

BOULDER COUNTY BAR ASSOCIATION NEWSLETTER JUNE 2016

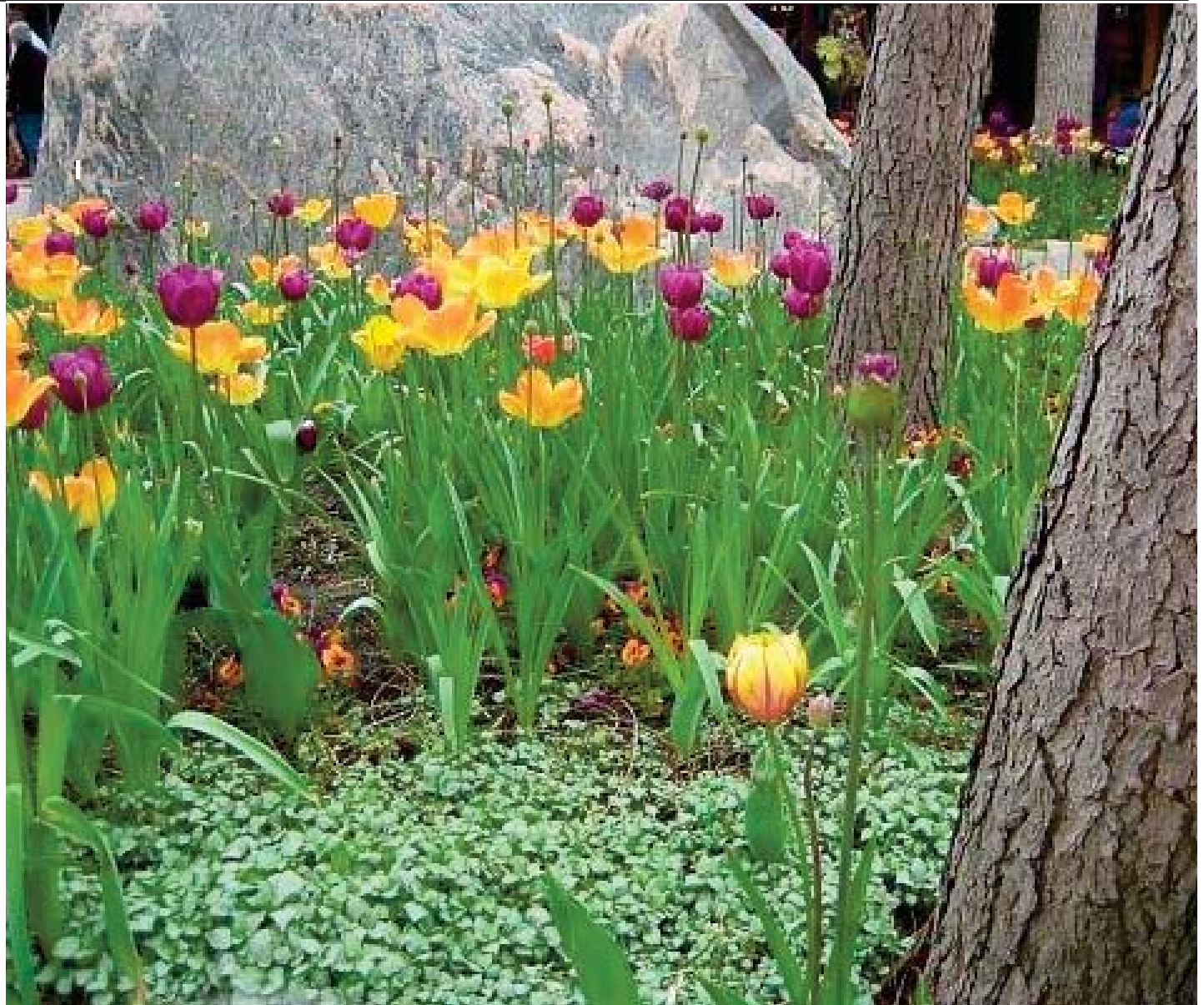


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ANNUAL MEETING AND RECEPTION WEDNESDAY, JUNE 8 AT 5 PM CHAUTAUQUA DINING HALL • \$55

HONOR THE RECIPIENTS OF THE
ELYSE MARANJIAN, Outstanding Young Lawyer Award,
JIM CHRISTOPH, RON PORTER Award of Merit
AND MEMBER CONFIRMATION OF NEW
BCBA BOARD OF DIRECTORS, JEFF ROSE AND NATHAN MILLER,
AND SECRETARY TREASURER, BRAD HALL

