



## BOULDER COUNTY BAR NEWSLETTER

# FEBRUARY 2013

### WHY WE NEED TO SUPPORT LEGAL AID

BY DIANA POOLE AND KELLY BOSSLEY

While the country may have narrowly avoided going over the fiscal cliff, the future of legal aid funding in Colorado is still very uncertain.

Unless Congress passes another agreement by March 1st, automatic sequestration cuts would mean the state's civil legal aid provider, Colorado Legal Services (CLS), would receive approximately \$280,000 less per year in federal funding. These cuts would be devastating to CLS, which is still reeling from more than a \$2.6 million loss in revenue over the last three years, as a result of other public funding cuts and smaller COLTAF grants.

The demand for legal aid is at an all time high and to help meet this need, CLS operates like a legal emergency room. In conducting its triage, it gives priority to the poor and elderly in greatest economic and social need, focusing on legal issues that have an impact on basic needs, such as food, shelter, necessary medical care, and freedom from domestic violence and abuse.

CLS has 14 offices across the state, and currently only 47 lawyers on staff. There are 880,000 people statewide that are income-eligible for CLS's services, which mean there is

one legal aid lawyer for every 18,723 poor Coloradans. By comparison, there are 410 public defenders in the state to serve the indigent in criminal matters.

"Although the demand for services continues to increase, we are simply not able to fill staff vacancies at this time because of the federal funding uncertainty," said CLS Executive Director, Jon Asher. "Private support for legal aid has never been more important."

**Jazz by Stephen Thurston  
and Friends from the  
CU School of Music**

**Art from local  
Boulder Artists**

**Beer from West Flanders  
Brewing Company**

**Food by  
FrontRange Catering Co.**



**Please plan to attend and  
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**Jung & Associates PC**

## CALENDAR OF EVENTS

Pre-registration is required for all BCBA CLE programs. Register by e-mailing [lynnne@boulder-bar.org](mailto:lynnne@boulder-bar.org), or pay online with a credit card at [www.boulder-bar.org/calendar](http://www.boulder-bar.org/calendar).

Wednesday, February 6

Boulder Interdisciplinary Committee  
Constitutional Issues & the Rights of  
Parents, Grandparents &  
Psychological Parents

Presenter: Melody Fuller

A Spice of Life Event Center 11:30 to 12

Noon Networking, Noon to 1 PM

RSVP the Friday prior to the meeting. 720-  
232-4573 1 CLE and lunch \$20 for members,  
\$25 for non-members

Wednesday, February 6

The 1st of a series of 3 important  
sessions on trial practice.

Trial Skills for New/Young Lawyers

Presenter: Pat Furman

Noon - 1 PM Jury Assembly room

at the Boulder Justice Center

1 CLE \$20 or FREE if you volunteer to be a  
judge at the High School Mock Trials

Tuesday, February 12

Employment Law/ADR

Tax Considerations in Settlement

Agreements Presenter: Howard Bernstein

Noon at Caplan & Earnest, 1 CLE \$20, \$10

New/Young Lawyers \$11 Lunch

Wednesday, February 13

Trial Skills for New/Young Lawyers

Presenter: Pat Furman

Noon @ DA's East Conference Room

1 CLE \$20 or FREE if you volunteer for  
mock trials

Wednesday, February 13

Solo/Small Firm Happy Hour

5 PM at Connor O'Neill's

Thursday, February 14

Intellectual Property Law

The 2011 Patent Act: Addressing Challenges  
in a Changing Landscape

Presenter: Steve Barone and Shireen

Marshall (Lathrop & Gage)

