

# Colorado Supreme Court Task Force on Lawyer Well-Being



**Colorado**  
Lawyer Well-Being

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# Introduction

When we convened as a Task Force in the fall of 2018, we set out on an 18-month journey. We sought to explore the challenges to well-being in the legal profession in Colorado; to identify and promote the well-being resources currently available to the legal community; and to generate concrete recommendations for the Colorado Supreme Court, legal employers, and law schools to consider to improve the well-being of Colorado's more than 40,000 attorneys and judges. As discussed in our *Call to Action: The Colorado Supreme Court's Task Force on Lawyer Well-Being*,<sup>1</sup> we recognized that life in the legal profession is stressful, and that the same work ethic that enables us to persevere and succeed in this profession can also cause us to burn out, particularly when the culture of our profession rewards and glorifies overwork and demands perfection.

As we engaged in this work and learned more about these challenges from various experts in this arena, we began to envision ways to shift this culture by normalizing conversations about well-being and removing the stigma around help-seeking behaviors. We also began to think about lawyer well-being from a "peak performance" perspective, one that encourages lawyers to view well-being practices not as ancillary aids in times of crisis but as integral to being the best attorneys (and spouses and parents and human beings) we can be, every day.

Just as we were wrapping up our work and preparing to release our report in the spring of 2020, rapidly unfolding national and world events began to have a dramatic impact on the well-being of the legal community. The global COVID-19 pandemic, widespread social upheaval and racial reckoning in the wake of George Floyd's death, mass shootings, and the hyperpolarization of our national political environment, exacerbated the very issues our Task Force was confronting. These events created new challenges we felt compelled to address in our report.

We paused the release of the report in the spring of 2020 to take stock of the rapidly-changing well-being needs of the legal community. Since that time, a small but tenacious group of Task Force members stayed on as we planned (and re-planned) activities around the release of the report. These members and volunteers helped to update the draft to reflect our ever-changing environment.

Although the report itself was delayed, the work to implement the recommendations of the Task Force has been ongoing. The Colorado Supreme Court moved forward with the [Pilot Project Well-Being Recognition Program for Legal Employers](#); the Chief Justice formally established the Judicial Well-Being Standing Committee, which has undertaken several projects and initiatives aimed at improving the well-being of our judicial officers; we launched the [Colorado Judicial Well-Being website](#), with a rich trove of resources for judicial officers and judicial branch employees alike; and our Colorado law schools have renewed their focus on the well-being of law students by integrating themes of well-being

<sup>1</sup> J. Monica M. Márquez & Jonathan White, *Call to Action: The Colorado Supreme Court's Task Force on Lawyer Well-Being*, 96 DEN. L. REV. 247, 248 (2019).

into their curricula and ensuring that students are aware of resources available to them and to lawyers and judges, such as our [Colorado Lawyer Assistance Program \(COLAP\)](#) and the [Colorado Attorney Mentoring Program \(CAMP\)](#). In addition, the Colorado Supreme Court adopted a new continuing legal education (CLE) requirement focusing on equity, diversity and inclusivity in the practice of law, and making it easier for courses in civility and professionalism to count toward traditional ethics credits.<sup>2</sup> This new rule recognizes that lawyer well-being and job satisfaction are enhanced when EDI and professionalism are promoted in the practice of law.<sup>3</sup> If anything, the events of the last 20 months have highlighted the urgency and importance of the work of this Task Force, including, critically, the intersection of well-being and equity, diversity, and inclusion. In short, the myriad challenges of 2020-21 have made our work even more timely and relevant.

What began for me as an 18-month effort as Chair of this Task Force has evolved into a three-year, transformative journey. During that time, we all have experienced profound upheaval, stress, and loss. But the ongoing pandemic and other events that have shaken our world and our nation have revealed silver linings for the well-being of our profession. We have seen rapid shifts in the legal workplace environment, innovations in the ways in which we communicate and even appear in court (few of us in the public sector had experience with Zoom or WebEx when the Task Force began its work), and importantly, a heightened awareness of, and focus on, our well-being.