RSVP AT BOULDER-BAR.ORG/CALENDAR/JUNE 8

CALENDAR OF EVENTS FOR JUNE

Thursday, June 2
ALL SECTIONS
Speed Dating with the 20th
Judicial District
Presenters: The Judges and
Magistrates of the 20th JD
5:30 @ Bohemian
Biergarten
\$40 2 Ethics and 2 General
CLE, food and beverages,
\$20 food and beverage only

Wednesday, June 8
CRIMINAL - A Joint Presentation
with the CBA
404(b) from a Judicial Perspective
Presenters: Judge Steven Bernard and
Judge Todd Taylor
Noon @ Justice Center Training Rooms
\$25 CLE, \$15 New/Young Lawyer, Lunch
provided compliments of the CBA

Wednesday, June 8
ANNUAL MEETING AND RECEPTION
5:30 @ Chautauqua Dining Hall
\$55

Wednesday, June 15
ALL SECTIONS
Confronting the Unacceptable Suicide
and Depression Rates Among Attorneys:
How You and COLAP Can Help
Presenters: Sarah Myers
Noon @ Justice Center Training Room
East
\$25 CLE (Includes Ethics), \$15
New/Young Lawyer, brown bag lunch

Wednesday, June 29
BOULDER COUNTY WOMEN'S
BAR HAPPY HOUR
5:30 @ License One

Dean Weiser Farewell Event

Please join BCBA and Colorado Law at the Wolf Law Building on Thursday, June 9 from 5:00 – 7:00 p.m. for a community event acknowledging the end of Phil Weiser’s Deanship and welcoming him back to the Colorado Law Faculty. All are welcome to attend this fun, family-friendly event. If you intend to join us, please call the CU Law School.

Thank you to all our 2015-2016 BCBA Section Co-Chairs.
They did an excellent job with so many premier CLE programs
And we thank you, as members, for showing up and supporting the
good efforts that were made. by each one of the sections.

Alternative Dispute Resolution
Susan Vanderborgh, Jamie Klein

Availability of Legal Services
Matt James, Steven Janssen

Bankruptcy Law
Barry Satlow, Bart Balis

Business Law
Amy Hirter, Alice Warren Gregory

Civil Litigation
Meghan Hungat, Jeff Rose

Criminal Law
Chris Estoll, Caryn Datz

Employment Law
Jill Zender, Patricia Bellac

Elder Law
Jessica Catlin, Brooke Brestel

Family Law
Jennifer Terry, Todd Stahly

Immigration Law
Christina Fiflis, Igor Serbinin

In-House Counsel
Mark Wiletsky, Tracey Gann

Intellectual Property Law,
Kirstin Jahn, Halina Dziewit

**Natural Resources/
 Environmental Law**
Gabriella Stockmeyer, Andrea Kehrl

Paralegal
Ramona Bailey, Caroline Williams

**Taxation, Estate Planning
 and Probate**
Laura Moore, Amber Reed

Professionalism Committee
Mark Langston

Real Estate Law
Robyn Kube, Thomas Kranz

Solo/Small Firm Committee
Dan Sweet, Fern O’Brien

Young/New Lawyers Section
Nate Miller, Kristin Wall

DEFEND TRADE SECRETS ACT

By Kirstin Jahn

The Defend Trade Secrets Act (“DTSA”) was signed into law and became effective on May 11, 2016. 18 U.S.C. § 1836(b). DTSA amends the Economic Espionage Act to allow a civil action in federal court (rather than a criminal action brought by the Department of Justice on an owner’s behalf) and states, inter alia, “An owner of a trade secret that is misappropriated may bring a civil action under this subsection if the trade secret is related to a product or service used in, or intended for use in, interstate or foreign commerce.”

Trade Secrets have always been considered part of Intellectual Property, but have traditionally been solely governed by common law under the various laws of the states. Even though most states (48) have adopted the Uniform Trade Secrets Act, each state has its own tweaks and it is not necessary enforced the same manner. Unlike Patent and Copyright Law which are governed by the United States Constitution and preempt state law, the DTSA is governed by the Commerce Clause, similar to Trademark Law under the Federal Lanham Act and allows trade secret holders with another venue to pursue for protection of their trade secrets.

The DTSA broadly defines the term

“trade secret” to mean “all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if (A) the owner thereof has taken reasonable measures to keep such information secret; and (B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the another person who can obtain economic value from the disclosure or use of the information.”

DTSA’s most controversial provision is allowing court’s to issue ex-parte seizure orders which are “necessary to prevent the propagation or dissemination of the trade secret” in “extraordinary circumstances.” The controversial nature of this added provision includes a provision requiring the trade secret holder to post a bond to cover damages if the seizure was wrongful or excessive. Some

commentators of the DTSA have likened the ex-parte seizure provision to the anti-counterfeiting provision of the Lanham Act which governs trademarks, and the ex-parte seizure provision of the Copyright Act.

