



*The Honorable
 C. Jean Stewart, Presiding*



Farewell

Myra Warren

February 28, 2007 will be a real tear-jerker for everyone at the Denver Probate Court. After 40 years of dedicated service and 5 judges' later, Myra Warren has announced her retirement effective March 1.

Myra started her career with the Denver Probate Court on September 1, 1966 when David Brofman was the presiding Judge. Myra says with a smile: "Judge Brofman, Judge Wade, Judge Shaffer, Judge Benton and finally, Judge Stewart" then she laughs softly. What could she be thinking? Myra recalls her only child was just shy of being 1 year old when she started working.

While much is the same, so much more has changed since her career started in 1966. She has witnessed so many transformations and challenges, yet always had the devotion to conquer them all. She remembers when the Court announced everything was going electronic. In her eyes, you could compare this to the first man on the moon, but her desire and dedication took over any of her reservations.

Myra's classy and hard working characteristics will be missed. As I am trying to interview her for this article and asking her questions about her future plans, Myra pulled out a folder and started talking about work on her desk and what needs to get done NOW.

Myra reports that her fondest memory was the surprise bridal shower the court staff ladies gave her four years ago!!



Myra, in her element

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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.

Court Visitor Training Session

On December 5, 2006, the Denver Probate Court conducted a Court Visitor training session/meeting hosted by Susie Jordan, facilitator of protective proceedings. A court visitor is appointed in each new adult guardianship or conservatorship case that is filed in the Probate Court. Their job in a nutshell is to interview the respondent in person, explain the proceedings to him/her, and to make certain recommendations to the court via a written report.

Judge Stewart and Magistrate Gallegos provided valuable information to the visitors about their expectations and what each of them looks for in a visitor's report. Ms. Jordan explained procedures for receiving payments, the importance of using the most recent form, and setting a date (June 2007) for all reports to be filed electronically. To conclude the training, information systems specialist Micki Harris demonstrated and explained how to electronically fill out the form and file it with the court. This extremely valuable training has already been evident in the reports filed since the meeting.

There was also a question/answer time for the visitors to express their concerns and needs. The visitors expressed problems they sometimes encounter regarding access to the

respondent and the respondent's medical records. As a result, a revised Order appointing visitor has been drafted and put into use hopefully making it easier for them to complete the visit.

The meeting provided a great opportunity for the court visitors to meet each other and to meet many members of the Probate Court staff. The attendance was near perfect, including 2 visitors that are on the waiting list for appointments, and we have received numerous comments from the attendees that it was fun and informational.

If you have questions or comments about the Denver Probate Court visitor program, please contact Susie Jordan at 720-865-8313 or Susanne.Jordan@denverprobatecourt.org



Unfortunately, we forgot to take the picture while everyone was still there!
What a happy group of visitors!

Farewell Continued from page 1

We are all happy to know that while we are losing Myra here, her husband Marvin is gaining a full-time wife. She is also going to pursue her passion for singing. Will there be a CD in her future?

In acknowledging Myra's retirement, Judge Stewart stated "It is hard to imagine an employee with the devotion and the desire for perfection that Myra has brought to work every day. She is the definition of a true public servant."

Sarah Solano

The documentation in the "document title" is very much appreciated.

In each newsletter we will try to pass along some guidelines that will assist attorneys and the Court with electronic filing. If you have recently received the message that is the title of this article after you completed a recent electronic filing, you already know what we are going to suggest. This issue's article focuses on the "document title" that is required for each filing in Lexis.

Using "Document Title" to Best Advantage.

The "document title" assigned to an electronically-filed pleading serves multiple purposes. That "document title" assigned in the lawyer's office populates both the LNFS index of the case and as well as the "comments" field for each event in the Eclipse system which is the state court's official Register of Actions (ROA) for every case.

The importance of the document title you create and assign to each pleading you file electronically was recently pointed out to me by Judge Stewart. She noted that she relies exclusively on the LNFS record and so the "document title" field is of great value to her in the court room as well as in chambers preparing a case. These suggestions will also improve the ROA for all future users.

To make the "document title" most useful, it should match the title which is on the pleading, but should include a descriptive detail or two to make the document title even more informative.

Examples:

Instead of "Notice of Hearing" say:
"Notice of February 15, 2007 Non-Appearance Hearing."

Instead of "Exhibit" say Exhibit #1: Dr. Soandso's December 4, 2006 Report."

Instead of "Receipt and Release" say "3 Receipts and Releases; M. Jones; G. Smith, and R. Apple."

Instead of "Credit Report" say "Credit Report of I.M. Honest dated March 15, 2006."

