

37<sup>TH</sup> Annual

# Estate Planning Retreat

*Your Colorado Trust and Estate  
Community's Premier Event!*

Co-sponsored by the Trust and Estate Section of the Colorado Bar Association

**LIVE  
ONLY!  
IN VAIL!**

**JUNE 8-10, 2017**

**Vail Marriott Mountain Resort**

715 West Lionshead Circle, Vail, CO

**2**

***Timely Featured  
Presentations***

**8**

***Advanced Interactive  
Breakout Discussions***

***INVALUABLE Time with  
Your Trust and Estate  
Colleagues and Friends!***

***REGISTER TODAY!***

## **Featured Presentations:**

- Ethical Considerations in Serving as or Representing Executors, Trustees, and Other Fiduciaries
- Case Law and Legislative Update

## **Breakout Topics:**

- Recognizing and Representing Clients Whose Capacity is Diminishing
- Practical Tips for Keeping Your Clients' Private Information Private
- The ABLE Act: The Newest Tool in Your Toolbox to Plan for Individuals with Disabilities
- Fiduciary Neutrality and Trust Modification
- Intellectual Property Issues in Estate Planning and Administration
- Planning for the Family Business
- Obtaining Business Information in Probate Litigation: Discovery, Evaluation, and Effective Use at Mediation and Trial
- Ethical Considerations in Practicing Before the IRS: Circular 230 Considerations

***For more information please call CBA-CLE at (303) 860-0608, or toll free at (888) 860-2531***

# 37<sup>TH</sup> Annual Estate Planning Retreat

***Your Colorado Trust and Estate Community's Premier Event!***

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## **FEATURED PRESENTATIONS:**

### ■ **Ethical Considerations in Serving as or Representing Executors, Trustees, and Other Fiduciaries**

The roles of beneficiary and fiduciary inherently involve conflict potential. The fiduciary holds what the beneficiary wants. This conflict potential has been exacerbated in recent years by increasing expectations of beneficiaries, flowing in part from the confrontational nature of contemporary society, and expanded theories of fiduciary liability arising largely out of trust law changes tilting toward enhancing beneficiaries' rights. This presentation will examine a number of recent cases in such "hot potato" areas such as trust investments, trust distributions, exculpatory clauses, duties of counsel to the fiduciary and how beneficiaries may, intentionally or not, forfeit their rights to challenge fiduciary acts or omissions.

*Presented by Mary F. Radford, Marjorie Fine Knowles Professor of Law, Georgia State University College of Law, Atlanta, GA*

### ■ **Case Law and Legislative Update**

*Presented by Jamie Roth, Esq., Law Office of Jamie J. Roth, PLLC, Glenwood Springs, CO, and Paul M. Smith, Esq., Kerst & Strautman PC, Glenwood Springs, CO*

## **BREAKOUT SESSIONS:** (select 4 to attend)

### ■ **Recognizing and Representing Clients Whose Capacity is Diminishing**

*Mary F. Radford, Marjorie Fine Knowles Professor of Law, Georgia State University College of Law, and C. Jean Stewart, Esq., Jean Stewart LLC*

### ■ **Practical Tips for Keeping Your Clients' Private Information Private**

*Phil J. Shuey, Esq., Phil J. Shuey, P.C.*

### ■ **The ABLE Act: The Newest Tool in Your Toolbox to Plan for Individuals with Disabilities**

*Megan Brand, Executive Director, Colorado Fund for People with Disabilities (CFPD), and Bradley J. Frigon, Esq., Law Offices of Bradley J. Frigon, LLC*

### ■ **Fiduciary Neutrality and Trust Modification**

*James R. Wade, Esq., and Jonathan F. Haskell, Wade Ash Woods Hill & Farley, P.C.*

### ■ **Intellectual Property Issues in Estate Planning and Administration**

*Presented by Louisa M. Ritsick, Bryant & Ritsick LLC*

### ■ **Planning for the Family Business**

*David Crandall, Esq., and Margot Edwards, Esq., Holland & Hart LLP*

### ■ **Obtaining Business Information in Probate Litigation: Discovery, Evaluation, and Effective Use at Mediation and Trial**

*Todd Kastetter, Esq., and John Lubitz, Esq., Lewis Brisbois Bisgaard & Smith LLP*

### ■ **Ethical Considerations in Practicing Before the IRS: Circular 230 Considerations**

*Professor Lori McMillan, Washburn University School of Law*

**JUNE 8-10, 2017**

**Vail Marriott**

**Mountain Resort**

715 West Lionshead Circle

Vail, CO

**Submitted for 9 General  
CLE Credits, Including  
2 Ethics Credits**

\*You must attend the session with  
the ethics component to  
claim ethics credit