Obtaining a seizure order under DTSA is no easy task. To obtain the seizure order the aggrieved party/applicant must provide an affidavit or verified complaint showing, at least:

- 1) injunctive relief would be inadequate;
- 2) immediate and irreparable injury if the seizure is not ordered;
- 3) the applicant’s harm in denying the application outweighs the harm to the accused and substantially outweighs any third party harm;
- 4) likelihood of success in proving the trade secret material is trade secret and was misappropriated by the accused;
- 5) the accused has actual possession of the any property to be seized;
- 6) with reasonable particularity the matter to be seized and its location;
- 7) the accused would destroy, move, hide, or otherwise make such matter inaccessible, if the applicant were to proceed on notice to such person; and
- 8) the applicant has not publicized the requested seizure (in other

(continued on the next page)



The Honorable
Harlan R. Bockman



The Honorable
James C. Klein



The Honorable
Frank N. Dubofsky

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DEFEND TRADE SECRETS ACT *(continued from page 3)*

words, the seized property is trade secret).

When granting a seizure order, the court must take certain measures including, providing findings of fact and conclusions of law, setting a hearing within 7 days of the order, providing for the narrowest seizure of property necessary, and requiring the applicant to post a bond.

With respect to employee trade secret misappropriation, the DTSA requires any injunctive relief that would prevent a person from entering into an employment relationship or placing conditions on such employment, to be based on

evidence of threatened misappropriation and not merely on the information the person knows. Nor can the injunction conflict with an applicable State law prohibiting restraints on the practice of a lawful profession, trade, or business.

Overall, the DTSA provides the following:

- Uniform federal trade secret protection.
- An option for trade secret owners to bring a trade secret violation in state court (under the state's trade secret laws) or federal court (under the DTSA).

- The issuance of ex-parte seizure orders "necessary to prevent the propagation or dissemination of the trade secret" in "extraordinary circumstances."

- An award of money damages for actual

loss and unjust enrichment, or a reasonable royalty.

- An award of treble damages and attorneys fees for willful or malicious misappropriation.

- An award of attorneys fees to the prevailing party for bad faith.

- A three year statute of limitations from the date of discovery of the misappropriation or should have been discovered through reasonable diligence.

Disclaimer: This article is for educational purposes only as well as to give you general information and not to provide specific legal advice.

Kristin Jahn has been in practice for over twenty years specializing in Intellectual Property Law. She is the co-chair of the BCBA IP Section.

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LAWYER ANNOUNCEMENTS



BERG HILL
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Congratulates

Giovanni M. Ruscitti



Mr. Ruscitti was elected as BHGR's Managing Partner, effective June 1st, 2016. In addition to his new role, Giovanni will continue to specialize in and provide expertise on complex commercial litigation/arbitration, mergers and acquisitions, commercial transactions, construction law, and intellectual property law. He will also continue to serve as an arbitrator with the American Arbitration Association.

1712 Pearl Street, Boulder, CO 80302 | 1525 17th Street, Denver, CO 80202
(303) 402-1600 | bhgrlaw.com



BERG HILL
GREENLEAF RUSCITTI, LLP

Congratulates

Rudy E. Verner



Rudy was promoted to full equity partner at the annual partner business retreat in May of 2016. He will continue to represent companies in complex commercial disputes at the trial and appellate levels, advise clients on insurance matters, and counsel businesses in the emerging areas of online privacy, data security, and e-commerce law.

Kathleen T. Alt



Kathleen was elected to the firm's Management Committee, effective June 1st, 2016. Ms. Alt will continue her work in state and federal courts as an experienced litigator and trial attorney. Her focus at BHGR remains on criminal defense, federal and administrative agency employment cases, advice on employment matters, and complex civil litigation.

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Please join us for
**MAGISTRATE
HANSSON &
LINDA GETMAN'S**

**RETIREMENT
PARTY!!**

Friday, June 24 at 4:00 p.m. – 5:00 p.m.
Boulder Jury Assembly Room
First floor of the Justice Center

If you would like to say a few words at the ceremony contact
Erika Skufca by June 10 at Erika.Skufca@judicial.state.co.us

Jung, Karavas & Kranz, P.C. Attorneys at Law

is pleased to announce that

Julie M. Karavas

Has become a Shareholder with the firm.

Julie will continue to practice in the areas of wills, trusts, estates, guardianships, conservatorships and business succession planning with a focus on closely-held business and family farms and ranches.

She is admitted to practice in Colorado and Nebraska.

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PRESIDENTS PAGE

By CRAIG SMALL



Hello fellow Boulder County Bar Association Members!