Instead of "Motion to Sell Property" say
"Motion to Sell 123 Marigold Lane."

Instead of (proposed) Order Terminating Guardian" say "(proposed) Order Terminating M. Slacker as Guardian."

Instead of "(proposed) Order Appointing Personal Representative say "(proposed Order Appointing Whatshisname as Personal Representative."

Instead of "Will" say "Last Will and Testament of Dee Ceased dated August 23, 2000 (14 pp).

The screenshot shows a form with the following fields:

- Document type:** Report
- Security:** Secure Public (dropdown menu)
- Statutory fee:** \$0.00
- Document title:** Credit Report of I.M. Honest dated March 15, 2006

A red oval highlights the "Document title" field.

I am sure you get the idea. Please feel free to contact me if I may be of assistance.

Thank you and I look forward to all of us working together towards an even a more user friendly electronic filing system. We (you, me, and everyone involved) in the e-filing system have come a long way. The Court appreciates your attention to these matters. I am sure any and all of the other users of the system will. This one small attention to detail is just one more step towards a better system for all users.

Melissa Barnes, Judicial Assistant
melissa.barnes@judicial.state.co.us

Original Will Missing?

If you wish to probate a copy (not the original) of a will without an evidentiary hearing the following is required.

First, you must file a Petition for Formal Probate of Will and Appointment of Personal Representative. A sworn statement must accompany the Petition as to why it is believed that the original of the will is merely lost and was not revoked by the decedent (e.g., fire, flood, etc.).



If you believe that there will be no controversy about the admission of the copy, you may set the matter on the non-appearance docket following the guidelines for non-appearance hearings. Notice must be given to all interested persons, including all heirs who would take if the will is not admitted to probate and all devisees who would take if it is. It is HIGHLY advised that all interested persons be advised in writing that under Colorado law a missing will is presumed to have been revoked and, if any heir objects to the admission of the will to probate, there will be an evidentiary hearing focusing on proof that the will was not revoked. (Submitting this advisory letter with your Petition will assist the Court in deciding to grant the non-appearance relief requested).

Second, you must add the following additional language to paragraph 5 of form CPC 10:

Pursuant to Colorado law, *Estate of Perry*, 33 P.3d 1235 (Colo. App 2001), a copy of a will cannot be admitted to probate without an evidentiary hearing at which time the proponent of the copy must overcome the presumption that the original of the will cannot be found because it was revoked. In this case, in the absence of the original of the will, it appears that the property of the decedent would pass by intestacy to the decedent's heirs. Nevertheless, because notice was properly given to all interested persons and no objections were timely filed, and not wanting to burden the estate with apparently unwanted litigation, the Court Orders as follows:

The copy of the will dated _____ is referred to as the will. The dates of all codicils are _____. There are no known prior wills which have not been expressly revoked by a later instrument. The copy of the will is the decedent's last will and is admitted to formal probate.

If you know or anticipate that the failure to lodge the original of the will is likely to give rise to an objection or if an objection is actually filed in response to the non-appearance setting, you will have to set an evidentiary hearing.

Linda Riggle
Registrar

Heirship

On all Applications and Petitions filed regarding a decedent's estate, the spouse (if any), devisees (if applicable), and heirs must be listed. Many times we see cases that list no heirs because the petitioner only looked at the fact there was no spouse or children and the parent's of the deceased person had predeceased.

