment to express my gratitude to Christine for her unparalleled service to the Association. She is consistent, reliable and intensely focused on our mission. She is a wonderful partner to the Board, and an indefatigable advocate for our members and our community. In the wise words of Winnie the Pooh: "How lucky I am to have something that makes saying goodbye so hard!"
THANK YOU TO THE VOLUNTEERS FOR THE 2016 PRO SE PROBATE CLINIC

January - Brooke Brestel
February - Jessica Catlin
March - John Studholme
April - Charlie Martien
May - Connie Eyster
June - Steve Barnett
July - Kurt Hofgard
August - Russ Osgood
September - Sharon Svendsen
October - Richard Poley
November - Tom Rodriguez
December - David Dougherty
Quite often, domestic relations practitioners find themselves faced with issues that overlap into other areas of law. This is one of those issues. Both domestic relations attorneys and tax attorneys are likely familiar with the 2015 U.S. Tax Court case of Iglicki v. Commissioner of Internal Revenue, in which the court found that payment of alimony arrears pursuant to a Colorado final money judgment was not deductible as alimony paid. When Mr. and Mrs. Iglicki divorced, they agreed that Mr. Iglicki would owe alimony only if he defaulted on his obligations under the separation agreement. In 2002, this provision was invoked at a rate of $1,000 per month. Mr. Iglicki defaulted on the alimony payments, and in 2008, Ms. Iglicki filed a verified entry of judgment in Colorado. The court awarded Ms. Iglicki a money judgment for $36,000 in alimony arrears plus $28,156 in interest.

In 2010, Mr. Iglicki paid $39,350 in “alimony” payments to Ms. Iglicki. On his Federal taxes, he deducted that $39,350 from his income as alimony paid, while Ms. Iglicki reported only $13,441 of alimony income. Surprisingly, it wasn’t this reporting mismatch that triggered the audit, but instead, was because both spouses attempted to claim the same dependent.

In 2012, the IRS determined a deficiency of $10,479 and an accuracy-related penalty of $2,096 against Mr. Iglicki (and his new spouse, with whom he filed jointly). Under Internal Revenue Code (IRC) § 215, “alimony” is deductible to the payor, and under IRC § 71, is income to the payee. In order to qualify as “alimony,” the payment must satisfy IRC § 71(b)(1)’s four-prong test. Because the requirements of IRC 71(b)(1) are in the conjunctive, a purported alimony payment must satisfy all four prongs to qualify for the deduction.

Mr. Iglicki failed the fourth prong, which states that alimony is any payment in cash if “there is no liability to make any such payment for any period after the death of the payee spouse and there is no liability to make any payment (in cash or property) as a substitute for such payments after the death of the payee spouse.” Under Colorado law, Mr. Iglicki’s liability under the money judgment would not terminate at Ms. Iglicki’s death, but would be limited only by Colorado’s general 20-year statute of limitations. Because the obligation would not terminate after payee’s death, Mr. Iglicki’s payments were not considered “alimony” under IRC § 71 and thus were not deductible under IRC § 215.

There are at least a few courts who interpreted the same IRC provision very differently, and at least one attorney/author who argues the court got it wrong by misreading “for any period after the death.”

Some have interpreted this case to mean that because the payor didn’t qualify for an alimony deduction, then the payee shouldn’t be taxed on her receipt of the same funds. Further, because the IRS seemingly agreed with Ms. Iglicki by not determining a deficiency against her, one may conclude that ex-spouses receiving alimony pursuant to a Colorado money judgment are not required to report that receipt as income.

On Ms. Iglicki’s tax return, she reported alimony income of $13,441, composed of $1,000 per month in current maintenance payments and an additional $1,441 for interest on the maintenance arrears payments. Ms. Iglicki didn’t report any of the payments received pursuant to the judgment for arrears. There’s no mention in the Iglicki opinion of Ms. Iglicki’s deficiency, and based on follow up...
research conducted about the Iglicki’s situation after the opinion was issued, the IRS has not determined a deficiency against Ms. Iglicki for her reported alimony income. (8) The problem is that even though the IRS did not determine a deficiency against her, the opinion does not specifically address this discrepancy and the existing Internal Revenue Code applies.

Under I.R.C. § 71(a), gross income specifically includes amounts received as “alimony” and it is true that Ms. Iglicki would not be required to report her “alimony” income under this code section, because Mr. Iglicki’s payments were not deemed to be “alimony” as defined by I.R.C. § 71(b)(1). However, the tax code has a catchall. Under I.R.C. § 61, “gross income means all income from whatever source derived.” The IRS is quite restrictive about deductions that are allowable from income. If the deduction is not specifically applicable, it cannot be taken by implication. (9) Unless payee’s income falls under another applicable deduction provision, it is income to the payee, even if it is also income to the payor. If may feel unfair, but there’s no law against this type of double taxation, (10) and when there’s an opportunity to collect more tax, the IRS will strictly apply the tax code.

