



*The Honorable  
C. Jean Stewart, Presiding*



## Electronic Presentation of Exhibits at Trials in the Denver Probate Court

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Denver Probate Court, effective July 1, 2007, now requires all exhibits to be submitted only in electronic format for the "official record." The Probate Court has imposed this requirement because the Colorado Judicial Branch has indicated that its appellate courts will soon accept only electronic records, to include records submitted from trial courts on appeal. The Probate Court does not have the staff to convert your "hard copy" exhibits into electronic format when preparing an appellate record.

If you prefer to bring printed copies of your exhibits to trial to distribute to witnesses, the jury, the judge, the law clerk, and opposing counsel, the paper copies can be used only during trial. After trial, the "electronic" version of the exhibit must be submitted in order to form the official record in case of appeal.

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 recently began to utilize Court Call. Our new digital display projector allows counsel to project evidence to the courtroom. We invite your feedback as we transition from the days of the three-ring binder to "electronic trial notebooks," and would appreciate if you would share with us lessons you've learned in this area.

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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.**

## The 9<sup>th</sup> Annual Colorado Court Employee Conference

The 9<sup>th</sup> annual Colorado Court Employees Conference was held in September in beautiful Estes Park. Estes Park is near Rocky Mountain Park and is surrounded by breathtaking views and wildlife. Susie Jordan, Melissa Barnes, Caroline Cammack and Sarah Solano of the Denver Probate Court were just a few who attended the statewide conference.



Opening night started with keynote speaker, Jake Norton. Climb Your Everest...One Rung At A Time, he offered an amazing presentation that focused on goals, dealing with risk and fear, instinct, teamwork and keeping perspective. His story was based on his own experience of triumph and tragedy while climbing the world's highest peak.

The conference offered several sessions throughout the day that were taught by experts and professionals. Computer training, teamwork building and management development were just a few of the sessions offered. This also provided an opportunity to network with other court employees in different counties and gave insight to what a typical day is like in different courts.

This was an experience that offered a collection of information that will encase the Denver Probate staff with stronger personal and professional skills and will help the court staff cope with daily challenges that take place while working with the public.

The Denver Probate Court was very fortunate and appreciative to attend this wonderful conference and look forward to it next year.

-- Sarah Solano

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If you would like assistance with the layout of the courtroom, want to schedule a pre-trial practice session, or have any other questions about technological support in the courtroom during your hearing, contact our Information Systems Specialist Micki Harris directly at 720-865-8339 or [mickiharris@denverprobatecourt.org](mailto:mickiharris@denverprobatecourt.org)

The Denver Probate Court promotes efficiency. We hope all of our technological offerings will enable you to conduct business more efficiently.

-- Jennifer Shaler, Law Clerk

For more information on electronic exhibits, please refer to our website [www.denverprobatecourt.org/electronicexhibits.html](http://www.denverprobatecourt.org/electronicexhibits.html)

Another helpful website: "Do's and Don'ts of High-Tech Trial Presentations" [www.law.com/jsp/law/LawArticleFriendly.jsp?id=1152176723476](http://www.law.com/jsp/law/LawArticleFriendly.jsp?id=1152176723476)

# Employee Spotlight

Susie Jordan

Susie Jordan has been with Denver Probate Court for 2 years and plays dual roles. She is the Protective Proceedings Facilitator and the Division Clerk for Magistrate Gallegos. Needless to say she is extremely busy. So what does Susie do exactly? In her own words *"I am the human point of entrance and exit to and from the Denver Probate Court for every protective proceeding providing individual case management and coordination of all guardianships (minor and adult); conservatorships (minor and adult); and UVGA guardianships."* Susie's position is one of a kind in Colorado. Although there are family court facilitators, she is the first protective proceedings facilitator. She assists the parties involved with protected proceedings cases in understanding the court process and policies.

Here is a more personal side of Susie:

Family: Dustin – fiancée, Sparks – my cat

What is your idea of happiness: Lying on the beach

When I'm not working, I'm... at home, with family or with friends

What is the quality you most like in a person: honesty, integrity, and fun to be around!

Best gift you ever received: life

What's the most useless thing you ever bought: can't think of anything

Not many people know that I: work on the weekends as a bartender

Toughest thing about your job: waking up early every day

Best memory at Denver Probate: getting hired!

What would you do if you won the lottery: pay off my house and take all of my friends on a big trip to the Caribbean!