I am forever grateful to all the members of the Task Force, and especially to the members of our Planning Committee and the law student and law clerk volunteers who helped bring this report to fruition. Those Planning Committee members and volunteers include Emily Bartłomiejczuk, Hayden DePorter, Margaret Funk, David Hersh, Gideon Irving, Amy Phillips, Emily Mendoza, Sarah Myers, Ryann Peyton, Christopher Reeves, Rebecca Siever, David Stark, Dianne Van Voorhees, Andrew Vierra, Jonathan White, and Jessica Yates. A full list of Task Force members appears in Appendix 7. I am particularly indebted to Jonathan White, whose assistance over the last three years has been invaluable. The events of 2020-21 have handed us an opportunity to make lasting, positive changes in the legal profession. Let us leverage this momentum to shift the culture of the profession—for ourselves, our clients, our communities, and our justice system. **This is the vision of the Colorado Task Force on Lawyer Well-Being.**



Justice Monica M. Márquez, Chair  
Colorado Supreme Court Task Force on Lawyer Well-Being

<sup>2</sup> See C.R.C.P. 250.2(1)(a)(i) (requiring lawyers to complete two hours of education directed at equity, diversity, or inclusivity as part of a seven-hour legal professionalism component in a three-year CLE compliance period).

<sup>3</sup> Jayne Reardon, *Civility + Diversity=Inclusion, the Cornerstone of Innovation*, ABA L. PRACT. TODAY (July 12, 2019); Jayne Reardon & Bree Buchanan, *Lawyer Well-Being: An Uncharted Path to Increasing Diversity and Inclusion*, ABA LITIGATION SECTION (Feb. 19, 2018) available at <https://www.americanbar.org/groups/litigation/committees/diversity-inclusion/articles/2018/winter2018-lawyer-well-being-alcoholism-self-help/>.

# Executive Summary

## A PROBLEM

The law is an inherently demanding profession. Attorneys face constant demands and deadlines and must respond to unexpected issues. Technology now enables us to be reachable 24/7, which means lawyers may struggle to establish effective boundaries between their professional and personal lives and to balance work commitments with family, friends, and outside interests.<sup>4</sup> Lawyers are also “paid worriers.” The obligation to anticipate problems and plan for worst-case scenarios breeds anxiety, especially given that attorneys are often perfectionists<sup>5</sup> and have a professional duty to avoid error. Lawyers also report greater isolation than any other group of professionals, contributing to anxiety and stress.<sup>6</sup> Rising incivility in the profession only exacerbates these issues.<sup>7</sup> And on top of it all, the global pandemic and myriad challenges of 2020-21 have injected disruption and upheaval into everyone’s lives.

The lack of well-being in the legal profession is not breaking news. Awareness of the worrisome levels of substance abuse and mental health disorders among attorneys has grown in recent years. It is also no secret that attorneys (and particularly female and diverse attorneys) are failing to thrive in the profession as evidenced by significant attrition at law firms and across the profession generally. An expanding body of literature, surveys, and task force results confirm the magnitude of the problems in our profession.

- A 2016 study of 13,000 practicing lawyers found that between 21% and 36% qualify as problem drinkers and 19% to 28% are struggling with significant levels of depression, anxiety, and stress.<sup>8</sup>
- These problems lead to high absenteeism and under-productive lawyers resulting in high costs to law firms.<sup>9</sup>
- Lawyers are leaving law firms at high rates. In 2017, law firms lost to attrition an average of 16% of associates annually. Forty-four percent of associates leave within three years and 75% leave within five years.<sup>10</sup>
- Judges are not immune to these issues. For example, a 2020 report on stress and resiliency among judges showed that while the level of problematic alcohol use among judicial officers surveyed was lower than the rate reported in a survey on lawyer well-being released in 2016, it was still higher than for the general U.S. adult population.<sup>11</sup>
- A 2016 study showed that 17 percent of law students experienced some level of depression and 6 percent had serious suicidal thoughts within the previous year.<sup>12</sup>

4 Dina Roth Port, *Lawyers Weigh-In: How to Prevent Stress, Substance Abuse, and Depression in the Profession*, ABA J. (June 5, 2018), available at [http://www.abajournal.com/voice/article/lawyers\\_weigh\\_in\\_how\\_to\\_prevent\\_stress\\_substance\\_abuse\\_and\\_depression/](http://www.abajournal.com/voice/article/lawyers_weigh_in_how_to_prevent_stress_substance_abuse_and_depression/); Stewart Levine, *Well-Being for Attorneys*, L. PRAC. TODAY (Jan. 14, 2019), available at <https://www.lawpracticetoday.org/article/well-being-for-attorneys/>.