Iglicki does not change the characterization of income from alimony just because it was collected pursuant to a money judgment for a couple reasons: first, because the recipient of maintenance was not a party to this case, this opinion has no precedential value regarding her tax liabilities/outcome, and second, because this is a Memorandum Opinion, it’s precedential value is limited. (11) In sum, while this case may, at first glance, appear to alter how alimony collected pursuant to a judgment is treated for IRS income purposes, it has a very limited scope and use in the domestic relations context and was fact-specific for the Iglicki’s situation.

Iglicki was not appealed, and whether it’s ruling and theory will be followed by other tax courts is unknown. This likely won’t be the last situation where an ex-spouse pays maintenance arrears pursuant to a judgment and tries to deduct it on his taxes. Keeping in mind divorcees have a higher probability for being subjected to an audit, (12) it will be interesting to see how this issue will be presented, and resolved, in the future. Until such a time, it seems that being careful to make sure your client is advised about this case, the lack of applicability the Iglicki case may have to his/her situation, and to make sure the client receives appropriate tax counsel is always the best route.

Sumer Thomas is an associate with Stahly LLC in Boulder and practices domestic relations law.

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PROFESSIONALISM ON CALL

January 2       Anton Dworak       303.776.9900
January 9      Steve Meyrich      303.440.8238
January 16     Mike Rafik         303.444.9292
January 23     Curt Rastenstraus  303.666.8576
January 30     Lee Strickler      303.443.6690

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 2017 Free Legal Clinics at the Sacred Heart of Jesus church (2312 14th Street) from 5:30 - 7:30 pm. Volunteers are always needed. Please contact Christine at christine@boulder-bar.org if you can help.

March 16, 2017       June 15, 2017

PRO BONO CORNER

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

PRO BONO REFERRALS

Eight cases were referred during the month of November. Thank you to the following attorneys:

Steven Barnett
Carmen Danielson
Chris Jeffers
Ronald Jung

Thank you to the following attorneys who accepted mediation cases in November:

Seth Benezra
Susan Bryant
James Christoph
Joan Norman

PRO SE VOLUNTEERS

Sheila Carrigan
Chris Jeffers
Michael Morphew
Alice Robbins
Craig Small
Lenny Tanis

BCAP VOLUNTEERS

There were no requests for referrals for the Boulder County AIDS Project in November.

VOLUNTEER NOW FOR MOCK TRIALS

This year the Mock Trials will be held at the Boulder County Justice Center on February 9, 10 and 11. Please volunteer to be a scoring judge. This is a great program, and it cannot happen without all of you generous volunteers. We have the following times available:

- February 9 at 4:30 pm
- February 10 at 4:30 pm
- February 11 at 8:00 am and 10:30 am

Email laura@boulder-bar.org to sign up
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Frank N. Dubofsky

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COURT ANNOUNCEMENTS

Please join us as we celebrate the retirement of
Judge John F. Stavely

Friday, January 6, 2017
4:00 – 5:00 p.m.
Boulder County Justice Center
1777 6th St. Boulder, CO 80302
Jury Assembly Room

Please join us!

Boulder County Court Judge
Jonathon P. Martin
Swearing-in Ceremony

When: January 13, 2017, 4:30 p.m.
Where: Boulder County Justice Center
1777 6th Street
Boulder, CO 80302
Courtroom F, First Floor
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DOWNTOWN BOULDER PROFESSIONAL ATTORNEY OFFICES FOR LEASE. 1 – 3 offices available on February 1, within historic office building. Includes use of conference rooms, reception and kitchen. From $1000 to $1500 per office or group rate. Includes full service gross. Contact Nicole or Alanna at 720-943-1095.

In late October, the Boulder County Bar Foundation Board of Trustees approved grants of $21,000 to local non-profit legally related programs in Boulder County. Each year the Trustees meet to fund these organizations and programs that provide legal services and legal education to Boulder County. This year’s recipients are: Boulder County Legal Services, Bridge to Justice, CASA Voices for Children, Children First of the Rockies, Immigrant Legal Center of Boulder County, J-SUP: Law Center for the Un-housed, League of Women Voters of Boulder County, Safe Shelter of St. Vrain Valley, Safehouse Progressive Alliance for Nonviolence (SPAN), YWCA, and Boulder and Niwot High School Mock Trial teams. The grant cycle for the Foundation will be in September. Please encourage legally related organizations to apply for a grant. The application is on the bar’s website. Thanks to all of the Foundation members who contribute to the foundation by their annual dues commitment. A special thank you and recognition to those who continue to support the Foundation’s mission even after they have met their ten-year pledge. All of these funds support these very worthwhile organizations. The current Board of Trustees are: Anton Dworak, President; Joan Norman, Vice-President; Ruth Becker, Treasurer; Ellen Cadette, Judson Hite, Sonny Flowers, David Archuleta, Karl Kumli, Keith Olivia. If you are a BCBA member but not a member of the Foundation and wish to join to support your community, please email Christine at christine@boulder-bar.org.
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