Noon at Hutchinson Black and Cook

\$20 CLE, \$10 New/Young Lawyers

\$11 Lunch

Tuesday, February 19

Business Law Section

Annual Business Law Update

Presenter: Prof. Mark Loewenstein

Noon at Hutchinson Black and Cook

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

Lunch \$11

Wednesday, February 20

Trial Skills for New/Young Lawyers

Presenter: Pat Furman

Noon @ East DA's Conference Room

1 CLE \$20 or FREE if you volunteer to be a  
judge at the High School Mock Trials

Wednesday, February 20

Update on Family Issues in the 20th JD

Presenters: Judges LaBuda, Butler

Mulvahill and Mag. Brodsky

Noon in Courtroom C, 1 CLE \$20, \$10

New/Young Lawyers Brownbag Lunch

Thursday, February 21

Bankruptcy Roundtable

Noon at Agave Bistro

Friday, February 22

Immigration Roundtable at 8:30 AM

Broadway Suites, 3rd fl. conf. room

Tuesday, February 26

Practical Solutions to Elder Financial Abuse

and Fiduciary Theft, Presenter: Tom

Rodriguez and Courtney Smith

Noon at Caplan & Earnest Lunch \$11

1 CLE \$20, \$10 New/Young Lawyers

Tuesday, February 26

ADR/Employment/Real Estate/Civil

Litigation Sections

Mediation and Settlement Conferences  
with State Agencies

Presenters: John Tweedy, ALJ Laura  
Broniak, ALJ David Cheval, ALJ Hollyce  
Farrell & Assistant Attorney General Kelly  
Boyle

Noon at DAs Conference Room - East Side

1 CLE \$20, \$10 New/Young Lawyers

Brownbag Lunch

Wednesday, February 27

Natural Resources/Real Estate

Fracking and other current issues in state  
and local oil and gas regulation.

Presenters: Moderator: Maki Iatridis -

Partner, Berg Hill Greenleaf & Ruscitti,

Matt Lepore, Director, Colorado Oil and

Gas Conservation Commission,

Mike Chiropoulos, Chief Counsel, Lands

Program, Western Resource Advocates

Ben Doyle, Assistant Boulder County

Attorney, Jim Hughes, Owner, SunTerra

Well Services and Sunstone Technologies

John Jacus, Davis Graham & Stubbs

4 - 6:00 PM @ Spice of Life, \$8 to attend, 2

CLE - \$40, \$20 New/Young Lawyers

Thursday, February 28

In-House Counsel Section

The Crisis in American Legal Education

Presenter: Professor Paul Campos

Noon at Caplan & Earnest

1 CLE - \$20, \$10 New/Young Lawyers

\$11 Lunch

Friday, March 1

Availability of Legal Services (Ethics)

Ethical Considerations when Providing

Unbundled Legal Services to Low Income

Clients. Presenter: Adam Espinosa from the

Disciplinary Council's Office

Noon Brown Bag Lunch @ West DA's

Conference Room

1 Ethics CLE - \$20,

\$10 New/Young Lawyers

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## COMMITMENT TO THE PRO BONO LEGAL SERVICES GOAL By Justice Gregory Hobbs

### The Colorado Supreme Court Would Like to Recognize Your Firm, Government or In-House Counsel Group's Commitment to the Pro Bono Legal Services Goal and Its 2012 Achievement.

Notify the Court of Your Firm's or Group's Achievement of the 2012 Goal by February 15, 2013!

Make Your Firm, Government or In-House Counsel Group's Commitment to the Annual Goal If You Haven't Already!

The Colorado Supreme Court takes great pride in recognizing and listing, on its website and in *The Colorado Lawyer*, those firms, government and in-house counsel groups that have committed to the RPC 6.1 goal of annually performing fifty hours of pro bono legal services per Colorado licensed attorney, primarily for indigent persons and/or organizations that serve the indigent.