**REGISTER TODAY!**



# Agenda

## THURSDAY, JUNE 8, 2017

6:00 - 7:30 PM

**Welcome Reception**

*Sponsored by BNY Mellon Wealth Management*

## FRIDAY, JUNE 9, 2017

7:30 AM

**Registration Open**

7:30 - 8:45 AM

**Buffet Breakfast**

*Sponsored by PeopleCare Health Services*

8:00 AM

**Welcome and Introduction**

*Kelly Dickson Cooper, Esq., Holland & Hart LLP,  
Denver, CO, Estate Planning Retreat Chair*

*Vincent J. O'Brien, Executive Director, Colorado  
Bar Association CLE, Denver, CO*

8:15 AM

**Ethical Considerations in Serving  
as or Representing Executors,  
Trustees, and Other Fiduciaries**

**ETHICS**

Do you regularly or even just periodically serve as a fiduciary for your clients' estates and trusts? How often do you serve as counsel for a fiduciary? These are roles that many estate planning attorneys undertake without giving extensive thought to the ethical and practical challenges of such roles. This presentation will discuss these challenges, with topics ranging from naming oneself to serve as fiduciary to ascertaining appropriate legal and fiduciary fees to determining what to do when your fiduciary client engages in questionable activities.

*Presented by Mary F. Radford, Marjorie Fine  
Knowles Professor of Law, Georgia State  
University College of Law, Atlanta, GA*

9:15 AM

**Adjourn to Breakout Discussions**

9:25 AM

**SESSION A\***

10:45 AM

**Networking Break**

11:00 AM

**SESSION B\***

12:20 PM

**Adjourn**

*Enjoy all that the Vail area has to offer!*

2:00 PM

**Question and Answer Roundtable on  
Uniform Trust Code**

6:00 - 7:15 PM

**Annual Wine Tasting**

*Sponsored by Colorado State Bank and Trust*

## SATURDAY, JUNE 10, 2017

7:00 AM

**Registration Open**

7:15 - 8:45 AM

**Buffet Breakfast**

8:00 AM

**Presentation of Sterling Ambler Award**

8:15 AM

**Case Law and Legislative Update**

*Presented by Jamie Roth, Esq., Law Office of  
Jamie J. Roth, PLLC, Glenwood Springs, CO, and  
Paul M. Smith, Esq., Kerst & Strautman PC,  
Glenwood Springs, CO*

Discussion of the Process of Reviewing the Uniform  
Trust Code for Potential Enactment in Colorado

9:15 AM

**Adjourn to Breakout Discussions**

9:25 AM

**SESSION C\***

10:45 AM

**Networking Break**

11:00 AM

**SESSION D\***

12:20 PM

**Adjourn**

*Thank you for your participation!*

*\* Please indicate which 4 sessions you have selected  
on the registration form. If you do not choose,  
4 topics will be selected for you.*

**Break-out session  
space is limited, so  
register today!**

Retreat tuition includes course materials, admission to the Retreat, admission to the Welcome Reception on Thursday, June 8, sponsored by **BNY Mellon Wealth Management** and the Wine Tasting on Friday, June 9, sponsored by **Colorado State Bank and Trust**. An additional discount will be offered to attendees who elect to receive their materials digitally via digital download. Guests may participate in the breakfasts for a fee. Receptions are complimentary for attendees and their guests.

**For more  
information  
about the  
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CBA-CLE at  
(303) 860-0608,  
or toll free at  
(888) 860-2531**

# Topic Descriptions – Select any 4 to attend\*

## Topic #1

### Recognizing and Representing Clients Whose Capacity is Diminishing

ETHICS

As the Baby Boomers age, a significant number of them are living longer. But with these longer lives comes an enhanced risk of diminishing capacity. This session will explore the ways in which lawyers can recognize signs of diminishing capacity in their existing clients and new clients. Attention will be given not only to the ethical rules governing the representation of clients with diminishing capacity but also to ways in which lawyers may need to protect clients who have become vulnerable to exploitation and abuse. The audience will be encouraged to share their experiences and tips on how to deal with these issues.

*Presented by Mary F. Radford, Marjorie Fine Knowles Professor of Law, Georgia State University College of Law, Atlanta, GA, and C. Jean Stewart, Esq., Jean Stewart LLC, Denver, CO*

## Topic #2

### Practical Tips for Keeping Your Clients' Private Information Private

A major legal software vendor has 40 hacking attacks a day – more than 6,670 in the past six months. Every day, reports are made of new hacking, phishing and other computer scams to obtain information. Rule 1.6 (Confidentiality) does not provide allowances for the number of “bad guys” out there. Estate planning, of necessity, requires getting personal and financial information from clients. How do you keep it safe? This session will discuss tips, tricks and procedures to minimize the risk of breaches and loss of confidentiality, especially for solo practitioners and small firms.