5 See Sarah Myers, *How to Deal with a Perfectionist*, COLO. L. ASSISTANCE PROGRAM (2017), [http://coloradolap.org/wp-content/uploads/2017/07/UL\\_How-to-Deal-with-a-Perfectionist.pdf](http://coloradolap.org/wp-content/uploads/2017/07/UL_How-to-Deal-with-a-Perfectionist.pdf).

6 Shawn Achor et al., *America’s Loneliest Workers According to Research*, HARV. BUS. REV. (Mar. 19, 2018).

7 See John Doyle, *Creating a Culture of Civility in the Practice of Law*, L. PRAC. TODAY (Jan. 14, 2019), available at <https://www.lawpracticetoday.org/article/culture-civility-practice-law/>.

8 Patrick R. Krill, Ryan Johnson, & Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46 (2016).

9 Jarrod F. Reich, *Capitalizing on Healthy Lawyers: The Business Case for Law Firms to Promote and Prioritize Lawyer Well-Being*, GEO. UNIV. L. CENTER (2019), available at <http://scholarship.law.georgetown.edu/facpub.2193> and <https://ssrn.com/abstract=3438029>.

10 NALP FOUNDATION, UPDATE ON ASSOCIATE ATTRITION 12 tbl. 6 (2017).

11 David Swenson, Joan Bibelhausen, et. al., *Stress and Resiliency in the U.S. Judiciary*, THE PROF. L. (2020), available at [https://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/journal-of-the-professional-lawyer-2020.pdf](https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/journal-of-the-professional-lawyer-2020.pdf).

12 Bree Buchanan, James C. Coyle, Anne Brafford, et. al., *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*, THE ABA NAT’L TASK FORCE ON LAW. WELL-BEING REP., 7 (Aug. 14, 2017), available at <https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWell-beingReportFINAL.pdf>.

Clearly, the stresses of our profession are taking a toll on our well-being.<sup>13</sup> And unfortunately, lawyers and judges often view getting help as a sign of weakness, and there is a stigma associated with reaching out for assistance.<sup>14</sup> But left unaddressed, these issues have consequences for us, our clients, our communities, our justice system, and the future of our profession.

## A SOLUTION

In August 2017, the National Task Force on Lawyer Well-Being, with strong representation from Colorado, including co-chair James Coyle (former Colorado Attorney Regulation Counsel), published *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*.<sup>15</sup> The National Task Force Report served as a call to action to address well-being and behavioral issues that can negatively impact the personal and professional lives of the legal community. The Report sought to harness the support of stakeholders across the legal community, including the judiciary, legal employers, solo and small firms, law school, judge and lawyer assistance programs, and bar associations, to de-stigmatize the topic of well-being and mental health in the legal profession, and to encourage the development of healthier practices among members of the legal community.

In response to the National Task Force's Report, the Colorado Supreme Court convened a Task Force on Lawyer Well-Being in the fall of 2018. Under the leadership of Justice Monica Márquez, the Task Force brought together nearly 60 lawyers, judges, law school deans, law students, and mental health professionals to consider ways to increase lawyers' and legal employers' awareness of these issues and to develop recommendations for enhancing well-being throughout the Colorado legal community. The Colorado Task Force adopted a variation of the National Task Force's definition of lawyer well-being, recognizing that "well-being" is multi-dimensional, encompassing an individual's intellectual, occupational, emotional, social, physical, and spiritual well-being.<sup>16</sup>

DEFINING LAWYER WELL-BEING					
A continuous process in which lawyers strive for thriving in each dimension of their lives:					
EMOTIONAL	INTELLECTUAL	OCCUPATIONAL	PHYSICAL	SPIRITUAL	SOCIAL
Value emotions. Develop ability to identify and manage our emotions to support mental health, achieve goals and inform decisions. Seek help for mental health when needed.	Engage in continuous learning. Pursue creative or intellectually challenging activities that foster ongoing development. Monitor cognitive wellness.	Cultivate personal satisfaction, growth, and enrichment in work. Strive to maintain financial stability.	Strive for regular activity, good diet & nutrition, enough sleep, and recovery. Limit addictive substances. Seek help for physical health when needed.	Develop a sense of meaningfulness and purpose in all aspects of life.	Develop connections, a sense of belonging, and a reliable support network. Contribute to our groups and communities.

