

11TH ANNUAL ROCKY MOUNTAIN REGIONAL

ELDER LAW RETREAT

Co-Sponsored by the Elder Law Section of the
Colorado Bar Association and the Colorado Chapter
of National Academy of Elder Law Attorneys



August 22-24, 2019

Vail Marriott Resort

715 West Lionshead Circle, Vail, CO



**PLEASE JOIN US FOR THIS
INTERACTIVE, ADVANCED-LEVEL
RETREAT, IN VAIL!**

FEATURING Timely, Practical, and Helpful Sessions, Including:

- The Advanced Contested Proceedings Practicum - How to Build Your Case
- Case Law Update - LATEST, GREATEST AND WEIRDEST
- Probate Court: The Intersection of Grief and Greed
- Update on Uniform Guardianship Conservatorship and Other Protective Arrangements Act
- Statutory Update
- Hot Topics/Best Practices: Electronic Wills
- Preventing Elder Family Financial Exploitation (EFFE): Identifying Risk and Protective Factors

PLUS Informative Breakout Sessions Including:

- Understanding Changes to the VA Non-Service Connected Pension and How to Use this Alongside a Medicaid Plan
- How the Uniform Trust Code impacts Special Needs Trusts and our lives
- How to Best to Use the Dead Man's Statute & Rule 40 in Elder Law Litigation
- Hot Topics in Medicaid Planning
- Best Practices for Emergency Conservatorships/Guardianships: Is *Ex Parte* the Right Approach?
- Is the Compensation and Cost Recovery Act Working for You and Your Clients?
- The Crossover with Probate and Domestic Matters
- Real Property Issues in Probate/Eviction/Landlord Tenant/Deed Issues/Abuse/Housing Issues
- Carrying the Burden: What happens when complex elder/at risk cases are investigated and triaged by DA's Offices? How can we work together effectively to protect older adults?

... and much more!

Submitted for 13 General
CLE Credits

REGISTER ONLINE TODAY
[@http://cle.cobar.org/elder/](http://cle.cobar.org/elder/)

SPECIAL THANKS TO OUR 2019 SPONSORS

(confirmed to date)

11TH ANNUAL ROCKY MOUNTAIN REGIONAL **ELDER LAW RETREAT**

August 22-24, 2019

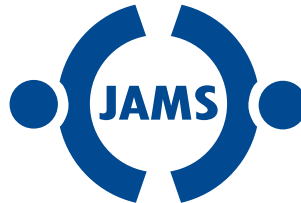
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please contact **Melissa Higham** at mhigham@cobar.org

AGENDA

REGISTER ONLINE @<http://cle.cobar.org/elder/>

DAY ONE - Thursday, August 22, 2019

12:30 - 1:00 PM Registration

1:00 - 5:00 PM **The Advanced Contested Proceedings Practicum – How to Build Your Case**

*Includes a
15-minute break
from 2:45 - 3:00 PM*

In small, collaborative teams, you will use a hypothetical developed from real guardianship and conservatorship proceedings designed to teach you key litigation skills on how to build an evidentiary case. An experienced probate litigator will lead your team in first explaining the topic, interacting with professional agencies and vendors, gathering evidence, and finally honing the essential litigation techniques. The techniques and skills you will learn during this hands-on, interactive workshop include:

- How to do emergency Medicaid planning
 - How to analyze and comply with relevant statutes and regulations
 - How to use special needs trust planning in an emergency
 - The limits of what an emergency guardian or special conservator can do without additional court approval
 - The limits of medical and financial powers of attorney
 - The statutory requirements for drafting powers of attorney
 - How to prepare witness testimony
 - Procedural requirements for filing emergency proceedings
 - Statutory requirements for expert witness testimony and reports
 - How to use forensic investigators to determine breach of fiduciary duty and assess damages
 - How to work with law enforcement for successful prosecution of elder fraud
 - Mandatory reporting of elder fraud and exploitation
 - The role of Adult Protective Services and Public Administrators
 - How to best administer special needs trusts to protect public benefits eligibility
 - Gaining awareness of agencies that serve seniors in the Denver metro area
- ... and hearing the evaluations of judges (active and retired) on adequate evidentiary proof so the court may make appropriate findings!