I give to you...my last President's Page. First and foremost, I am very proud and honored to be a member of such an important organization as the BCBA, a member of its Board of Directors and current President.

Thank you so much for the opportunity to serve such a prestigious legal community and I am confident I complete my presidency term leaving the BCBA, an already strong organization, in an even stronger position.

I am delighted to report that during my term as President there were no insurmountable obstacles or emergencies. The ship stayed its course and kept off the rocky shoals. Our investments are doing well. We continue to operate within our budget and still provide the highest level of quality services to our members. Our CLE's remain very strong and events are very well attended. Thanks to all the hard-working section co-chairs for their outstanding performance.

One of our most popular events, the BCBA's Judge's Dinner, held this year at the Touchdown Club at Folsom Field was terrific, albeit a very wet night out on the town. We are so fortunate to have excellent participation from the 20th JD. Our bench bar relations are vital to a positive and successful practice of law in Boulder county and the bar association.

I am happy to report our eminent Executive Director, Christine Hylbert and her Executive Assistant, Laura Ruth, are enjoying their new office space with a window with a splendid view of Boulder. This frees up their previous office space which has been converted to a conference room where CLE program will be held and will be available to BCBA members as benefit of membership.

I am pleased to report a financial review of the BCBA financial records has affirmed the Board's commitment to maintain their fiduciary duty to the organization. There was never any question regarding impropriety, but in the six years I have been on the Board we had not performed a financial review

and we felt it was appropriate to have an independent third party verify the Board had been honoring their fiduciary duty.

Our 15th Annual Food, Wine, Jazz, Art Fundraiser was a smashing success with over 200 attendees. Many were seen ripping it up on the dance floor. We were able to send \$12,000 to the Legal Aid Foundation of Colorado. They provide funding to those legal services organization that help provide legal assistance to those of limited financial means. I look forward to trying to top those numbers next year.

please turn to the next page

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PRESIDENTS PAGE

As I look through our accomplishments over the past year I cannot help but feel some remorse for the things I did not accomplish during my term as President. For example...let's see....ah, yes...Directive 42 "Disband Imperial Senate." Didn't quite get to that one. I believe I also promised the Board an ice-cream sundae bar at our monthly Board meetings. Didn't follow through on that promise.

All in all, a pretty good year!
So, so long, farewell, auf Wiedersehen, goodbye. Goodbye, goodbye, goodbye. Until next year as I serve as Past President on the Board of Directors.

Juli J. Ellen
Private Investigator
 Local Boulder Investigator
 Former Mediator

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Richard E. Bump



Alyssa C. Burghardt



Kristin C. Edgar



Elizabeth Francis



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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**

PRO BONO PAGE

Pro Bono Referrals

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

**Steven Barnett
Susan Bryant
Christina Ebner
Graham Fuller
Tucker Katz
Brett Landis
Kimberly Lord
Charles Martien
Sarah McEahern
Bruce Wiener**

Thank you to the following mediators who accepted referrals in April:
James Lionberger

BCAP Volunteers

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

Pro Se Program Volunteers

**Sheila Carrigan
Shawn Ettingoff
Tucker Katz
Brett Landis
Michael Morphey
Alice Robbins
Craig Small
Jennifer Terry**

Pro Bono Corner

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Pro Bono case?
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Erika at 303-449-2197.
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PROFESSIONALISM ON-CALL LIST

| | | |
|---------|---------------|--------------|
| June 6 | Lee Strickler | 303.443.6690 |
| June 13 | Mark Langston | 303.440.9684 |
| June 20 | Tom Rodriguez | 303.604.6030 |
| June 27 | Meghan Pound | 303.443.8010 |

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.

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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.

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OFFICEMATES SOUGHT: To share with established attorney lease of nice, functional suite at 2919 Valmont starting 10/1 (and possibly earlier); 2 -3 office spaces are available with conference room, kitchen, parking at reasonable rates. Must commit to landlord by 6/30! Contact Dan Blum or Barb (303) 449-2182 or dbb@coloatty.com.

Office space available at Canyon Professional Building across from Justice Center. Full services include receptionist, law library, conference room, fax, phones, kitchenette, utilities, parking and other amenities. Call Jack Alexson for more information. 303.444.1700.

Law Office is Southeast Boulder has an extra office that is available immediately, easily accessible to Highway 36. This office is 110 sq/ ft and includes receptionist, small conference room , as well as ample parking. Rent is \$700 a month. For additional information, please call 303.449.9960

Two offices available for lease at 703 Walnut - charming turn of the century building. Monthly NNN rents are \$910 for 140sf, and \$790 for 115sf. Call Ali at (303) 669-3370.



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