



BOULDER COUNTY BAR NEWSLETTER

FEBRUARY 2011

CONFLICT COACHING: A POWERFUL ADR TOOL

ROBIN N. AMADEI, J.D.

Introduction

Conflict coaching is defined as a set of skills and strategies that helps people manage or productively resolve conflict. In this process the conflict coach works one-on-one with a coachee experiencing conflict with another person. In conflict coaching the coachee can talk about the conflict with a neutral third party (the conflict coach), consider options for managing the conflict and design an approach to discuss the conflict with the other person. Conflict coaching can be used as a stand-alone process or can be practiced with each of the parties in separate meetings during mediation.

Conflict coaching can be useful in a variety of circumstances, including conflicts in the workplace, divorce and post-decree situations, community disputes, family disagreements, and business conflicts. The conflict coach can serve as a confidential listener, help the coachee see the situation from all perspectives, support the coachee in considering options, and help the coachee come up with a plan of action to deal with the conflict. In conflict coaching the coachee, not the coach, is responsible for the outcome. The conflict coach

uses process skills to help the coachee develop clarity about the situation, enabling the coachee to effectively and confidently make high-quality decisions to manage the conflict. Also, the conflict coach can help the coachee rehearse a conversation so that the coachee is prepared to more confidently enter into the conflict resolution discussion.

To demonstrate how conflict coaching might be implemented, let's examine the following workplace dispute: Bill and Jane are in the same department and often need to work on projects jointly. For the last couple of months their working relationship has been fraught with conflict. Their supervisor, Charlie, told both of them that they need to work their differences out because the conflict was impacting the entire work team. Charlie told them that if they needed help resolving the conflict, they should consult with HR, as he had heard that HR has conflict coaching and mediation resources. For several weeks, however, neither Jane nor Bill took any initiative in resolving the conflict. The conflict, meanwhile, continued to simmer and worsened

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BOULDER COUNTY LEGAL SERVICES HAD A GREAT YEAR BY JOEL HAYES, JR.

2010 was a very good year at Boulder County Legal Services. We interviewed 886 potential clients and assisted 838. Of this total we referred 144 clients to pro bono attorneys. 34 clients were given contract attorneys. Our four in-house pro bono attorneys, Meg Quiat, Norton Steuben, Emma Pinter and Bruce Wiener, represented 83 clients. I represented 75 client, and advised 251 others. 232 family law cases were referred to our pro se Clinic. 41 clients were referred to reduced fee bankruptcy attorneys. Nine clients were referred for representation by other CLS offices. The remaining 48 clients were rejected, primarily for being over income or resources.

The total intakes and clients served from the last five years appear below:

2006 Total intake 568; served 545
2007 Total intake 678; served 657
2008 Total intake 718; served 686
2009 Total intake 835; served 780
2010 Total intake 886; served 838

PRO BONO HOURS

Our pro bono numbers are also much improved for 2009 and 2010. In 2010

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CALENDAR OF EVENTS

Pre-registration is required for all BCBA CLE programs. Register by e-mailing lynn@boulder-bar.org, or pay online with a credit card at www.boulder-bar.org/calendar. You will be charged for your lunch if you make a reservation and do not cancel prior to the CLE meeting. BCBA CLE's cost for members is \$20 per credit hour, \$10 for New/Young lawyers practicing three years or less. \$25 for non-members.

Wednesday, February 2

Young Lawyers

Trial Skills: Direct and Cross Examination of Witnesses

Presenter: Professor Pat Furman

Noon – 1:30 at Boulder County Justice Center Jury Assembly Room

General and ethics CLE's free to those judging Mock Trials, lunch free

For those not judging, \$40 for seniors, \$20 for new/young lawyers, Lunch \$10

Tuesday, February 8

Alternative Dispute Resolution

Roundtable discussion about our own Caseload, Practice and Training.