5:00 PM Adjourn

5:15 - 6:45 PM **Welcome Reception**

DAY TWO - Friday, August 23, 2019

7:30 - 8:00 AM Continental Breakfast – *Sponsored by JAMS*

8:00 - 8:30 AM **Welcome and Morning Remarks + John Campbell Award**

Extended by Susie Germany, Esq., Kayla R. Nelson, Esq., Program Co-Chairs and Vince O'Brien, Executive Director, CBA-CLE

8:30 - 9:30 AM **Case Law Update - LATEST, GREATEST AND WEIRDEST**

Prepare to be amazed at the display of athleticism and skill as your hosts breathe fire and juggle knives ... Wait, wrong presentation ...

You want cases? We've got cases. We're scouring our legal research tools to find you the latest, greatest and weirdest Elder Law and Trust and Estate cases from the past year and dissect them for you. Your hosts devised a few surprises for you last year – you won't want to miss Case Law Update 2019!

Spencer J. Crona Esq., and Kayla R. Nelson, Esq.

9:30 - 10:30 AM **Probate Court: The Intersection of Grief and Greed**

Probate attorneys need to recognize the shadows in the courtroom that grief causes. Thoughtful strategies in preparation for contested hearings should encompass not only controlling expectations, but also recognizing that permanent family scars can be avoided by navigating the stormy seas of probate issues. Despite not having any grief counseling in law school, attorneys should accept that successful case outcomes may be greatly aided by taking time to learn more about the impact of grief in probate cases. You, as counselor, can greatly reduce the anxiety levels of your clients by explaining the procedures with an expected timeline and the purpose of each hearing. The intersection of grief and greed almost always gets more contentious and complicated when the word "step" enters. The goal is to help all of us, including judges, attorneys and other professionals, to understand the importance of recognizing not only legal issues, but also emotional issues in probate cases.

Honorable Patrick Murphy

continued >

AGENDA

DAY TWO - Friday, August 23, 2019 *continued*

10:30 - 10:45 AM Networking Break – *Please Visit Your Sponsors!*

10:45 - 11:45 AM – **BREAKOUT SESSION A** *(Select one - please indicate your choice of breakout session on registration form)*

TOPIC A1:

Understanding Changes to the VA Non-Service Connected Pension and How to Use this Alongside a Medicaid Plan

This session will explore the changes to the VA Non-Service Connected Pension, commonly referred to as “Aid and Attendance,” benefit as well as how this program can be used as part of a comprehensive, long-term care plan for your clients. Eligibility and claims processing changes effective in October 2018 will be reviewed, including calculating the income for VA purposes, new net worth limit and how it relates to the income test, the new look-back period and how to calculate a penalty will be covered. Identifying opportunities to integrate this program alongside a long-range Medicaid plan will also be discussed.

Mary Frances M. Price, Esq.

TOPIC A2:

How the Uniform Trust Code Impacts Special Needs Trusts and our Lives

What impact the Act has now that it has been passed here in Colorado.

Michael A. Kirtland, J.D., LL.M., CELA

TOPIC A3:

How to Best to Use the Dead Man’s Statute and Rule 40 in Elder Law Litigation

This session will focus on how every litigator can better understand why Rule 40 was enacted in October 2013, but also how it can be used as a resource in litigation. We will also cover proposed additions to Rule 40, so you will be ahead of the learning curve. This session will help explain how you can be best prepared to deal with the Dead Man’s Statute in any contested guardianship or conservatorship cases. Any elder law litigant who wants to refine their litigation skills should attend this session to make sure they are fully informed prior to walking in the courtroom.

Aaron L. Evans, Esq.

11:45 AM - 12:00 PM Networking Break – *Please Visit Your Sponsors!*

12:00 - 1:00 PM – **BREAKOUT SESSION B** *(Select one - please indicate your choice of breakout session on registration form)*

TOPIC B1:

Hot Topics in Medicaid Planning

Potential Developments from the Department; HCPF Issues; Recent Case Experiences.

**Bradley J. Frigon, Esq., and
Brandon Fields, Esq.**

TOPIC B2:

Best Practices for Emergency Conservatorships/Guardianships: Is Ex Parte the Right Approach?

As elder law practitioners, we have the option of seeking emergency orders under the law. However, is this always the right approach? What’s truly an emergency? Do I really need an ex parte hearing? Should I give notice and in what fashion? What kind of representations should be made by counsel at these hearings? What inquiries should the judge make? Join an elder law practitioner and law clerk as we discuss best practices in this often abused area.