In addition, each year the Court formally recognizes firms and groups that achieved the RPC 6.1 pro bono legal services during the prior calendar year, by formally presenting

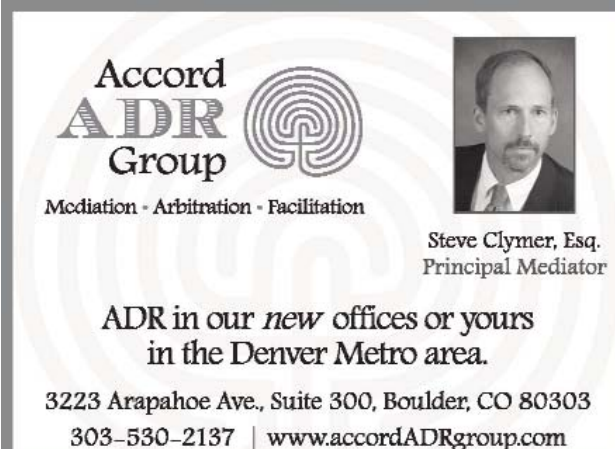
them Certificates of Achievement during a special ceremony. The fifty-hour per Colorado licensed attorney goal is averaged across the firm and pro-rated for part-time attorneys, a substantial majority of which (thirty-five hours or more per attorney on the average) is for indigent persons and/or organizations that serve indigent persons. The balance of the fifty hours per attorney on the average may include other types of pro bono legal services mentioned in Colorado Rule of Professional Conduct 6.1.

The Court is preparing Certificates of Achievement to present to firms and groups that achieved the fifty-hour per attorney goal in 2012. The certificates will be signed by each member of the Court. If your firm or group achieved the pro bono goal in calendar year 2012, please notify by February 15, 2013 Justice Greg Hobbs, c/o Law Clerk Lauren Dickey, [lauren.dickey@judicial.state.co.us](mailto:lauren.dickey@judicial.state.co.us). Please include the name of your pro bono coordinator and his or her contact information, including phone number, e-mail address, and mailing address. Call Lauren at (720) 625-5440 if you have questions.

If your firm or group has not already joined the Colorado Supreme Court's pro bono commitment list, please join by notifying Justice Hobbs of your commitment today and your pro bono coordinator's contact information!

All firms and groups on the Colorado Supreme Court's pro bono commitment list will be invited to a gathering at the new Ralph Carr Judicial Center in April of 2013 to recognize their commitment and to present the Certificates of Achievement to those firms and groups that achieved the goal in calendar year 2012.

Congratulations and Thank You to all firms, government and in-house counsel groups for participating in the Colorado Supreme Court's Pro Bono Commitment Program!



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# HOW LAW SCHOOLS COMPLETELY MISREPRESENT THEIR JOB NUMBERS

BY PROFESSOR PAUL CAMPOS

This month, thousands of ambitious young people are asking themselves the same question: Does it make sense to invest \$100,000 to \$250,000, and the next three years of my life, to become officially qualified to work as a lawyer? For most people considering law school, this question is hardly an easy one. Law schools, however, make it much harder than it needs to be by publishing misleading data about their employment statistics. Many law schools all but explicitly promise that, within a few months of graduation, practically all their graduates will obtain jobs as lawyers, by trumpeting employment figures of 95 percent, 97 percent, and even 99.8 percent. The truth is that less than half will.

There are two main sources of information on post-law-school employment rates. One is U.S. News and World Report (USNWR), which publishes statistics for individual schools as part of its annual law-school rankings. These rankings, of course, are much reviled but even more greatly feared by deans and admissions officers. (Prospective law students pay very careful attention to the rankings, which means law schools must as well.) Until little more than a month ago, almost all 198 ABA-accredited law schools were reporting nine-month employment rates of more than 90 percent, and it was a rare top 100 school that had a rate of less than 95 percent. But last month, in the wake of criticisms that these figures were literally incredible, USNWR revised its employment statistics in an effort to combat some of the legerdemain law schools engaged in, such as excluding from their calculations graduates who described themselves as unemployed but not seeking work.

The new USNWR percentages are therefore somewhat less inaccurate: Schools that, until a few weeks ago, were claiming one in 500 graduates were unemployed now claim one in 30 are, while those who were advertising 95 percent employment rates are saying one in six graduates don't have jobs, and so on down the hierarchical line.

The other source is the National Association for Law Placement (NALP)—the group to which the ABA delegates the compiling of employment statistics that ABA-accredited law schools are required to report. According to the NALP, 88.2 percent of all law school graduates are “employed” within nine months of graduation. If we exclude people employed in non-legal jobs, and people doing part-time work, the NALP number drops to 62.9 percent.