Noon at the Boulder County Justice Center Courtroom D

Bring your brownbag lunch

Tuesday, February 8

Employment Law

Everything You Need to Know about Employment Law and E-mail

Presenter: Ed Aro

Noon at Caplan and Earnest

1 CLE \$20, \$10 for new/young lawyers

Wednesday, February 9

Young Lawyers

Trial Skills: Evidence Issues – Character and Hearsay

Presenter: Professor Pat Furman

Noon – 1:30 at Boulder County Justice Center Jury Assembly Room

General and ethics CLE's free to those judging Mock Trials, lunch free

For those not judging, \$40 for seniors, \$20 for new/young lawyers, Lunch \$10

Wednesday, February 9

Solo/Small Firm Happy Hour

5:00 at The Rib House, 13th and Walnut

Thursday, February 10

Intellectual Property Law

Final Disposition of a Patent Application. Details of the Accelerated Examination Program at the USPTO

Presenter: Russ Manning

Noon at Hutchinson Black and Cook

1 CLE \$20, \$10 new/young lawyers

Lunch \$10 (turkey, veggie, club or salad w/ or w/o meat)

Thursday, February 10

FOOD WINE JAZZ ART

Friday, February 11

Availability of Legal Services

Noon brownbag at

Boulder County Legal Services

315 W. South Boulder Road, Suite 205,

Friday, February 11 and

Saturday, February 12

High School Mock Trial Competition

Wednesday, February 16

Family Law Section

Lexis Nexis Executive Training

All lawyers are welcome

2 FREE CLE Noon – 1:30 PM at

Jury Assembly Room

Wednesday, February 16

Real Estate Law

Ad Valorem Valuation and

Appeals in Colorado

Presenters: Mike Koertje, Assistant

Boulder County Attorney;

Sam Forsyth, Advanced Appeals

Deputy Boulder County Assessor's

Noon at The Cork, Lunch \$15

1 CLE \$20, \$10 new/young lawyers

Thursday, February 17

Bankruptcy Lunch and Roundtable

Noon at Agave, 28th and Valmont

Wednesday, February 23

Taxation, Estate Planning and Probate

Portability and Other Planning Under

the 2010 Tax Act

Presenter: Jennifer Spitz

Noon at Caplan and Earnest

1 CLE \$20, \$10 for new/young lawyers

Lunch \$10

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5:30 pm Thursday, February 10, 2011

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over time. The other day Bill reached a frustration threshold and decided to visit with Lisa, an HR generalist in the organization, who had received conflict coaching training. Bill agreed to engage in conflict coaching with Lisa serving as coach. These are the steps that took place over a period of two conflict coaching sessions of 1 1/2 hours each.

Step 1: Build Rapport

Lisa and Bill engaged in a bit of small talk, exchanged background information and captured a sense of one another's communication style. Lisa noted that Bill was fairly concise and perhaps needed to be drawn out through powerful questions. Lisa acknowledged Bill for asking her to help him proactively work through conflicts with Jane.

Step 2: Overview of Coaching Process

Lisa described her role as conflict coach and asked Bill about his expectations for her role to make sure that these expectations were aligned. She described the steps of the coaching model and the types of questions she might ask Bill at each stage. Lisa suggested that coaching would be effective if Bill enters it with an open mind, a willingness to look at the issue from all perspectives, focus, and an orientation to meet both his and Jane's needs. Also, Lisa reviewed confidentiality parameters, reminded Bill that he can discontinue coaching at any time, and discussed logistics. She then obtained Bill's commitment to enter the coaching process.

Step 3: identify Client's Goals

Lisa asked Bill to state his goals for conflict coaching generally and his

goals for this particular meeting. Bill stated that his general goal was to improve his working relationship with Jane. His specific goals for this coaching meeting included talking through the situation with Lisa and looking at process options that would meet his general goal. Lisa reminded Bill that he could change his goal or add additional goals at any time.

Step 4: Client's Sharing of Perspectives

In this stage of the process, Bill was invited to share his perspective on the incident or incidents that led to the existing conflict. At times Bill reflected some emotional intensity and Lisa acknowledged his feelings. Lisa asked Bill about his needs going forward. After asking Bill to describe the situation from his perspective, Lisa asked Bill to explore Jane's perspective. She asked Bill to articulate what Jane's feelings might be and postulate on Jane's needs going forward. As Lisa asked powerful questions to help Bill deeply consider Jane's perspective, there was a perceptible shift in Bill's orientation. For the first time Bill realized that there could be a different perspective. This was extremely enlightening to him and laid the foundation for productive conflict resolution.