**Tom Rodriguez, Esq., and
Patricia Rankin, Esq.**

TOPIC B3:

Is the Compensation and Cost Recovery Act Working for You and Your Clients?

You can expect practical tips and advice on how to prepare “Detailed Billing Statements” based upon the reasonableness factors in Section 15-10-603(3) and the reasonableness standard the court will use to evaluate any objection or dispute.

Christine J. Law, Esq.

1:00 PM Adjourn

5:30 - 7:00 PM **Annual Wine Tasting** – *Sponsored by PeopleCare Health Services*

7:45 - 8:45 AM Continental Breakfast

8:45 - 9:00 AM Welcome and Morning Remarks*Extended by Vince O'Brien, Executive Director, Colorado Bar Association CLE, and Patrick Flaherty, Executive Director, Colorado Bar Association***9:00 - 9:15 AM Uniform Guardianship Conservatorship and Other Protective Arrangements Act Update**

This Act could make significant changes to the laws governing protective proceedings in Colorado. This presentation will review the major differences between existing law and the proposed act, how it can improve on current law, and where existing statutes may better serve respondents, their families, and fiduciaries. An update on the work of the Bar Association, the Uniform Law Commission, the Colorado Legislature, and the various stakeholders groups will be addressed along with a timeline and expectations of the Act's chances of becoming law.

*Brooke W. Brestel, Esq.***9:15 - 9:45 AM Statutory Update***Jeremy Schupbach, CBA Legislative Relations Director***9:45 - 10:00 AM Hot Topics/Best Practices: Electronic Wills**

The status of the Uniform Act and its possible introduction in Colorado.

*Michael A. Kirtland, J.D., LL.M., CELA***10:00 - 11:00 AM PLENARY SESSION: Preventing Elder Family Financial Exploitation (EFFE): Identifying Risk and Protective Factors**

Elder financial exploitation is a national problem that is expected to escalate. Victim consequences include financial loss, diminished emotional, psychological, physical health and earlier death. Family members have been identified as the largest perpetrator group in part because older adults are unaware of risk factors that could lead to EFFE. However, prevention to reduce the consequences to elders, their families and to society is more complicated than merely including accountability in POA documents. This session will include research findings identifying factors within families that can help lawyers and their middle-aged and older clients proactively address family problems to increase protective factors and reduce risk factors of EFFE.

*Dr. Virginia B. Vincenti and Kristina Mireles*11:00 - 11:15 AM Networking Break – *Please Visit Your Sponsors!*11:15 AM - 12:15 PM – **BREAKOUT SESSION C** (*Select one - please indicate your choice of breakout session on registration form*)

TOPIC C1:

The Crossover Between Probate and Domestic Matters

Judge Elizabeth Leith from the Denver Probate Court and Judge Gary Kramer from the 18th Judicial District have both handled probate and domestic matters. They will lead an interactive discussion to explore when the appointment of a Guardian ad Litem (GAL) is warranted for an adult party to a domestic matter and when the appointment of a Special Conservator for a party to a domestic matter becomes necessary. The discussion will include guidance as to when an appointment should be made as well as suggestions for the order of appointment.

*Honorable Elizabeth Leith and
Honorable Gary Kramer*

TOPIC C2:

Real Property Issues in Probate/Eviction/Landlord Tenant/Deed Issues/Abuse/Housing Issues

So now you have to evict the family ... what do you do? When someone takes on the responsibilities for another's real property, they often take on the unforgiving tasks of untangling title, deeds or multiple deeds, family members who have moved in or moved in tenants and are collecting rent. Not only can unwanted tenants become an issue, title to the property may have to be cleared. This presentation will address investigating title, filing of necessary pleadings to safeguard title pending investigation and/or litigation, securing the probate court's jurisdiction to vest title back to the protected person/ward and evictions. Finally, the presentation will address concerns related to Medicaid qualification when real property has been transferred or gifted from the protected person/ward.

Kendra M. Oyen, Esq., and Scott H. Challinor, Esq.

TOPIC C3:

Carrying the Burden: What Happens When Complex Elder/At Risk Cases are Investigated and Triaged by DA's Offices? How Can We Work Together Effectively to Protect Older Adults?

