



*The Honorable  
C. Jean Stewart, Presiding*



## Uniform Non-Appearance Policies and Procedures to be Clarified and Implemented Statewide

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The Denver Probate Court has adopted and implemented a familiar policy and procedure for counting days in the setting of non-appearance hearings under Rule 8.8, Colorado Rules of Probate Procedure. For many years our policy was to count 10 calendar days to determine if proper notice had been given before acting on relief requested on the non-appearance docket (an event that occurs every morning at 8:00 a.m.) With the advent of electronic filing, where all parties had counsel, we also eliminated totally the need for counting service days.

The efficiencies of electronic filing were eliminated when Rule 6 was amended on January 1, 2006 to mandate that 3 days be added to every counting period even when all service was electronic. We predict that this will eventually be eliminated but until it is we add 3 calendar days to every service period to show adherence to this Rule.

Unfortunately the amendment to Rule 6 also created an ambiguity about whether and what probate rules it changed by mandating that holidays and weekend days were not to be counted in calculating any counting periods of 10 days or less. In the confusion that followed, we adopted the most conservative reading of the combined rules and extended the period before consideration of non-appearance matters to eliminate holidays and weekend days. This worked a hardship on staff, resulted in many matters having to be postponed and reset, and made no sense to us since the purpose of the non-appearance rule was to accomplish efficient handling of matters that appeared or were expected to be unopposed.

Working with the Probate Audit Task Force and with a subcommittee of the CBA's Probate and Trust Law Section, we concluded several things: First, all of the districts in the state needed to adopt a similar procedure and policy for handling non-appearance matters under Rule 8.8.

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**This newsletter is intended to provide general reference material in summary form and does not constitute binding authority on this or any other Court in a particular case. Moreover, this information is in no way an adequate substitute for qualified legal representation.**

### Non-Appearance Cont.

Second, it made sense to use the shortest period of days for counting since the purpose of Rule 8.8 was to move unopposed matters quickly and efficiently through the docket. Finally, the 8:00 a.m. daily settings could provide a consistent, statewide "last chance" date and time for objections to be filed but did not necessarily mean that every individual judge would be considering their non-appearance dockets at that very moment.

With all of these matters agreed to, the Task Force has recommended to the Colorado Supreme Court and the Denver Probate Court has already adopted the above-referenced procedures. We anticipate that, within the next few months, the procedures will be adopted throughout the state. This means that non-appearance matters under Rule 8.8 (meaning that you have a good faith belief that the matter will be unopposed) can be set in any district in the state at 8:00 a.m. any day the state courts are in session (we publish a list of court holidays at our website [www.DenverProbateCourt.org](http://www.DenverProbateCourt.org)) and the matter may be set on the 14<sup>th</sup> day after service (10 calendar days for notice + 3 calendar days for service).

Remember that courts will also be requiring that you file a copy of both the petition or stipulation or motion or request that is the basis of the non-appearance hearing PLUS THE PROPOSED ORDER with the notice of hearing (Form JDF 712).

— C. Jean Stewart, Presiding Judge

## Conservatorship Training

We are pleased to offer a training class for Conservators. All Conservators are welcome and the training is free.

**Date: Monday, March 10, 2008**

**Time: 10:00 am - 11:00 am**

**Location: Denver Probate Court Room 224**

Lucy Murray, a Certified Public Accountant and Court Volunteer, will conduct the training. Lucy and other Denver Probate Court staff will be available after the training to answer questions.

The goal of the training is to help conservators set up a system to manage the finances of a protected person and perform the required annual reporting in an efficient and effective manner. Not only will the training be informative and helpful to conservators, it will also offer conservators a unique opportunity to meet other conservators and exchange ideas.

The training will cover the following topics:

- What documentation a conservator must retain
- How to set up a bookkeeping system to track all cash receipts and disbursements
- How to complete the new inventory and financial plan reporting forms
- How to complete the new annual conservator reporting forms
- Common questions and issues for conservators.

We especially encourage new conservators to attend, as well as conservators who have an upcoming report due. While we anticipate offering future training classes, an upcoming schedule of classes has not yet been set.

If you plan to attend, please notify Lucy Murray at [lucy.murray@judicial.state.co.us](mailto:lucy.murray@judicial.state.co.us) or 720-865-8338.

# Employee Spotlight

Lee Cole



Lee Cole is the Court Administrator for the Denver Probate Court. He has been with the Colorado Judicial Branch for 17 years and with the Denver Probate Court since 2005. He is a graduate of the Denver College of Law and was awarded a Juris Doctor degree and a Masters of Science in Legal Administration degree.