Step 5: Explore and Test Options

After fully examining perspectives, Bill was ready to explore and test options. Options that Bill considered included taking Jane to lunch to try to talk through the conflict, meeting in a business setting, having someone mediate a discussion and sending Jane an e-mail. Lisa asked Bill to consider criteria to evaluate the options. His criteria included:

simplicity, comfort, minimize chances of rejection, and enable a personal connection. Using these criteria as a backdrop, Lisa asked Bill to evaluate the pros and cons of each option. After doing so, Bill felt that meeting with Jane in a business setting was the best option.

Interim Step: Define Next Steps (for next coaching session)

Since Lisa and Bill were at the end of the 1 1/2 hour time period allocated for this conflict coaching session, Lisa asked Bill to reflect on any insights that he gleaned from the discussion thus far. She suggested that he write these insights down so that he would not forget them.

Then Lisa assigned some homework to prepare for the next meeting. She asked Bill to make a list of the specific things that he would want to say to Jane in their discussion. Lisa indicated that Bill would have the chance to discuss his ideas with Lisa at the next coaching meeting and practice the conversation. Bill and Lisa scheduled the next meeting and Bill went back to his office.

Step 5: Explore and Test Options, Continued

Two days later Lisa welcomed Bill back to coaching. She checked in with him to see if there were any new insights or new developments or if anything had shifted in Bill's thinking. Bill was satisfied that things were still on the track established at the last meeting. Bill had done a lot of thinking about what he wanted to say to Jane and how he wanted to say it. He reviewed his plan with Lisa who proposed that Bill practice his conversation, with Lisa role playing as Jane. Lisa asked

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PRESIDENT'S PAGE

'I AM CONSUMED WITH APATHY'

By RICH IRVIN



That is the observation by Doctor Velie (Walter Brennan) in "Bad Day at Black Rock." He plays the resident undertaker and town doctor of Black Rock, a small mineral town in Nevada at the end of a road to nowhere. Spencer Tracy plays John McCready, a retired Army major at the end of World War II, who gets off the train in Black Rock. He is searching for a Japanese farmer named Komoko, whose son saved Spencer Tracy's life in Italy and was later killed in action. John McCready is delivering the son's medals to his father. He immediately runs into a wall of silence that envelopes the town. According to the town's residents, Komoko has disappeared, his farm having burned down right after Pearl Harbor.

When McCready visits the small farm at Adobe Flats he realizes that Komoko was murdered because he was Japanese and that the town is covering it up. The gist of the movie is that John McCready solves the murder and awakens the conscience of the residence. It also contains one the best fight scenes in movie history (McCready only has one arm.)

I picked the movie "Bad Day at Black Rock" as part of my series on Ralph Carr. Although there are no lawyers or courtroom scenes, the film does illustrate the intense hostility toward the Japanese-Americans post-Pearl Harbor. It also makes Ralph Carr's expression of tolerance and his advocacy of the rights for the Japanese to be treated as citizens and not as the enemy. He stood against the tide of the public opinion.

But Carr was a lone voice in the wilderness. No less than the governor of California, Earl Warren, soon to be protector of civil rights in the Supreme Court, argued for the detention of all citizens of Japanese descent because it was impossible "to distinguish between dangerous and loyal Japs." General DeWitt, head of the Western Defense

Command, argued, "The fact that nothing (acts of sabotage) has happened so far, makes it more ominous." The entire House and Senate delegation from the western states sent a letter to President Roosevelt arguing "That no citizen...may cloak his disloyalty or subversive activity under the mantle of citizenship alone...". The governor of Wyoming called for just hanging all the Japanese from a tree if found in Wyoming.

Ralph Carr stood up to this tidal wave of animosity, hate and fear that caused citizens of Japanese descent to be treated as disloyal solely because of their nationality. As he explained to the state, "There are

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An advertisement for WestlawNext. It features a black and white portrait of Brent Kimball, an associate at Greenspoon Marder, P.A., in Orlando. The text reads: "THE PARTNERS FIGURED THEY COULD GIVE ME MORE WORK NOW. TURNS OUT THEY'RE RIGHT." Below this, it says "BRENT KIMBALL, ASSOCIATE GREENSPOON MARDER, P.A., ORLANDO". At the bottom, it says "Hear what Brent and others are saying - and view the efficiency study that shows how WestlawNext™ can reduce your research time by up to 64 percent. at WestlawNext.com." The WestlawNext logo is in the bottom right corner. There is also a small copyright notice at the bottom left: "© 2010 Thomson Reuters | 50754-1810".