Adapted from *The Report of the National Task Force on Lawyer Well-Being*, Bree Buchanan & James Coyle, et al. (2017).

13 See Joanna Litt, 'Big Law Killed My Husband': An Open Letter from a Sidley Partner's Widow, *AM. LAW.* (Nov. 12, 2018), <https://www.law.com/americanlawyer/2018/11/12/biglaw-killed-my-husband-an-open-letter-from-a-sidley-partners-widow>; see also Eilene Zimmerman, *The Lawyer, the Addict*, *N.Y. TIMES*, July 16, 2017, at BU1.

14 C.J. Jorge Labarga, *When Lawyers Need Help, Let's Make Sure They Don't Fear Getting It*, *FLA. BAR NEWS* (May 1, 2018); see also David Hersh, *The Good, The Bad, and The Ugly: Let's Get Real About It*, *THE DOCKET (DENVER BAR ASS'N)* (Dec. 12, 2017).

15 See Buchanan et. al, *supra* note 12.

16 See *id.*; ANNE M. BRAFFORD, *WELL-BEING TOOLKIT FOR LAWYERS AND LEGAL EMPLOYERS*, *AM. BAR ASS'N* (2018).

The Task Force convened several times over the ensuing 18 months, hearing from experts in this arena and dividing into five committees to focus on different facets of these issues.



**The Business Case Committee** created the Colorado Supreme Court Well-Being Recognition Pilot Program, to promote well-being initiatives among legal employers.



**The Resource Committee** studied ways to increase awareness of Colorado's existing programs and evaluated other tools and resources that might elevate and support the well-being of the Colorado legal community.



**The Law Student Committee** assessed the pre-practice roots of well-being challenges in the profession and created recommendations for law schools.



**The Judicial Committee** considered the unique stressors faced by judicial officers and made recommendations to support the judges of Colorado.



**The Data Gathering Committee** researched and discussed how data gathering, via a survey (or series of surveys) of current Colorado attorneys, could assist the Colorado Task Force in assessing concrete steps to promote well-being of the more than 40,000 licensed attorneys in Colorado.

Each of these committees operated with one vision in mind: a healthier profession for the entire legal community. The recommendations that follow seek to achieve that vision. Because several committees believed that addressing incivility in the profession is integral to that vision, this report includes a collective recommendation regarding systemic solutions to incivility.



# Business Case Committee Report

## INTRODUCTION

The Business Case Committee explored ways to encourage decision makers at law firms to invest in the well-being of their attorneys. Lawyer well-being is an economic issue, among other things.

- Substance abuse, depression, anxiety, and stress lead to high absenteeism and under-productive lawyers resulting in high costs to law firms.<sup>17</sup>
- Attrition is also costly. According to one estimate, the cost of replacing a departing associate ranges from \$200,000 to \$500,000, or roughly 1.5 to 2 times the annual salary of the associate. This hard-costs estimate does not include lost productivity, other lawyers' time, and disrupted intrafirm and client relationships.<sup>18</sup>

Clients are demanding law firms address these problems to ensure that they receive high quality, cost-effective legal services, and that lawyers assigned to a client's cases have a reasonable probability of remaining at the same firm.

The Business Case Committee recommends adoption of a Colorado Supreme Court Well-Being Recognition Program as a step forward in shifting the culture of well-being in Colorado's legal profession. To develop this Recognition Program, the Colorado Supreme Court authorized a one-year Pilot Program. The Pilot Program aimed to assess strategies to incentivize and recognize solo-practitioners and legal employers for implementing well-being strategies in their organizations. The Pilot Program provided participants with access to education, resources, support, and technical assistance to incorporate well-being strategies and recommendations into their organizations that encompassed six specific goal areas. Additionally, the Pilot created a Legal Well-Being Leadership Network to encourage dialogue, innovation, and accountability in implementing well-being practices in legal workplaces.

The Business Case Committee combined efforts with a "Pledge" working group during the pendency of its work in 2018 and 2019. The "Pledge" working group explored developing a pledge to lawyer well-being that Colorado legal employers could use. The working group merged with the Business Case Committee to advance a more robust concept: a formal well-being recognition program.