What did you want to be when you grew up: teacher

What three individuals of historic or present would you like to have over for dinner: Abraham Lincoln, my paternal grandmother when she was 18, Eminem

What is your greatest luxury: being able to enjoy free time to the fullest

What is the craziest thing you would do for a million dollars: show me the money and we'll make a deal!

Describe your perfect day: Waking up around noon, not working...

What two objects would you rescue from a burning house: Sparks and photos

What do you like most about Denver Probate: I like helping people, and I feel like we help people through a somewhat scary process every day. It feels good.

What do you like least about Denver Probate: commuting downtown.



## Electronic Evidence

If you have recently been served with the Court's form of Pre-Trial Order you are aware of the Probate Court's increased emphasis on the presentation of exhibits electronically and on the evidentiary issues surrounding electronically prepared and electronically stored information. Here are several points to consider when preparing for future evidentiary hearings, whether yours takes only a few hours or spans several weeks.

### **Electronically Generated and Electronically Stored Evidence**

The law surrounding electronically generated and electronically stored evidence (e.g. emails, fax reports, etc.) is developing rapidly. You should be prepared to address evidentiary issues surrounding these electronic exhibit issues at the pre-trial conference so that trial time is not wasted on these sometimes novel and technically challenging issues.

If you are interested in learning more about this complex, quickly growing area of law, please refer to Chief United States Magistrate Judge Paul W. Grimm's memorandum opinion in *Lorraine v. Markel Am. Ins. Co.*, 241 F.R.D. 534 (D. Md. 2007). Magistrate Judge Grimm provided guidance to the bar regarding the many interrelated evidentiary issues associated with the admissibility of electronically generated and stored evidence, and specifically reviewed five evidentiary issues that govern whether electronic evidence will be admitted into evidence at trial. Magistrate Judge Grimm and members of the bar collaborated to develop the "[Suggested Protocol for Discovery of Electronically Stored Information](http://www.mdd.uscourts.gov/news/news/ESIProtocol.pdf)" which can be found at <http://www.mdd.uscourts.gov/news/news/ESIProtocol.pdf>

-- Jennifer Shaler, Law Clerk

## Fall Brings a New Law Clerk

If it's fall it means that the new law clerk for the Denver Probate Court has arrived! We are happy to welcome Ms. Jennifer Shaler, Esq.

Jennifer succeeds the talented Mr. Trinidad, who, since his departure, completed his first marathon and now practices at Chorney & Millard LLP.

Jennifer graduated from the University of Denver College of Law in May of 2006 and spent the past year working with Johns Manville's in-house legal department.

She is a "second career" lawyer – prior to attending law school, Jennifer worked at the Sheraton Resort in Steamboat Springs, at a federal agency and on Capitol Hill.

Jenny completed undergraduate studies at the University of Kansas and is an enthusiastic fan of the mighty Kansas Jayhawks. In her spare time, she enjoys traveling, reading, and participating in all the outdoor activities that make Colorado such a wonderful place to live.



## E-Filing Tips:

### to avoid rejection of new cases filed

1. Always attach the application or the petition as the first document. (Unless filing a Petition to Proceed Informa Pauperis which should be first)  
\*Ancillary cases have no specific order required when filing documents.
2. Enter both the decedent and the proposed PR as case parties and attach the attorney name to the proposed PR not the decedent. (Choose pro se for the decedent)
3. Enter both the respondent and the petitioner on protective proceedings.

### to avoid rejected documents

1. Do not leave signature lines blank.
2. Fill in all notary information.
3. Make sure that scans of wills do not cut off any of the wording.
4. Proposed Orders need to be sent in editable format.
5. Proposed Orders, Letters, and Decrees must not contain attorney information in the heading.  
(See [C.R.C.P. 10\(e\)\(2\) or \(f\)\(2\)](#))
6. Do not resend **rejected** documents with “amended” in the title.
7. File each document separately. Do not attach doctor’s letters or wills to petitions.
8. Do not include social security numbers or account numbers on documents.

### that help us get your filings processed quicker

1. Enter suffix information in all caps on party screens. JR goes through but Jr. causes case to hang up in LexisNexis.
2. Use drop down lists properly  
Testate Informal or Intestate Informal for case type...not estate  
Acceptance of appointment for document type...not filing other  
**Appl/informal will probate/Inf app of PR** for document type on cases with wills...  
not application  
**Application for appointment of PR** for document type on cases without a will...  
not application  
Proposed order for orders to be signed...not order  
Proposed Letters ...not letter or filing other (\$15.00 fee charged by Lexis will be zeroed out by clerk)
3. When more than one of the same document is filed like receipts, exhibits, acceptances, etc, include detailed information in the document title line.
4. If filing an amended application use that document type instead of application so fees are not added in again. Use Petition for final settlement instead of petition for same reason.
5. To order new certified letters send request with complete name and mailing address of where to be mailed...do not email copy of old letter with a clerk note.