So what does Lee do exactly? Lee assists Judge Stewart, the presiding judge, in smooth daily operation of the Denver Probate Court. Specifically, he is responsible for the oversight and administration of budget matters, human resources, facilities, case processing, and technology within the Denver Probate Court. One of his main roles is to see that the court is operating within the budget and state guidelines set forth by statute and policies of the Supreme Court and State Court Administrator's Office. He is often the liaison for the court with outside agencies and represents the Court on various committees within the State Court structure.

Here is a more personal side of Lee:

Family: Cheryl (wife), Timmy (grandson), Jeff & Tabitha (son & daughter-in-law)

What is your idea of happiness: Spending quality time laughing and working with family and friends

When I'm not working, I'm...doing volunteer work with non-profit entities

What is the quality you most like in a person: Sense of humor; specifically, appreciation of puns

Best gifts you ever received: sincere compliments

What's the most useless thing you ever bought: A flow bee hair cutting apparatus

Not many people know that I: played a French Horn in a symphony while in college

Toughest thing about your job: Filling out forms regarding my personal life

Best memory at Denver Probate: Gift Exchange at the Christmas Holiday Party and coffee sessions with Judge Stewart

What would you do if you won the lottery: Place it in an interest bearing account!

What did you want to be when you grew up: Skinny?

What three historic or living individuals would you like to have over for dinner: Albert Einstein, Stanley Shipp (a mentor), and my wife, Cheryl.

What is your greatest luxury: a parking space near the court house

Describe your perfect day: Leaving the office with a clean desk after a day with no phone calls or emails.

What two objects would you rescue from a burning house: My yellow lab, Darby, and wedding photos

What do you like most about Denver Probate: My new office space!

What do you like least about Denver Probate: My old office space.



Grandson - Timmy

## DPC Celebrates Valentine's Day with 1<sup>st</sup> Annual Death by Chocolate



Can you imagine a mountain of brownies surrounded by red velvet cake muffins and kettle potato chips dipped in chocolate?

Or how about pineapples and strawberries dipped in chocolate topped off with a double chocolate Bundt cake? Ice cream oozing over a Russian-imported layer cake.

These were just a few of the entries in the Death By Chocolate festivities hosted by the Denver Probate Court on Valentine's Day. Judge Stewart, Magistrate Gallegos and court employees joined in the competition for the \$40 gift certificate for the best chocolate entry. Sarah Solano won the honors with her red velvet cake muffins topped with fresh strawberries (see recipe below).



Being a taste testing judge can be grueling --- and such was the case for the three judges of the Death by Chocolate celebration. Our thanks go to Dona Gibson, Judge Larry Naves and Judge Jean Stewart for their "willingness" to judge this competition.

Plans are already underway for the Second Annual Death By Chocolate to be held on February 13, 2009.



### And the Award Winning Recipe...

#### Red Velvet Cupcakes with Cream Cheese Frosting

##### For the cupcakes:

2 1/2 cups all-purpose flour  
1 1/2 cups sugar  
1 teaspoon baking soda  
1 teaspoon salt  
1 teaspoon cocoa powder  
1 1/2 cups vegetable oil  
1 cup buttermilk, room temperature  
2 large eggs, room temperature  
2 tablespoons red food coloring  
1 teaspoon white distilled vinegar  
1 teaspoon vanilla extract

##### For the Cream Cheese Frosting:

1 pound cream cheese, softened  
2 sticks butter, softened  
1 teaspoon vanilla extract  
4 cups sifted confectioners' sugar



##### For the cupcakes:

Preheat the oven to 350 degrees F. Line 2 (12-cup) muffin pans with cupcake papers. In a medium mixing bowl, sift together the flour, sugar, baking soda, salt, and cocoa powder. In a large bowl gently beat together the oil, buttermilk, eggs, food coloring, vinegar, and vanilla with a handheld electric mixer. Add the sifted dry ingredients to the wet and mix until smooth and thoroughly combined. Divide the batter evenly among the cupcake tins about 2/3 filled. Bake in oven for about 20 to 22 minutes, turning the pans once, half way through. Test the cupcakes with a toothpick for doneness. Remove from oven and cool completely before frosting.

##### For the Cream Cheese Frosting:

In a large mixing bowl, beat the cream cheese, butter and vanilla together until smooth. Add the sugar and on low speed, beat until incorporated. Increase the speed to high and mix until very light and fluffy.

Optional - Garnish with chopped pecans and/or a fresh raspberry or strawberry or chocolate shavings

## New Forms and Document Types in Protective Proceedings

In case you have not yet heard, all Protective Proceeding forms are changing. They will no longer have CPC numbers but will have JDF numbers. Some of them have already been approved by the Supreme Court and can be found at <http://www.courts.state.co.us/chs/court/forms/probate/probate.htm>

The forms not only have new numbers, most of them have been improved, updated and changed. Please start using the new forms from the above website. The Denver Probate Court website is not updated yet with all of these forms but will be as soon as they are all completed.