Learn more about what evidence is needed to file a criminal case, and how law enforcement and attorneys can collaborate effectively when the case cannot be filed.

*Jane Walsh, Esq., Robyn J. Cafasso, Esq., and Ralph Stevenson, Esq.*12:30 PM Adjourn - **THANK YOU FOR ATTENDING THE 11th ANNUAL ELDER LAW RETREAT!**

YOUR DISTINGUISHED FACULTY

RETREAT CO-CHAIRS

Susie Germany, Esq.

Germany Law Firm, P.C.

Attorney at Law and Deputy Public

Administrator for the 17th Judicial District
Erie, CO

Tammy D. Conover, Esq.

Conover Law LLC

Greenwood Village, CO

Kayla R. Nelson, Esq.*

Zumalt & Sigler LLC

Lakewood, CO

**Also Faculty*

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Brooke W. Brestel, Esq.

BrestelBucar, Ltd.

Broomfield, CO

Robyn J. Cafasso, Esq.

17th Judicial District

Brighton, CO

Scott H. Challinor, Esq.

Conover Law LLC

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Spencer J. Crona, Esq.

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Aaron L. Evans, Esq.

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Brandon Fields, Esq.

Brandon Fields PC

Boulder, CO

Bradley J. Frigon, Esq.

Law Offices of Bradley J. Frigon LLC

Englewood, CO

Michael A. Kirtland, J.D., LL.M., CELA

Kirtland & Seal LLC

Colorado Springs, CO

Honorable Gary Kramer

18th Judicial District

Castle Rock, CO

Christine J. Law, Esq.

Christine J. Law, Attorney LLC

Glendale CO

Honorable Elizabeth Leith

2nd Judicial District

Denver, CO

Kristina Mireles

University of Wyoming

Laramie, WY

Honorable Patrick Murphy

17th Judicial District

Brighton, CO

Kendra M. Oyen, Esq.

Kendra M. Oyen, LLC

Pueblo, CO

Mary Frances M. Price

Long|Reher|Hanson|Price PA

Minneapolis, MN

Patricia Rankin, Esq.

17th Judicial District

Brighton, CO

Tom Rodriguez, Esq.

Vincent, Romeo & Rodriguez, LLC

Louisville, CO

Jeremy Schupbach

Legislative Relations Director

Colorado Bar Association

Denver, CO

Ralph Stevenson, Esq.

Denver District Attorney's Office

Denver, CO

Dr. Virginia B. Vincenti

University of Wyoming

Laramie, WY

Jane Walsh, Esq.

Denver District Attorney's Office

Denver, CO

2019 ELDER LAW RETREAT HEADQUARTERS

Vail Marriott Resort • 715 West Lionshead Circle • Vail, CO 81657

TO RESERVE YOUR ROOM ONLINE, PLEASE GO TO: <https://book.passkey.com/go/elderlaw2019>

ROOM RATES:

- **Hotel Room - \$184 + taxes/night**
- **Deluxe and Studio King - \$199 + taxes/night**
- **Jr. Timberline Suite - \$250 + taxes/night** (limited number)
- **Timberline Suite - \$309 + taxes/night** (limited number)

Please identify yourself as a member of the "Elder Law Retreat" in order to receive the group discount. Reservations made after August 7, 2019, shall be at the prevailing rate. Cancellations after August 7, 2019, will forfeit the deposit equal to one-night's room & tax. A daily resort fee of \$20 may be purchased upon check-in. Resort fee includes guestroom Wi-Fi and two water bottles per day. Valet parking is available for \$20 per day. The Lionshead Parking Structure is approximately 5-10 minutes walking distance from the Marriott, is now \$25 per night for overnight parking.



11TH ANNUAL ELDER LAW RETREAT • AUGUST 22-24, 2019 • VAIL, CO

LIVE RETREAT ORDER FORM

Retreat tuition includes course materials (digital download* or printed book**), admission to the entire Retreat, Welcome Reception on Thursday, August 22nd, and the Wine Tasting on Friday, August 23rd.

*All attendees will receive the course materials (PDF) digitally via **email** approximately 3 business days before the Retreat. If you wish to receive your materials as a printed book, please select this option on your registration form.