*Presented by Phil J. Shuey, Esq., Law Offices of Phil J. Shuey, P.C., Greenwood Village, CO*

## Topic #3

### The ABLE Act: The Newest Tool in Your Toolbox to Plan for Individuals with Disabilities

ABLE accounts are akin to 529 college savings plans for people with disabilities. They have created quite a buzz in the special needs community. This interactive session will explore all of the ways that ABLE accounts can be used alongside a traditional estate plan for a person with a disability, including:

- Tax Considerations
- New Options to Pay for Housing
- Proposed Legislation to Broaden the Eligibility
- Titling/Control of Accounts
- The Status of Accounts in Colorado
- Drafting ABLE Provisions into Power of Attorney Documents and Revocable Living Trusts
- Potential Pitfalls and Risks of ABLE Accounts

*Presented by Megan Brand, Executive Director, CFPD, Denver, CO, and Bradley J. Frigon, Esq., Law Offices of Bradley J. Frigon, LLC, Englewood, CO*

## Topic #4

### Fiduciary Neutrality and Trust Modification

A fiduciary's neutrality comes up often both in the administration of trusts and estates as well as in the litigation context. Most estate planning clients believe that if there were to be a dispute regarding their will, the personal representative will defend the document. This program will discuss the following:

- The revisions to C.R.S. § 15-12-703 in 2013 address fiduciary neutrality. Has *Risbry v. Swan* been effectively overruled by statute?
- How a personal representative has standing to prosecute or defend a will in a will contest.
- How a fiduciary can maintain neutrality in order to facilitate orderly administration of the estate.
- How does C.R.S. § 15-12-703 apply in cases other than will contests? What is the basis for neutrality in elective share/augmented estate proceedings?
- May beneficiaries obtain trust modification as a way to remove a trustee as opposed to seeking removal directly (which generally requires proof of serious hostility or other cause)?

*Presented by James R. Wade, Esq., and Jonathan F. Haskell, Esq., Wade Ash Woods Hill & Farley, P.C., Denver, CO*

## Topic #5

### Intellectual Property Issues in Estate Planning and Administration

High profile cases, such as those involving the value of Michael Jackson's name and image on his date of death or the right to publish Harper Lee's long-lost manuscript, demonstrate the necessity of considering intellectual property assets during the estate planning process. Many authors, artists, inventors, and closely-held business owners protect intellectual property through copyrights, trademarks, and patents. This session will provide a basic overview of the laws protecting various types of intellectual property; the transfer, renewal, or termination rights associated with each; and estate planning for intellectual property in the event of the owner's death or incapacity.

*Presented by Louisa M. Ritsick, Bryant & Ritsick LLC, Denver, CO*

## Topic #6

### Planning for the Family Business

This session will focus on challenges and opportunities when planning for the family business. This session will explore tax issues related to shifting the value of a business from one generation to another. In particular, we will consider the current uncertainty of the estate tax and examine techniques that work well in the context of the current system and/or in the context of the various tax proposals. In addition, we will consider tax liquidity issues, as well as planning for the successful transition of your client's beloved business to future management.

*Presented by David Crandall, Esq., Holland & Hart LLP, Denver, CO, and Margot Edwards, Esq., Holland & Hart LLP, Boulder, CO*

## Topic #7

### Obtaining Business Information in Probate Litigation: Discovery, Evaluation, and Effective Use at Mediation and Trial

The need for discovery of business information arises frequently in probate disputes. Document discovery, however, can be one of the most expensive aspects of probate litigation, and “discovery battles” are typically the stuff of nightmares. This session will explore strategies to improve your client’s case through thoughtful, deliberative, and well-planned discovery, both formal and informal. Tools available to discover business information, as well as the advantages and disadvantages of each, will be addressed. The session will also include practical considerations regarding the use of expert witnesses and approaches to evaluating the information obtained. Strategies for effective use of business information at mediation and trial will also be discussed.

*Presented by **Todd E. Kastetter, Esq.**, and **John Lubitz, Esq.**, Lewis Brisbois Bisgaard & Smith LLP, Denver, CO*

## Topic #8

### Ethical Considerations in Practicing Before the IRS: Circular 230 Considerations

ETHICS

There are numerous traps associated with practicing before the IRS, especially since the definition of “practicing before the IRS” is so broad that it encompasses even corresponding with the IRS on behalf of a client. Circular 230 governing this area of practice was revamped recently, and there are several potential hazards that practitioners, especially practitioners who do not regularly do tax law, need to understand so they can protect themselves accordingly. This session will walk through the expectations set out in Circular 230, and recent changes will be explored. Case studies will be used to explore some top concerns for practitioners to highlight potential pitfalls and ways to mitigate risk.