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Bill how she should play the role and invited Bill to recalibrate at any time during the practice conversation. Bill gave Lisa permission to interrupt to provide feedback on how his message was delivered and, if applicable, to suggest that he consider a different approach.

Bill and Lisa then went into the role play. Bill conveyed his perspective, carefully framing his message and monitoring his tone of voice and body language. Lisa made every effort to play the role of Jane accurately. At logical juncture points, Lisa stopped the role play for discussion and feedback. She asked Bill how the conversation felt to him so far and gave him feedback on how some of his statements landed on her. She then gave Bill an opportunity to replay some statements to increase the likelihood that Jane would respond positively. Lisa asked Bill what roadblocks could arise in the discussion and how he might handle them. The role playing lasted approximately 45 minutes. By the end Bill felt confident about having a conversation with Jane.

Step 6: Define Next Steps

After the role play was completed, Bill reaffirmed that he would like to proceed with the conversation with Jane. Lisa invited Bill to map out an action plan. Guided by Lisa's questions, Bill specified logistics and timing for initiating a conversation with Jane. He agreed to send Jane an e-mail when he returned to his office that day asking her to meet with him to discuss their communication and working relationship. Assuming Jane agreed, he would schedule the conference room on the first floor for their discussion. If Jane did not agree to meet, Bill would visit with Lisa again to determine possible

next steps to manage that setback. Lisa asked Bill to send her an e-mail or visit with her in person after his discussion with Jane to let her know how things went. Bill agreed. Lisa reiterated her availability to support Bill in working to resolve the conflict. Bill left, empowered to go forward with his plan.

Conclusion

As illustrated above, conflict coaching can be a powerful tool to help manage conflict. The conflict coach helps the coachee think through multiple aspects of a conflict and consider options to improve the situation. The conflict coach serves an important role by asking questions, providing feedback, offering insights and especially active listening. Conflict coaching can be useful at any stage of a conflict, both formally and informally, and should be considered when there is an ongoing working relationship or need to communicate.

Robin Amadei, J.D. is the owner of Common Ground Mediation Center, LLC, which provides mediation, facilitation, training, conflict coaching and workplace assessment services. She will be offering conflict coaching training on February 24, 25 & 26, 2011. Please contact her for more information at 303.604.1960 or ramadei@aol.com.

(continued from page 1)

the Boulder Bar gave 3,448 hours. In addition our four in-house pro bono attorneys gave 1,458 hours. Our total hours for 2010 then are 5,187, almost 5% increase from 2009, which was also a record year.

The total pro bono hours for the last five years appear below:

**2006 - 4,316 hours; 2007 - 4,230 hours;
2008 - 3,117 hours; 2009 - 4,954 hours;
2010 - 5,187 hours**

CLIENT RESULTS BASED ON CLOSED CASES

Based on cases closed (resolved) in 2010, BCLS advised and/or referred 72 clients in bankruptcy cases. We advised or provided brief services to 86 clients with consumer collection and negotiated settlements in 19 consumer cases.

We also advised 88 clients in family matters and resolved 121 cases in our pro se clinic. We settled 24 family cases and resolved 12 uncontested family law court cases and 23 contested family cases, along with one juvenile case.

We advised 59 housing clients and provided brief services to 29 more. We settled 27 housing cases and tried 10 public housing cases and one eviction case. We obtained administrative agency decisions for one education case, one health law case and 12 food stamps and welfare benefits cases. And we advised or provided brief services to 36 clients involving health care access or public benefits cases.

FUNDRAISING

Finally, 2010 was a good year for fundraising. Erika Martinez administered 9 grants, raising a total of

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BOULDER COUNTY LEGAL SERVICES

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\$164,000. Her fundraising totals for the last five years are printed below:

2006 - BCLS raised \$133,000
2007 - BCLS raised \$143,000
2008 - BCLS raised \$159,000
2009 - BCLS raised \$153,000
2010 - BCLS raised \$164,000

IT'S ABOUT THE VOLUNTEERS!