<sup>17</sup> Reich, *supra* note 9.

<sup>18</sup> NANCY LEVIT & DOUGLAS O. LINDER, *THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW* (2010).



## LAW FIRM AND LEGAL EMPLOYER CHALLENGES

In addition to the well-being issues confronting lawyers generally, certain additional challenges exist in the private practice sphere:

- Current law firm compensation models often leverage a high associate-to-equity owner ratio that prioritizes billable hours and emphasizes competition. This environment can erode the pillars of professional well-being: autonomy, belonging, competence, and motivation.<sup>19</sup>
- Law firm minimum billable hours continue to increase. Although inherently inefficient, the billable hour remains the standard measure of work. It is “the biggest reason lawyers are so depressed.”<sup>20</sup>
- Solo and small firm practitioners face unique stressors competing for business against larger firms, collecting from clients, and having to balance administrative work with substantive client tasks.<sup>21</sup>
- Law firm culture generally remains hierarchical and non-diverse. Environments that foster diversity, equity, and inclusion promote well-being.
- Clients increasingly harbor concerns that lawyer attrition will disrupt representation and ultimately increase costs. Clients want proof that legal employers and organizations employ well-being programs to maximize attorney retention and productivity.

## THE COLORADO SUPREME COURT WELL-BEING RECOGNITION PROGRAM

### A. Purposes of the Program

Several resources now exist for legal employers to promote attorney well-being. The Business Case Committee recommends adoption of a Colorado Supreme Court Well-Being Recognition Program as Colorado’s approach to advocate for “best practices” among legal employers based upon these resources. Promoting attorney well-being is good for business, good for clients, and the right thing to do.<sup>22</sup> The Recognition Program would be completely voluntary and, much like the existing voluntary pro bono pledge, would be based on the honor system. The Pilot Program offered six areas for legal employers to take action. Many larger law firms have already created well-being programs. The Recognition Program would not replace existing programs but would provide additional suggestions for best practices. The Pilot Program was designed for law firms, but many concepts described here apply to other legal offices, public service organizations, and in-house counsel. The Pilot Program Report will serve as a springboard for additional best practices for specific types of practices.

The Court supported the Pilot Program because it recognized that it is important for Colorado lawyers to understand the link between attorney well-being and professional competence and diligence, as well as the connection between well-being and professionalism and civility, not to mention attorney ethics. As the National Task Force Report explains, “we all contribute to, and are affected by, the collective legal culture. Whether that culture is toxic or sustaining is up to us.”<sup>23</sup> In addition, as explained in the National Task Force Report, lawyer well-being matters because it affects law firms’ bottom line the form of productivity, client satisfaction, and reduced turnover.

<sup>19</sup> Reich, *supra* note 9.

<sup>20</sup> *Id.*; Joshua E. Perry, *The Ethical Costs of Commercializing the Profession: First-Person Narratives from the Legal and Medical Trenches*, 13 PENN. J. L. & SOC. CHANGE 169, 184 n.57 (2009-2010).

<sup>21</sup> *Small Law Firms Face Familiar Challenges*, ABOVE THE LAW (Feb. 27, 2017) <https://abovethelaw.com/2017/02/small-law-firms-face-familiar-challenges-part-1/>.

<sup>22</sup> Buchanan et al., *supra* note 12.

<sup>23</sup> See generally Buchanan et al., *supra* note 12; see also Márquez & White, *supra* note 1.

The Well-Being Recognition Program is a way for Colorado's legal organizations to address these issues. The Pilot Program identified six areas of focus and offered multiple recommendations for legal organizations to discuss and consider for implementation, recognizing that there is no one-size-fits-all solution. The recommendations were strictly that: recommendations. They were not exclusive; the Pilot Program leaders encouraged legal employers and law offices to be creative.

## **B. Program Goals and Resources**

Because of the growing concern over substance abuse, mental health issues, and unhappiness in the profession, a wealth of resources and literature on attorney well-being have been published over the last few years. A major goal of the Pilot Program was to distill these significant resources for legal employers.