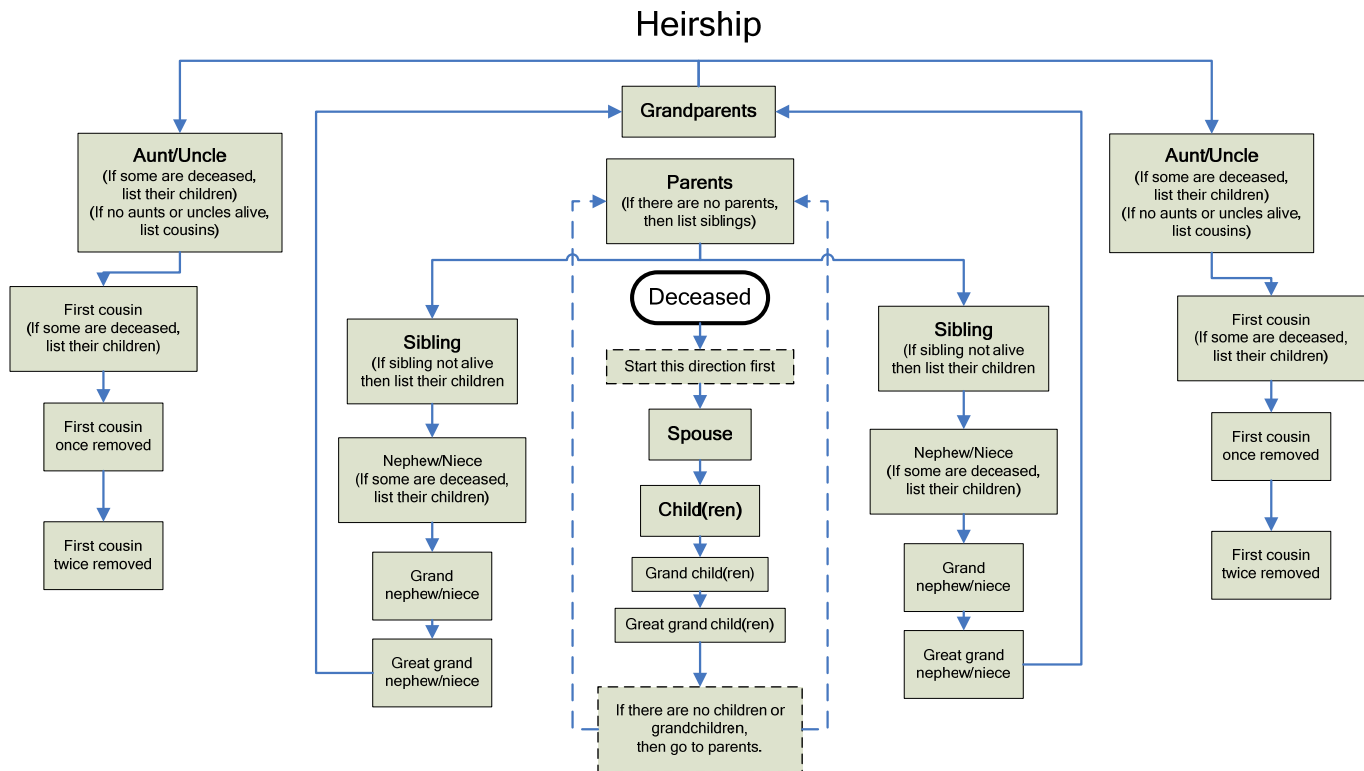
Heirship, however, must be listed from the grandparent's down (§15-11-103, C.R.S.). Please refer to the chart on page 5.

If some or all of the heirs are unknown or addresses are unknown, please list the Attorney General's Office and address on the application and include that office in the information of appointment. Rule 17, Colorado Probate Court Rules.

Only if it is a *known fact* there are no surviving heirs down from the decedent's grandparents can the petitioner state "NO HEIRS" on the petition. Not if heirs are simply unknown.

It is also of extreme importance to the Court that relationships are listed next to the names of heirs, for instance nephew, cousin, brother, etc. If an heir results from a predeceased parent, show the connection to the parent. This is also a good practice for all petitions in protective proceedings so it is clear to the court who the interested parties are and the relationship to the respondent.

Linda Riggle
Micki Harris



E-Courts Conference, 2006

In December, Judge Stewart and several of us from the Colorado Judicial Branch attended the E-Courts Conference hosted by the National Center for State Courts. Representatives from various State and Federal courts convened at this summit to discuss the status of e-filing across the United States.

E-filing represents a culture change for the courts. For decades, the courts operated in a paper-based system. As the volume of documents increased over the years, the paper-based system became oppressive and expensive to maintain. With technology rampant among the practicing attorneys, the paper-based court systems struggled to keep up with the increased flow of paper, storage of that paper and eventually, the destruction of the paper court record.

E-filing systems have changed the way attorneys and litigants may access the court record. Previously, court records could be filed and viewed only during business hours. Now, electronic records may be viewed 24 hours a day from the comfort of your home or business computer.

Electronic records eliminate duplicate data entry. Those records make it possible for multiple users to access the same file at the same time electronically. Dispensing court Orders can be electronically distributed simultaneously and instantly to all interested parties without the time and expense of copying documents, addressing envelopes, stuffing the envelopes and walking the mail to the post office.

Electronic records have reduced the need for expensive storage space of paper files resulting in savings to tax payers who bear the burden for the cost of our operations. It appears that courts at all levels and in all States are seeing and acknowledging the benefits of the electronic record. Efficient, economical and convenient --- e-filing is here to stay.

Technology in the Denver Probate Court. It was interesting to observe that the tools we now have available in the Denver Probate Court and the Colorado Judicial Branch, are tools that other courts eagerly anticipate to have one day. We now possess and are using e-filing tools on a statewide basis that other jurisdictions aspire to one day obtain.

There have been some bumps in the road as the Colorado e-filing system has developed. But overall, it appears that the wave of the future for courts across the country in both State and Federal jurisdictions revolve around the electronic court record. It appears that the electronic record is here to stay.