**NOTE: Any attorney filing a new conservatorship case, please note that the Interim/Final Accounting (CPC 43) form will no longer be a filing requirement. There has been a new Conservator's Report created that encompasses the report and accountings into one form.**

**So... please leave any reference to "annual accountings" out of your Proposed Order Appointing Conservator.**

**Though the new Conservator's Report is not available quite yet, it will be by the time the new Conservators are required to file annual reports.**

Another exciting change is that new document types are available when e-filing on LexisNexis:

- Guardian's Report filed
- Conservator's Report filed
- Inventory with Financial Plan filed
- Petition for Termination of Guardianship
- Petition for Termination of Conservatorship

Please begin using these new types! Regarding the Inventory with Financial Plan, this will soon be a combined form instead of two separate documents. You should begin using this document type when e-filing any Financial Plan instead of "Filing Other." You may still use the type "Inventory" for the inventory until the new form is released. As soon as the new form is released the "Inventory" document type will be used solely for decedent's estates. Please show this article to anyone on your staff that does e-filing.

THANK YOU!

-- Susie Jordan

For any questions regarding the new forms for Protective Proceedings, please contact:  
Susie Jordan, Protective Proceedings Facilitator, Denver Probate Court  
[Susanne.Jordan@denverprobatecourt.org](mailto:Susanne.Jordan@denverprobatecourt.org)



### Did you know?

The first Probate court in the United States was in Massachusetts 1784.

## DPC Implements CLE Credit Program for Uncompensated Pro Bono Representation

From time-to-time, cases arise in the Denver Probate Court in which the help and guidance of an attorney would be of great assistance to the parties and to the Court. Maneuvering through the procedures and the forms of the Probate Court can be an overwhelming task to the pro se litigant. In many of these instances, there is no statutory authority for the Court to appoint a State-funded attorney. These cases --- with the help and guidance of an attorney --- could move expediently through the Court system. However, unaided, they move slowly through the system while consuming a great deal of court time resulting in frustrations for the pro se parties.

Colorado Rules of Civil Procedure 260.8 sets forth the guidelines for a program that could help in these instances. It provides that an attorney may receive continuing legal education (“CLE”) credit in exchange for uncompensated pro bono representation of a client in certain situations. The Denver Probate Court is prepared to implement such a program.

Rule 260.8 states that one (1) unit of general credit is awarded for every five (5) billable-equivalent hours of uncompensated representation provided to the client. A lawyer may be awarded a maximum of nine (9) units of general credit during each three-year compliance period for providing such uncompensated pro bono legal representation.

### ***How you can be involved.***

Licensed attorneys wishing to participate in this program may submit the following materials to [sarah.solano@denverprobatecourt.org](mailto:sarah.solano@denverprobatecourt.org), the Court

Judicial Assistant for The Honorable Jean Stewart:

- Your name, Colorado bar number, and contact information;
- A letter of interest stating the type of case you wish to represent (i.e., descendant’s estate, informal probate, Will contest, guardianship, conservatorship, etc.); and,
- The County and court case number of two or three cases you have already handled that are:
  - similar to the types of cases you are requesting to provide legal services; or,
  - equivalent in experience to the type of case you are requesting to provide legal services.

Sarah Solano will maintain a list of these requests. Judge Stewart and Magistrate Gallegos will then match these requests to the appropriate types of cases that are pending before the Court. At the time of the appointment, the attorney must complete CLE’s **Form 8: Application for CLE Credit For Pro Bono Representation or Mentoring** (which can be found at:

<http://www.coloradosupremecourt.us/pdfs/CLE/Form8.pdf>).

The completed form is then submitted to the Colorado Board of Continuing Legal and Judicial Education, 1560 Broadway, Suite 1820, Denver, CO 80202.

Your participation in this program is encouraged. For further information, please contact Lee Cole ([lee.cole@denverprobatecourt.org](mailto:lee.cole@denverprobatecourt.org)), Court Administrator for the Denver Probate Court.

There once was an unruly estate,  
It had so many heirs and claimants to date;  
But the registrar stepped in-  
Meted the stuff to the kin,  
And they all shouted “Good ole Denver Probate!”

-- James T. Skay, Jr.

## The Electronic Presentation of Exhibits at Trial

In our last newsletter, we discussed the electronic presentation of exhibits at trial. Since then, we've had the opportunity to utilize the Court's digital display system which allowed counsel to project evidence to the courtroom.