-- Linda Riggle, Registrar



## Notice Issues: Notice to the Colorado Department of Health Care policy & Finance; Sufficiency of Notice

You should be aware of several important notice considerations when filing a pleading requesting relief in the Denver Probate Court in connection with a protective proceeding that implicates Medicaid.

C.R.S. §15-14-116 provides, in pertinent part, that “A governmental agency paying or planning to pay benefits to the respondent or protected person is an interested person in a protective proceeding.” Accordingly, when a pleading filed in Denver in connection with a protective proceeding reveals that Medicaid planning is, has been or may be a consideration is requesting the proposed relief, this court always requires that notice be given to the Colorado Department of Health Care Policy & Finance (“CDHPF”).

**When in doubt, you should err on the side of giving notice to CDHPF to move your request for relief along more efficiently.**

In 1996 a “blanket order” was entered to alert all practitioners and *pro se* parties that action will not be taken on any request for relief when Medicaid planning or Medicaid eligibility is set forth in a petition or motion as a factor or basis for requesting Court authority to transfer property of a protected person unless the CDHPF has received prior notice. A copy of the Court’s blanket order can be viewed in its entirety at <http://www.denverprobatecourt.org/policies.htm#medicaid>. When in doubt, you should err on the side of giving notice to CDHPF to move your request for relief along more efficiently.

Practitioners should also remember that two unique features of probate practice impact notice

requirements. Under C.R.S. 15-10-201(27) “interested person” is defined variably. The statute specifies that “The meaning as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.” If you are spending time thinking about whether or not someone is or is not potentially, possibly an “interested person,” err on the side of giving notice.

Finally, remember that under Rule 8.1, Colorado Rules of Probate Procedure, “When statutory notice is deemed by the court to be constitutionally inadequate, the court shall provide by local rule or on a case-by-case basis for such notice as will meet constitutional requirements. This Rule comes into play from time to time when

notice is given to interested parties who reside out of the country. Most courts will conclude that 10 days is inadequate notice for such parties and additional time will be allowed to meet constitutional muster. We generally require that out-of-state parties be given 30 days notice unless the motion or petition is accompanied by a waiver of notice. Again, when in doubt, give expanded notice to avoid having the court delay ruling on your motion or petition.

-- Judge Stewart





## What's New at DPC

### Wireless Connection in the Denver Probate Courtroom



Denver Probate has wireless internet available in the courtroom. There currently are no restrictions or payments for the use of the connection. DPC prides itself on the fact that we are a paper on demand court and want to extend that same opportunity to the users of our courtroom.

Eliminate your “down time” - use the internet in the courtroom during trial sessions or in the hallway during breaks. Maintain access to your email. Perform legal research, find and read a case on Westlaw.

You will need a password - give Micki Harris a call and she can let you know what it is.

No public printer is available at this time.

### New Digital Wall Display in the Courtroom

Denver Probate Court is using technology in the courtroom to display evidentiary exhibits on our new 3M Whiteboard. This is just the beginning of the technology we hope to have in our courtroom. We anticipate this beginning step to be helpful in several ways: At a basic level, this is a means for putting evidence before everyone in the courtroom—the judge, the jurors, the opposing lawyers, the courtroom support staff, and even onlookers— at the same time. The display conveys the information more efficiently.



Most lay people can look at a display and follow along with an explanation more readily than they can find the place in a hard copy document and try to read the small type while also trying to listen. Because lawyers are accustomed to handling documents and practice doing that every day, they often fail to appreciate that lay jurors often have no similar experience.

Courtroom technology is also a means to draw attention to particular points, to emphasize certain aspects of the evidence, and to make visible that which otherwise would exist only as a mental picture formed from words spoken by an advocate or a witness.

Watch for other technology developments throughout 2008.

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### Court Holidays

Tuesday, December 25, 2007 Christmas Day  
 Tuesday, January 1, 2008 New Year's Day  
 Monday, January 21, 2008 Martin Luther King, Jr.

[www.denverprobatecourt.org](http://www.denverprobatecourt.org)