Questions or comments? Please email Lee Cole, Court Administrator for the Denver Probate Court at lee.cole@DenverProbateCourt.org

Court Appointed Attorneys and Denver Health Medical Center

This has been coming up more and more frequently due to HIPAA – Court appointed attorneys for a respondent are having difficulty getting permission to look at the medical records. As the respondent's Court appointed counsel, you have a right to view his/her medical records.

The procedure that is accepted at Denver Health is to first go to Medical Records and present them with the order appointing you as respondent's attorney. They will then authorize you to view the records. Once you have their authorization, you are able to obtain all the information regarding your client elsewhere in the facility.

Instructions for Attorneys wishing to request release of Appeal Bonds

When a mandate from the Court of Appeals is issued on a case, attorneys often must be contacted by the Denver Probate Court as a reminder that their appeal bond held in the Court Registry can now be refunded.

The proper procedure for accomplishing a refund is to e-file a Motion for Release of Appeal Bond, along with a proposed Order. The Motion should set forth the date of the Court of Appeals Mandate, as well as the amount of the bond being requested and the party to whom it should be released. Once the required time has passed (normally there are no objections to such Motions), the Judge signs the Order and a check is issued to the appropriate party.

Please contact Teresa Toomey at 720-865-8337 with any questions regarding this process.

Electronic Filing

A number of things changed at the Denver Probate Court when we made the transition to mandatory electronic filing. The Court, for example, instituted a paper-on-demand policy where a paper record is generated or a hard copy is created only on a specific request.

The impact has been immediate. A cursory inspection of our file room shows a visible decrease in the space required to maintain the nearly 2000 probate case files generated any given year.

Equally important, electronic filing has changed the way judicial officers and assistants perform the business of the Court. Xerox copies, fountain pens, and rubber stamps have been all but replaced by a computer monitor and a click of the mouse.

The efficiencies with respect to case administration have been likewise apparent, yet, we still have room to improve. As such, please consider the following when making use of the electronic filing system:

Make the case file screen on Lexis Nexis File and Serve ("LNFS") a useful and efficient tool by descriptively titling each item.

For example –

Rather than titling a document

"Exhibit A," identify it descriptively as
"Exhibit A, Trustee's

December 2006 Accounting."

Rather than titling a document "Notice of Hearing," title it "Notice of Hearing (February 29, 2008)."

Be accurate when titling documents. A full disclosure of what a particular document contains greatly assists case administration. For example, attorneys will often embed a request to vacate a hearing in a filing labeled "Motion for Order Approving Settlement Agreement." Such ambiguous labeling can lead to confusion. Combining requests for relief is generally okay, but each request should be identified in the Title.

File related documents in the same "Transaction." In addition to saving you the time and fees associated with generating multiple transactions, combining related documents in the same Transaction provides a readily apparent way group related documents together.

Continued on next page

Parallel cite to the Transaction ID Number in addition to a document's actual title. The Transaction ID Number is the quickest way to find a specific item, and in heavily litigated cases, using the Transaction ID Numbers makes working from an electronic record manageable.

For example, a reply brief might refer to an Exhibit attached to the original petition. There may be numerous filings between the petition, the response, and the reply, and these otherwise related documents will not occupy the same screen shot. When citing to the original petition, allow a user to expeditiously navigate to that document by including a citation to the Transaction ID Number.

Finally, give feedback to Lexis Nexis concerning potential areas of improvement.

In the final analysis, technology can reduce waste and create efficiency, but maximizing systematic utility will only occur when those contributing to the system keep end users in mind. A stitch in time saves nine.

Matthew Trinidad
Law Clerk

Just For Fun

6 Words that don't exist, but should:

PHONESIA (fo nee' zhuh) n. The affliction of dialing a phone number and forgetting whom you were calling just as they answer.

PUPKUS (pup' kus) n. The moist residue left on a window after a dog presses its nose to it.

TELECRASTINATION (t el e kras tin ay' shun) n. The act of always letting the phone ring at least twice before you pick it up, even when you'll only six inches away.

DISCONFECT (dis kon fekt') v. To sterilize the piece of candy you dropped on the floor by blowing on it, assuming this will somehow 'remove' all the germs.

ELBONICS (el bon' iks) n. The actions of two people maneuvering for one armrest in a movie theater.

FRUST (frust) n. The small line of debris that refuses to be swept onto the dust pan and keeps backing a person across the room until he finally decides to give up and sweep it under the rug.

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*Life is a grindstone. Whether it grinds us down or polishes us up depends on us.
-- Thomas L. Holdcroft*