*Presented by **Professor Lori A. McMillan**, Washburn University School of Law, Topeka, KS*

*\* Please indicate which 4 sessions you have selected on the registration form. If you do not choose, 4 topics will be selected for you.*

## Program Chair

**Kelly Dickson Cooper, Esq.**  
Holland & Hart LLP  
Denver, CO

## Faculty

**Megan Brand**  
Executive Director  
Colorado Fund for People  
with Disabilities  
Denver, CO

**David Crandall, Esq.**  
Holland & Hart LLP  
Denver, CO

**Margot Edwards, Esq.**  
Holland & Hart LLP  
Boulder, CO

**Bradley J. Frigon, Esq.**  
Law Offices of Bradley J.  
Frigon, LLC  
Englewood, CO

**Jonathan F. Haskell, Esq.**  
Wade Ash Woods Hill &  
Farley, P.C.  
Denver, CO

**Todd E. Kastetter, Esq.**  
Lewis Brisbois Bisgaard &  
Smith LLP  
Denver, CO

**John Lubitz, Esq.**  
Lewis Brisbois Bisgaard &  
Smith LLP  
Denver, CO

**Professor Lori A. McMillan**  
Washburn University School  
of Law  
Topeka, KS

**Mary F. Radford**  
Marjorie Fine Knowles  
Professor of Law  
Georgia State University  
College of Law  
Atlanta, GA

**Louisa M. Ritsick, Esq.**  
Bryant & Ritsick LLC  
Denver, CO

**Jamie Roth, Esq.**  
Law Office of Jamie J. Roth, PLLC  
Glenwood Springs, CO

**Phil Shuey, Esq.**  
Law Offices of Phil J. Shuey P.C.  
Greenwood Village, CO

**Paul M. Smith, Esq.**  
Kerst & Strautman PC  
Glenwood Springs, CO

**James R. Wade, Esq.**  
Wade Ash Woods Hill &  
Farley, P.C.  
Denver, CO

**For more information about the Retreat,  
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Please contact **Melissa Higham** at [mhigham@cobar.org](mailto:mhigham@cobar.org) for more information.

## Hotel and Lodging Information

### VAIL MARRIOTT MOUNTAIN RESORT

715 West Lionshead Circle, Vail, CO 81657 • (970) 476-4444

No matter the season, there is no place on earth like Vail. The Vail Valley provides the perfect backdrop to whatever activity you have in mind. Whether it's hiking, golfing, bicycling, shopping, or eating at a world-class restaurant, the Vail Marriott is your headquarters for planning a perfect mountain getaway.

*Rooms are being held for guests of the Estate Planning Retreat until May 31, 2017.*

**Room Rates:** Single/Double Occupancy Rates begin at \$169 plus applicable taxes. To reserve your room online, please go to: <https://aws.passkey.com/go/ColoradoEstatePlanning2017>. Rates will be available 3 days prior to and 3 days after the Event Dates, subject to availability.

**Parking:** Valet parking is available to Hotel Guests at \$15 per 24-hour period. The parking rate for attendees not staying at the hotel is \$12/day and is subject to availability.

**Make  
your hotel  
reservation  
early!**

# 37<sup>TH</sup> Annual Estate Planning Retreat • June 8-10, 2017 • Vail, CO • LIVE SEMINAR ORDER FORM

Retreat tuition includes course materials, admission to the entire Retreat, admission to the Welcome Reception on Thursday, June 8, and the Wine Tasting on Friday, June 9.

**\*All** attendees will receive the course materials digitally via email. If you wish to receive your materials via email **ONLY** (no printed book), please select this option on the registration form. Your tuition for this option is **\$30 LOWER** than the option to receive the printed book.

**\*HINT:** If you want to save on tuition, but still want to refer to the paper materials during your sessions, choose the "Digital Materials via EMAIL" option, print just the materials for

the 4 sessions you plan to attend, and bring them with you to the Retreat!

For more information about the Retreat, please call Colorado Bar Association CLE at (303) 860-0608, or toll free at (888) 860-2531.

**CANCELLATION AND SUBSTITUTIONS:** If you are unable to attend, please notify CBA-CLE by **June 1, 2017** and we will gladly refund your tuition in full, or you may send someone in your place. The breakout sessions you originally selected will be transferred to your replacement. Regretfully, we are not able to make changes to the pre-selected sessions. Cancellations after June 1, 2017 will be refunded less a \$100 cancellation fee.