Of course we could not have done this without the support of our volunteers and the Boulder legal community. Our talented team of retired professionals worked tirelessly to interview potential clients in our office, senior centers and safe houses in Boulder and Longmont as well as clients' homes, nursing homes and hospitals. Our pro bono attorneys did yeoman's work representing many clients so well. The Pro Se Clinic volunteers met with record numbers of clients without flinching. Even with all the great volunteers, we always have a great need for lawyers to assist with family law cases. Erika Martinez, our Pro Bono Coordinator, and Marcy Eskanos, our secretary, join me in thanking you all for making 2010 a productive and enjoyable year and for proving what a volunteer-based effort can achieve.

Joel Hayes is the Managing Attorney at Boulder County Legal Services.

NOTE: Your attendance and donations to the Legal Aid Foundation fundraiser, *FOOD WINE JAZZ ART*, supports the Legal Aid Foundation which in turn helps support Boulder County Legal Services and other legal aid offices throughout Colorado. Please come on Feb. 10 and enjoy the fun and help legal services.

**Welcome to the new
Judges and Magistrate
sworn in during January.**

**Judge Ingrid S. Bakke
Judge Karolyn Quevli
Judge Norma Sierra
Magistrate Elizabeth Brodsky**

LAWYER ANNOUNCEMENTS

 **DIETZE AND DAVIS**

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Care Enichen

formerly of the Boulder District Attorney's Office
and most recently a Boulder County Judge
for the past fifteen years,
has joined the firm as a Shareholder.

Ms. Enichen specializes in all areas of
criminal defense, including trial work.

Ms. Enichen may be reached as follows:

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**Thank you to the volunteers at the
Pro Se Probate Clinic in 2010 who helped
or assisted Probate Registrar John Lauce
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To volunteer, please call Mike Smeenck 303.494.3000

PRESIDENT'S PAGE *(continued from page 5)*

thousands of men, women and children who by reason but blood only, are regarded by some people as unfriendly."

Carr welcomed the Japanese into Colorado at the internment camp at Granada, although he opposed the deportation order. He argued that they should be treated like citizens not enemies. He employed a young woman from the internment camp as his governess. He personally picked her up from the train station to welcome her and lessen her anxiety. Patriotism was the core of his reason standing up for the civil rights of the Japanese. The Japanese were

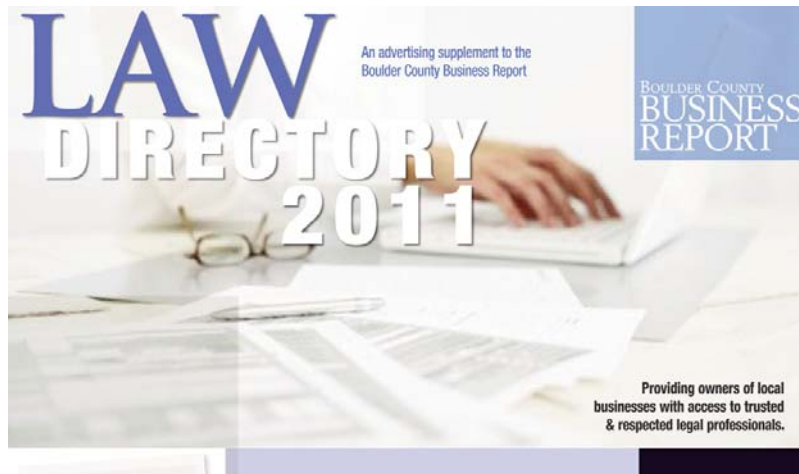
Americans "who should be not be imprisoned without proof. What is more important that the Constitutional rights afforded to the citizens?" In the end he was proven right.

His stand for the rights of the Japanese-Americans was only one of the many times Carr stood up for the rights of the unpopular. After he was elected governor in 1938, he hired George Robinson, a black man, to be at the welcome desk in the Governor's front office, the first face a visitor saw. This was in a state where the Ku Klux Klan had supported a previous governor, Clarence Morley. He also refused

to approve the construction of Camp Hale unless the construction was open to all companies regardless of their ethnic ownership (read Hispanic). The response changed the bidding process, opening it to all.