There are a few problems, however, with even this lower number. The first is that it is only reported for law schools as a whole. NALP does not provide this number for individual schools, while USNWR does not report it at all. This means that the only school-specific information currently available to students is extremely misleading.

But the bigger problem is that the 62.9 percent figure is still too high. While it excludes non-legal jobs and part-time work, it does not exclude people in temporary positions. So it seems worth asking: How many of the graduates who report doing full-time legal work have permanent jobs—in the employment law sense of permanent—as opposed to doing temp work, such as being paid \$20 an hour to proofread financial docu-

ments in a warehouse, or \$12 an hour to do slightly glorified secretarial tasks?

In this regard, the public NALP data is of little use—while the NALP collects information from graduates about whether their jobs are permanent or temporary, it makes no distinction between the two in the information it publishes. In order to calculate this figure, I used employment data drawn from 183 individual NALP forms, in which graduates of one top 50 school self-reported their employment status nine months after graduation. This data suggests that fully one-third of those graduates who report they are working in full-time jobs that require a law degree are in temporary, rather than permanent, positions. (Some of these graduates are temporarily employed as judicial clerks, and, in those cases where the clerkships were with federal courts or state supreme courts, I have treated this as equivalent to permanent full-time legal employment. Such clerkships are difficult to obtain, and considered desirable credentials by legal employers. I have treated state trial court clerkships as genuinely temporary employment, since few law graduates will accept such a clerkship if they have the option of taking a full-time permanent legal job instead. I have excluded the tiny percentage of graduates in state appellate court clerkships altogether, because the desirability of such positions compared to a full-time legal job is ambiguous.)

When we take temporary employment into account, it appears that approximately 45 percent of 2010

*(continued on page 10)*



# PRESIDENT'S PAGE

BY KEITH COLLINS



## LABOR OF LOVE

I recently attended a luncheon where Mark Fogg, the president of the Colorado Bar Association, spoke. Listening to Mark, it is obvious he is passionate about being a lawyer and proud of his profession. Mark inspired me, as he seems to do anytime I hear him speak.

There are many ways to define passion. Wikipedia defines passion as "a positive affinity or love, towards a subject." Merriam-Webster defines passion as "a strong liking or desire for or devotion, to some activity, object, or concept." Both are accurate definitions of passion as it relates to a profession.

When did you first fall in love with the law? Do you remember the excitement and pride you experienced when you received the letter of acceptance to law school? The exhilaration you felt when you realized that you were going to study and practice law. For me, it was a time of great excitement and tremendous anxiety.

I was about to embark on a journey into the noble and honorable profession of being a lawyer. The profession of many

notable leaders who founded and shaped this great country. Me, little ol' me, I get to study and learn the craft of these giants. I was so excited. However, I experienced my fair share of self-doubt. Do I have what it takes? Am I capable of succeeding in such a challenging profession? I could not wait to get started and find out.

Eager to prove I had the makings of a lawyer, I immersed myself in my studies. During my first year of law school, I worked incredibly hard. I spent countless hours in a small workstation in the library trying to absorb all that was being thrown at me. I worked as hard as I have ever worked. The ironic thing is, I was having fun. I was exhausted. I was broke. I had no social life outside of my classmates, but I was truly happy.

I was happy because I found something I loved. I found a passion. I found the law and all its glory. I was becoming a lawyer. I was working on becoming a member of an esteemed profession. I knew this was for me, a calling.

It is true I have not maintained that level of enthusiasm every day since then. However, the fiery passion for the law and the pride of being a lawyer is always there smoldering just under the surface. It only takes a little fanning to bring it back to life. Listening to Mark Fogg did just that. His passion was contagious. I returned to my office invigorated after our luncheon, excited to get back to work, and proud of the work I do.