## STEP 1 - SELECT YOUR BREAKOUT SESSIONS

**Friday, June 9 – SESSION A - 9:25 - 10:45 am:** (select one)

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8

**Friday, June 9 – SESSION B - 11:00 am - 12:20 pm:** (select one)

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8

**Saturday, June 10 – SESSION C - 9:25 - 10:45 am:** (select one)

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8

**Saturday, June 10 – SESSION D - 11:00 am - 12:20 pm:** (select one)

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8

Breakouts are filled on a first-come, first-served basis and are limited to 24 participants per session. If a session is full, the registrant will be placed in a pre-selected alternate topic. If no alternate topic is selected, one will be assigned.

**Please provide 2 ALTERNATE TOPICS** (select one per day)

**Friday, June 9 – ALTERNATE TOPIC** (select one)

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8

**Saturday, June 10 – ALTERNATE TOPIC** (select one)

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8

## STEP 2 - BREAKFAST FOR GUESTS

(Breakfast Passes for Guests will be available for pick-up at the Retreat registration desk).  
(Please skip this step if you do not wish to purchase BREAKFAST for your guest)

Thursday and Friday Receptions are Complimentary to all Retreat Attendees and Their Guests.

### GUEST BREAKFAST OPTIONS:

Guest may participate in the breakfasts for \$30 per day for adults, and \$20 per day for children under age 14. While we love to have your guests join us at the Retreat, we do encourage them to explore the breakfast options in Vail offering similar, or even lower pricing. **Deadline to purchase breakfast for guests is June 1, 2017.**

**GUEST BREAKFAST: \$30 per adult**

☐ Friday / # of Guests: \_\_\_\_\_

☐ Saturday / # of Guests: \_\_\_\_\_

**CHILDREN'S BREAKFAST: \$20 per child**

☐ Friday / # of Children: \_\_\_\_\_

☐ Saturday / # of Children: \_\_\_\_\_

**BREAKFAST FOR GUESTS SUBTOTAL \$** \_\_\_\_\_

## STEP 3 - RECEPTIONS

(Please skip this step if you are not bringing any guests)

Receptions on Thursday and Friday are complimentary for all attendees and their guests. Please help us to plan for the appropriate number of people participating in each reception.

### Attendee:

- ☐ I will participate in the Thursday Welcome Reception  
☐ I will not participate in the Thursday Welcome Reception  
☐ I will participate in the Friday Wine Tasting Reception  
☐ I will not participate in the Friday Wine Tasting Reception

### Guests:

How many of your guests will be attending the **Thursday Reception**: \_\_\_\_\_

How many of your guests will be attending the **Friday Wine Tasting**: \_\_\_\_\_

**CLE USE ONLY** - Check #: \_\_\_\_\_ Approval #: \_\_\_\_\_

## STEP 4 - REGISTRATION CATEGORIES

**Digital Materials** (Via Electronic Download - emailed to you prior to the Retreat. You must provide an email address)

☐ Non-member: .....\$469.00 ☐ ACTEC Members: .....\$439.00  
☐ CBA Member: .....\$439.00 ☐ CBA T&E Section Member: .....\$389.00  
☐ CBA Elder Law Section Member: \$389.00 ☐ New Lawyer Edge Partner: .....\$219.50  
☐ CLE Elite Pass Holder: .....\$209.00

☐ Email the materials to me at \_\_\_\_\_

**PAPER MATERIALS** (Pick Up Materials at the Retreat. Materials are NOT being mailed this year.)

☐ Non-member: .....\$499.00 ☐ ACTEC Members: .....\$469.00  
☐ CBA Member: .....\$469.00 ☐ CBA T&E Section Member: .....\$419.00  
☐ CBA Elder Law Section Member: \$419.00 ☐ New Lawyer Edge Partner: .....\$249.50  
☐ CLE Elite Pass Holder: .....\$239.00

**TUITION SUBTOTAL \$** \_\_\_\_\_

## STEP 5 - SUBTOTAL/TOTAL

**GUEST BREAKFAST SUBTOTAL** (if applicable): \$ \_\_\_\_\_

**TUITION SUBTOTAL \$** \_\_\_\_\_

**PROGRAM TOTAL: \$** \_\_\_\_\_



**Register by PHONE ...** when using VISA, MasterCard or AmEx  
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**Or FAX form to ...** when using VISA, MasterCard or AmEx  
FAX to: (303) 860-0624



**Or MAIL form to ...**  
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