The Court would like to thank Nicky "Radar" Peterson of Bendelow Law Firm, and Carol Muck and Seamus McGorty of Faegre & Benson LLP for facilitating the Court's transition from the days of the three-ring binder to the new era of the electronic trial notebook – they navigated their laptops with the greatest of ease! Carol, Nicky and Seamus provided valuable pre-trial suggestions and post-trial feedback.

Here are a few of the lessons we've learned:

The court suggests that counsel:

1. Submit clean (electronic) copies of your exhibits.  
Documents that have been underlined or highlighted do not project clearly. We learned that yellow highlighting appears on the display as an unattractive olive drab color.
2. Notify the court in advance of any witnesses with disabilities so we may prepare an appropriate accommodation.  
The Court will place an additional monitor at the witness stand, which will help in the event the exhibit contains small text or other hard to read items.
3. Sensitive personal data such as social security numbers and bank account numbers must be redacted prior to exhibition in the courtroom.  
Please be aware that the policy of the court is that such information must be redacted in ALL filings. It is acceptable to display the last four numbers of a bank account.
4. The original document must be presented in any instance where the document itself (e.g. forgery, alteration, etc.) is an issue.

Suggestions for legal staff:

For those of you who will be tasked with preparing and manning the electronic notebook, it is recommended that you:

1. Page number the documents so when finding a certain page, the page number can simply be typed in the field for the page needed at the bottom of the Adobe Acrobat screen instead of trying to quickly find Bates numbers.
2. OCR the documents so that the tool for selecting certain text at the time of the presentation can be used – if the highlighting issue cannot be corrected, another option might be for the text to be underlined to define the specific parts of a document.
3. The user should be familiar with Adobe Acrobat and enlarging documents to emphasize certain parts of the document.
4. Files should be named sequentially and should be organized in a folder for easy accessibility

As always, we encourage you to utilize the technology available at the Denver Probate Court. You are welcome to bring your wireless-enabled laptop computers to court and link to the Internet via our wireless router. In certain situations, we are able to hold video conference hearings, and frequently utilize Court Call.

Please visit <http://www.denverprobatecourt.org/attorneyinfo.htm> for more information about Denver Probate Court's technological capabilities, requirements and recommendations.

-- Jennifer Shaler

### Word Up

The etymology of "probate" stems from Latin, old French, and old English words with somewhat different meanings. The earliest definition, dated to 1463, means the "official proving of a will," and originates from the Classical Latin word *probatus*, meaning "a thing proved". This is the past participle of *probāre*, which means "to try, test, prove" or "prove to be worthy".

<http://en.wikipedia.org/wiki/Probate>

## Heaven Frazier Completes Internship with Denver Probate Court

One of the great programs we enjoy in the Denver Probate Court is the participation we have with internships from East High School and George Washington High School. Recently, Heaven Frazier was sent our way to complete an internship with us.



Heaven Frazier

Heaven graduated from George Washington High School in December. She is a George Washington Patriot. To become a Patriot, a student must show pride in their school, create goals and has a plan of what to do after High School and must care about life. To become a Patriot, a student must be nominated by a teacher, staff or a number of fellow students. We quickly realized why Heaven was nominated as a George Washington Patriot. Her positive attitude, ability to learn quickly and strong work ethic are characteristics this young lady consistently demonstrates on a daily basis.

Heaven's plans are to attend University of Colorado – Denver and pursue a degree in Criminal Justice. She then wishes to attend the University of Denver College of Law and pursue a career as a lawyer.

While serving as an intern at the Denver Probate Court, Heaven assisted us with scanning and uploading pro se filings and cases into LexisNexis File & Serve. She helped us with the scanning and indexing of our archival records. Heaven entered data into the Court's data base, Eclipse and worked with Mental Health cases on the FileBound data system. In her spare time, Heaven attended court hearings. She assisted Law Clerk Jennifer Shaler with briefing cases for the judicial officers.



On behalf of the Denver Probate Court, we wanted to say a big thank you to Heaven for her work and for her inspiration to us over the past few months!

### Denver Probate Court Contact Information

Judge's Division	x8311
Magistrate's Division	x8313
General Information	x8310
Clerk of Court	x8389
Registrar	x8312



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### Denver Probate Court Staff

C. Jean Stewart	Presiding Judge	Melissa Barnes	Specialist
Michael Gallegos	Magistrate	James Skay	Admin Specialist
Lee Cole		Myra Warren	CJA
	District Administrator/Clerk of Court	Carolyn Cammack	CJA
Jennifer Shaler	Law Clerk	Micki Harris	Info System Specialist
Linda Riggle	Registrar	Susanna Baker	CJA
Sarah Solano	Specialist	Lucy Murray	Court Friend
Susie Jordan			
	Protective Proceedings Facilitator		