Several key resources became the foundation for this Program, including the National Task Force's 2017 report, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*, and the ABA's *Well-Being Toolkit for Lawyers and Legal Employers*, authored by Anne Brafford.<sup>24</sup>

Other helpful resources included the Massachusetts Supreme Judicial Court Steering Committee on *Lawyer Well-Being Report to the Justices*,<sup>25</sup> the Virginia State Bar publication, *The Occupational Risks of the Practice of Law*,<sup>26</sup> *What Makes Lawyers Happy? A Data-Driven Prescription to Redefine Professional Success* authored by Professors Krieger and Sheldon,<sup>27</sup> and *Capitalizing on Healthy Lawyers: The Business Case for Law Firms to Promote and Prioritize Lawyer Well-Being*, by Professor Jarrod Reich.<sup>28</sup>

## **C. The Six Program Goal Areas**

The Business Case Committee identified the following six program areas with specific recommendations that legal organizations could choose to implement. A full description of these program areas and the associated recommendations appears in Appendix 1.

### **1. Create a Culture of Well-Being Through Leadership, Accountability and Buy-In.**

- Well-being occurs from the top leadership through the rest of the legal organization. A committed law firm equity owner or committee including equity owner(s) should be responsible for developing an attorney well-being program with appropriate buy-in from attorneys throughout the firm. Likewise, leaders in other legal organizations must be involved. Goals should be developed along with assessment tools.

### **2. Foster Competence by Developing and Supporting Programs on Substantive Development and Mentoring.**

- Professional development is an investment that pays off for legal employers on many levels: it enhances competence and effectiveness of lawyers, instills a sense of dedication and belonging, and this demonstrated support can improve overall morale and well-being.

<sup>24</sup> Buchanan et al., *supra* note 12; BRAFFORD, *supra* note 16.

<sup>25</sup> SUPREME JUDICIAL COURT STEERING COMMITTEE ON LAWYER WELL-BEING REPORT TO THE JUSTICES (2019), available at <http://www.coloradosupremecourt.com/PDF/AboutUs/WellBeing/SJC-Steering-Committee-Lawyer-Well-Being-Report-July-2019.pdf>.

<sup>26</sup> Joseph Meek Bowen et al., *The Occupational Risks of the Practice of Law*, VA. STATE BAR ASS'N (May 2019), available at [https://www.vsb.org/docs/VSB\\_wellness\\_report.pdf](https://www.vsb.org/docs/VSB_wellness_report.pdf).

<sup>27</sup> Lawrence Krieger & Kennon Sheldon, *What Makes Lawyers Happy? A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554 (2015).

<sup>28</sup> Reich, *supra* note 9.

### **3. Develop Work-Life Integration and Flexible Work Schedules.**

- Flexible work arrangements respect lawyers' desire for autonomy and some measure of control over professional and personal lives. There are multiple ways that legal employers can convey that work-life integration is not just accepted, but expected.

### **4. Promote Diversity, Equity, and Inclusion to Increase Organizational Success and Well-Being.**

- Organizations should promote diversity, equity, inclusion, and multiculturalism, not just as good business practices, but because they contribute significantly to lawyer and staff well-being. Organizations should recognize that increasing cultural competence, addressing institutional and systemic barriers to success for diverse lawyers, and providing welcoming and inclusive work environments and organizational climates will lead to increased attorney wellness and retention.

### **5. Assess Compensation Metrics to Promote Well-Being.**

- Organizations should consider alternative ways to compensate lawyers and staff for performance beyond exclusive focus on the billable hour. Moving away from this single metric can decrease stress on employees, promote greater productivity, and bolster recruitment and retention of lawyers who have families, plan to start families, are required to care for family members, or may be close to retirement.

### **6. Make Clients Part of the Conversation About Well-Being.**

- Improved lawyer well-being translates to better service to clients and thus, better organizational success.
- Many clients believe in a culture of well-being for their employees and should expect the same standard from their lawyers.
- Legal organizations must communicate to clients their commitment to and the value of lawyer well-being.
- Partnering with clients on well-being strategies can cement the lawyer-client relationship and promote buy-in by all parties.

The collective purpose of these recommendations is to encourage legal offices in Colorado to address attorney well-being proactively. It matters to lawyers, it matters to clients, and it matters to the future of the legal profession.