I have found that most attorneys who work in the legal field for an extended period of time share this same passion. The legal profession is one of those careers you must love in order to survive. The demands, the difficult clients, and impossible judges can be overwhelming. The stress of our jobs will wear down even the most enthusiastic lawyers at times.

Like any passionate relationship, there are going to be some ups and downs. When you are feeling beat

*(continued on page 7)*



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## PRO BONO PAGE

### Pro Bono Referrals

Seventeen cases were referred during the month of December.

Thank you to the following attorneys:

**Susan Bryant**

**Judson Hite**

**Roseann Murray**

**Jeff Skovron**

**Craig Small**

**Bruce Wiener**

Thank you to the following mediators who accepted a pro bono referral in December:

**James Christoph**

**James Lionberger**

**Michael Morpew**

### Pro Se Program Volunteers

**Evan Branigan**

**Michael Morpew**

**Lauren Ivison**

**Tucker Katz**

### BCAP Volunteers

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

**William Benjamin**

**Paul Bierbaum**

### 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 4	Anton Dworak	303.776.9900
February 11	Todd Stahly	303.410.8238
February 18	Helen Stone	303.442.0802
February 25	Curt Rautenstrauss	303.666.8576



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

down from work, or when you have those moments when you think you must be crazy to have chosen a career in law, spend a little time examining why you do what you do. Ask yourself, what is it about being a lawyer that you enjoy so much? What is it about your job that you find fulfilling?

The answers might surprise you. It is a sense of service. We get to serve others. We get to help those who are in need of assistance. We get to be the voice for someone in their pursuit of justice. We get to help others through difficult and trying times. We help people pick up all the pieces and begin to put their lives back together. This is what we do as lawyers. We serve others. We use our knowledge, skill and understanding of the law and we take on the hopeless cases, the hated causes, and the impossible clients.

Justice Sotomayor was recently quoted saying "I think being a lawyer is one of the best jobs in the whole wide world." When asked to explain why, she said, "Because every lawyer, no matter whom they represent, is trying to help someone, whether it's a person, a corporation, a government entity, or a small or

big business. To me, lawyering is the height of service and being involved in this profession is a gift. Any lawyer who is unhappy should go back to square one and start again." Leave it to a Supreme Court justice to so poignantly sum up my entire article in two sentences.

When I look back on my career and remind myself of all those I have helped, I am filled with a sense of pride. I am proud of being a lawyer, and proud of the work I do. Remembering those I have served reignites the enthusiasm and passion I experienced at the beginning of my career and makes work fun and enjoyable.

The honor and nobility of our profession is rooted in our service to others. The fulfillment we experience from our work is the gratitude of those we helped. Our passion to continue is derived from the knowledge that we are making a difference.

When you find yourself suffering in the doldrums of work, take some time to fan the flames of your passion. Think back to the time when you first fell in love with the law. Remember those you fought for and

the difference you made. Remind yourself of the honor and gift it is to be a lawyer. When you love what you do for a living, your work becomes a labor of love.



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*Boulder County Bar Association's 12th Annual*  
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The Boulder Law Shop founded in 2010 by former Boulder County Deputy District Attorney, Family Law Practitioner and Boulder County Bar President, Ann Mygatt, closed on February 1, 2013. Ann is retiring from private law practice due to health related issues. It has been an honor to have assisted over 500 people since opening. The Law Shop's two associate attorneys, Michelle Crozier Haynes and Bruce Wiener, will continue to represent Ann's vision through providing high-quality affordable legal services for low to middle income individuals. If you have questions for Michelle and Bruce, please feel free to call 720-432-7683. Thank you everyone for supporting the Law Shop and our mission.



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We are proud to announce that we are changing our firm name from Duft Bornsen & Fishman LLP to Duft Bornsen & Fettig LLP

Our partner and friend, Dan Fishman, has taken a position as an Administrative Law Judge with the new Patent Office in Denver. As a result, we are replacing Dan's name with Greg Fettig's. While we will miss Dan, we are very excited about our future.

The firm will continue to operate in its current structure and your contracts will remain unchanged.