**The printed book will be available for pick up at the Retreat.

STEP ONE – REGISTRATION CATEGORIES: (EL082219L)

- CLE Elite Pass Holder: \$209
- New Lawyer Edge: \$224.50
- CLE Basic Pass Holder: \$229
- Government Employee Rate/ Law Enforcement: \$299
- Colorado Guardianship Association Members: \$399
- CBA Elder Law/T & E Section Member:..... \$399
- CBA Member:..... \$449
- Non-member: \$549

STEP TWO – LIVE MATERIALS FORMAT

- Digital Download (Emailed approx. 3 business days before the Retreat)
- Printed Book

STEP THREE – GUEST BREAKFAST

Please skip this step if you do not wish to purchase breakfast for your guest.
 Guests may participate in breakfast on Friday and/or Saturday for \$39/adult per day, or \$19/child per day. Deadline to purchase breakfast for guests is **August 16, 2019.**

ADULT GUEST BREAKFAST

- Friday: # of Guests x \$39: _____
- Saturday: # of Guests x \$39: _____

CHILD GUEST BREAKFAST (under 13 years of age)

- Friday: # of Guests x \$19: _____
- Saturday: # of Guests x \$19: _____

STEP FOUR – SOCIAL EVENTS

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.

ATTENDEES: Please indicate if you will be attending

Thursday Night Welcome Reception: Yes No

Friday Night Wine Tasting: Yes No

GUESTS: Please skip this step if you are not bringing any guests

How many of your guests will be attending the Thursday Reception: _____

How many of your guests will be attending the Friday Wine Tasting: _____

LIVE RETREAT ORDER FORM TOTAL \$ _____

HOMESTUDY ORDER FORM

To receive CLE Credit you must purchase both the course materials AND the recorded seminar.

Homestudy Credits: Submitted for 20 General CLE Credits

STEP ONE – SELECT DESIRED PRODUCT FORMAT:

- MP3 Audio Download (EL082219J)
- Paper course materials & recorded homestudy on Audio CD (EL082219D)

STEP TWO – SELECT PAYMENT CATEGORY:

- CLE Elite or Basic Pass Holder (MP3 product ONLY) **FREE**
- New Lawyer Edge Partner (MP3 product ONLY) **\$224.50**
- CBA Member **\$539**
- Non-member **\$659**

NOTE: Shipping & handling only applies to orders you receive via mail. Materials will be mailed to you approximately 2 weeks after live program.

Price \$ _____
 Shipping & Handling \$ 11.95
 Subtotal \$ _____

Applicable Sales Tax (8.31% Denver, 4% RTD and 2.9% rest of Colo.) \$ _____

HOMESTUDY ORDER FORM TOTAL \$ _____

BREAKOUT SESSION TOPIC SELECTION

Please indicate breakout choices (1 for each time slot - Please refer to the agenda for topic descriptions)

DAY 2 – FRIDAY, AUGUST 23RD:

SESSION A (10:45 - 11:45 AM) – Topic A1 Topic A2 Topic A3

SESSION B (12:00 - 1:00 PM) – Topic B1 Topic B2 Topic B3

DAY 3 – SATURDAY, AUGUST 24TH:

SESSION C (11:15 AM - 12:15 PM) – Topic C1 Topic C2 Topic C3



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Or FAX form ... when using VISA, MC or AmEx.
FAX to: (303) 860-0624



Or MAIL form ...
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Name(s) _____

Attorney Reg. No. _____

Firm/Organization _____

E-Mail Address _____

Street Address _____

City _____

State / Zip _____

Telephone () _____

Fax () _____

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- Enclosed is my check made payable to **CBA-CLE.**



- VISA MasterCard AmEx

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Exp. Date _____

Signature _____

Required for credit card orders

CANCELLATIONS: If you are unable to attend, please notify CBA-CLE by **August 16, 2019**, and we will gladly refund your tuition in full. Cancellations after August 16th will be refunded less a \$100 cancellation fee OR you may send someone in your place.

All registrations must include a check or charge card information. Mail to CBA-CLE, 1290 Broadway, Suite 1700 • Denver, CO 80203. You may register by phone or fax when using Visa, MasterCard or AmEx. Phone 303-860-0608 • Fax 303-860-0624

**If special accommodations are needed, please contact us at 303.860.0608 or 888.860.2531. Requests should be made at least two weeks prior to the scheduled program.*

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