Ralph Carr was born in 1887 and grew up in Cripple Creek, Colorado. He graduated from the University of Colorado Law School and opened a law practice in Antonito, Colorado. He became one of the foremost water lawyers in the state and became an assistant attorney general in 1927. He was appointed US Attorney for Colorado by Herbert Hoover. He rose rapidly through the state Republican Party and was elected governor in 1938. He served from 1939-1943. He stood for fiscal responsibility and ethics, and was a vehement opponent of the New Deal. But he also stood for constitutional rights for all. "If you harm them, you must harm me. I was brought up in a small town where I knew the shame and dishonor of race hatred. I grew to despise it because it threatened the happiness of you and you and you."

There were three US Supreme Court decisions that upheld the right of the government to detain people of Japanese ancestry solely on racial heritage. Fred Korematsu, Gordon Hirabayashi and Minori Yasui all had their convictions upheld. The justices were clearly uncomfortable with their decisions. Justice Black, writing for the majority in the Korematsu case, conceded that detention based on race was "odious to a free people" but that under the wartime emergency there was a rational basis. Justice Robert Jackson in his dissenting opinion pointed out that the Courts decision would become a "loaded weapon" against racial or ethnic minorities during wartime.



Business owners & management teams often find themselves in need of advice on running their businesses – whether it is legal guidance on structuring a small business or strategic corporate counseling. Many spend countless hours determining the most appropriate legal path for their business model, and when selecting an attorney, mistakes may be costly. The Boulder County Business Report's annual advertising supplement – **The Law Directory** – is produced as an easy-to-read handbook that provides comprehensive listings of Boulder & Broomfield County based law firms, including areas of practice and contact information.

Ad Rates*:

Publication Sponsor	\$1,750
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Quarter pg	500
*Four-color charge included in price. Black and white not available.	

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Contact Kim Oremus at 303-630-1949 | koremus@bcbr.com

The Boulder County Business Report's 2011 Law Directory will be publishing March 18th, 2011. Deadline for artwork is February 25th.

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PRO BONO PAGE

Pro Bono Referrals

Twelve cases were referred during December. Thank you to the following attorneys:

William Benjamin
Jonathan Booker
Susan Bryant
Christina Ebner
Bruce Fest
Judson Hite
Peter Jarldane
Chris Jeffers
Sharon Svendsen

Pro Se Program Volunteers

Elizabeth Brodsky
Sheila Carrigan
M.L. Edwards
Chris Jeffers
Tucker Katz
Leonard Tanis

Mediators

The following mediators accepted a pro bono case in December:

Beth Ornstein

BCAP Volunteers

Thank you to the following attorneys who accepted pro bono referrals for the Boulder County AIDS Project in December:

Paul Bierbaum
Carmen Danielson
Christina Ebner

Pro Bono Corner

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

**Boulder County
Bar Association
Professionalism Committee
On-Call Schedule**

February 7 Mark Langston 303.440.9684
February 14 Bev Nelson 303.554.7030
February 21 Anton Dworak 303.776.9900
February 28 Christie Coates 303.443.8524



Steve Clymer, Esq.
Principal Mediator

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PRESIDENT'S PAGE *(continued from page 8)*

In the 1980's all three convictions were reversed due to governmental misconduct based on discovered documents from the National Archives. They showed that the government had withheld reports and evidence from the courts. This evidence withheld by the FBI and military intelligence would have shown that there was no military necessity for internment of Japanese-Americans as they posed no security risk. This was based on "willful historical inaccuracy and international falsehoods." The facts presented by Solicitor General Charley Fahy to the court during arguments to the

Supreme Court in 1943 were patently false.

Ralph Carr returned to his law practice in Antonito after he was defeated in the 1942 Senate election by Senator Edwin Johnson. In 1950 he ran for governor but died during the campaign. Although he was reviled for his actions in 1941-42, the people of Colorado now understood that he had been right.

The new Colorado judicial complex is to be named after him.

Ralph Carr was not consumed with apathy like the people of Black Rock. He was its antithesis. He spoke out at great personal and political risk. He did it because it was the right thing to do. May we all be so blessed.

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