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### The Furthest City Light



Jeanne Winer

### GOOD-BYE AND A SHAMELESS PLEA

As many of you know, I practiced as a criminal defense attorney here in Boulder for more than twenty-five years. It was an honor and a privilege to have been a member of such a professional and collegial community. But enough is enough. I have finally made the leap to full-time fiction writer. My debut novel, *The Furthest City Light* (about a female public defender), has just been published by Bella Books.

Here's the shameless plea: If you remember me, please don't say farewell or wish me luck, just buy my book. It's available on Amazon or through Bella Books. If you really liked me, please buy the book at my book signing at the Boulder Bookstore on Wednesday February 6th at 7:30. I'd love to fill the room with lawyers.

If you've ever cared too much about a case, you're the kind of reader I'm looking for. Also, please visit my website at [www.jeannewiner.com](http://www.jeannewiner.com)

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## LAW SCHOOLS AND JOBS *(continued from page 4)*

graduates of this particular top-50 law school had real legal jobs nine months after graduation. And the overall number is likely lower, since it seems probable that the temporary employment figures for the graduates of almost any top 50 school would be better than the average outcome for the graduates of the 198 ABA-accredited law schools as a whole.

Even this grim figure, however, may be unduly optimistic. All these statistics are based on self-reporting, and neither law schools nor NALP audit the data they publish. In the course of my research, I audited a representative sample of individual graduate responses and found several instances of people describing themselves as employed permanently or full-time, when in fact they had temporary or part-time jobs (I found no instances of inaccuracies running in the other direction). Perhaps some graduates exaggerate their employment status out of embarrassment, or for strategic reasons, but, whatever their reasons might be, this apparently not uncommon practice suggests that the true employment rate should be

lowered even further.

Yet even this does not exhaust the dire news for those about to enter the legal profession. Some schools have adopted the practice of placing their graduates in temporary positions, which, whatever the rationale, has the benefit of helping to inflate their employment numbers. For example, this winter the top 50 school referenced above hired at least two unemployed graduates for short-term internships. Last year, Georgetown's law school paid three unemployed graduates \$20 an hour to spend six weeks working in, of all places, its admissions office.

Nor have we considered how the "lucky" winners in the big law lottery often accept jobs that make them miserable, featuring insane hours and unfulfilling work, but which these graduates conclude they must take in order to pay their often astronomical educational debt (adjusted for inflation, public law school tuition has quintupled, and private law school tuition has nearly tripled, since the mid-1980s). If you're a law professor and you want to get depressed, try to figure

out how many of your recent graduates have real legal jobs that pay enough to justify the tuition that funds your salary, and also involve doing the kind of work they wanted to do when they went to law school.

All of this suggests the extent to which prospective law students need more and better information. Of course, such information will make law school look like a far worse investment than it does at present. Still, if we assume that the point of academic work is to reveal the truth, rather than to engage in the defense of a professional cartel from which law professors benefit more than almost anyone else, then this work needs to be done.

*Paul Campos is a professor of law at the University of Colorado. Professor Campos will be presenting this at the February 28 In-House Counsel CLE, noon at Caplan and Earnest. Please refer to the bar's website and Feb. 28 to sign up. All lawyers are invited and encouraged to attend. Questions should be directed to the bar offices 303.440-4758.*



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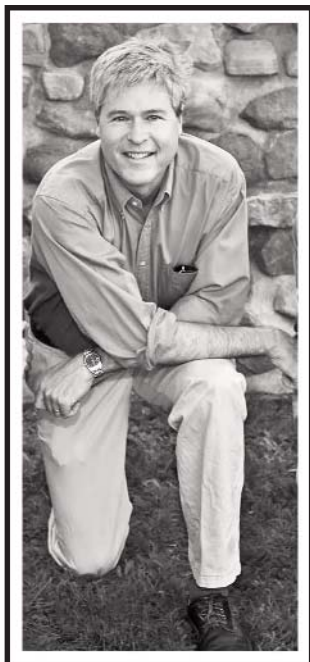
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