## THE PILOT PROGRAM

The Pilot Program for the Colorado Supreme Court Lawyer Well-Being Recognition Program aimed to develop, organize, implement, and assess a sustainable, effective program for legal employers seeking to implement and improve well-being strategies and initiatives within their organizations. The year-long program began in July 2020 and was administered through the Colorado Attorney Mentoring Program. The Pilot Program aimed to:

- Develop the practical components of a state-wide Lawyer Well-Being Recognition Program including program branding, communication strategies, reporting tools, and recognition mechanisms.
- Engage at least 25 Colorado legal employers (including solo practitioners) in promoting or improving well-being within their organizations by implementing well-being strategies from each of the six program goal areas
- Host a minimum of four Legal Well-Being Leadership Network collaboratives with key stakeholders from participating legal employers to engage in dialogue and shared learning about lawyer well-being.
- Use the Legal Well-Being Leadership Network collaboratives to collect relevant data regarding the well-being strategies implemented by participants, outcomes associated with such strategies, the value of “recognition” as an incentive for program participation, general feedback and comment, and any other qualitative or quantitative data to demonstrate the impact of the Task Force Pilot Program on lawyer well-being in Colorado.
- Demonstrate, through proof of concept, the efficacy and feasibility of a formal Colorado Supreme Court Recognition Program to provide well-being leadership and capacity building to Colorado’s legal community.

The Recognition Program is based upon a collective impact model, which provides strategies to create collaboration across solo practitioners, law firms, government offices, non-profits, and corporate legal organizations to achieve significant and lasting social change. Using this framework, the Pilot Program collected data on the ability of such a program to promote lawyer well-being, educate and support participants, and incentivize Colorado legal employers to achieve well-being objectives through Supreme Court recognition.

Based on the qualitative and quantitative data collected in the formation and implementation of the Pilot Program, the Pilot Advisory Board recommends that the Colorado Supreme Court adopt a formal, standing well-being recognition program for legal employers. The outcome of the Pilot Program provides a viable “proof of concept” for a sustainable and scalable statewide well-being program that will support and incentivize legal employers of all types to create or expand internal well-being initiatives.

The Pilot Program results included the following data:

- 100% of participant respondents indicated that the program met or exceeded their expectations.
- Participants reported statistically significant learning growth related to their participation in the pilot program, with 100% of responding Pilot participants report that they are utilizing the skills and knowledge they learned in the Pilot Program in their organizational well-being work.
- At the beginning of the Pilot Program, 25% of respondents deemed their organization’s well-being efforts to be “Non-Existent” and 25% of respondents deemed their organization’s well-being efforts to be “In the Beginning Stages.” At the conclusion of the Pilot Program, 75% of respondents deemed the organization’s well-being efforts to be “Functional and Growing” with 0% of respondents indicating non-existent or beginning stages well-being initiatives.
- With respect to the recommended actions from the “Six Program Goal Areas” of the pilot program, 100% of respondents completed at least one of the recommended actions while 50% of respondents completed at least 11 of the 45 possible recommended actions and 1/3 of participants completed at least 21 of the 45 possible recommended actions.
- 100% of respondents are “likely” to participate in a future Colorado Supreme Court Well-Being Recognition Program for Legal Employers, as well as recommend the program to colleagues and peers.

To review the Final Pilot Program Report & Recommendations, follow this link:

<https://coloradolawyerwellbeing.org/final-report/>.

The Pilot Program provides a clear roadmap for promotion, facilitation, and evaluation of a well-being recognition program that can be straightforwardly applied to a future statewide effort. Utilizing the feedback from Pilot participants, the foundational scaffolding created by the Pilot Program can be further developed to generate an effective and accessible, first-of-its-kind lawyer well-being program in Colorado.

A formal implementation committee will convene later this fall to vision and establish the specific components of a future statewide well-being recognition program for legal employers. The implementation committee will be tasked with (1) design of specific program components, (2) definition of the form of “recognition” to be provided to program participants, (3) creation of key performance indicators, and (4) assessment of budgetary needs based on program components, management responsibility, and housing.

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# Resources Committee Report

## BACKGROUND AND OBJECTIVE

Personal well-being matters to all lawyers. Concern for attorney well-being should not be limited to those in management or those in crisis. Rather, professional success depends on taking care of oneself and one's colleagues. Lawyers know—either from personal experience or from peers—of the harm that results from prioritizing the profession's ever-present demands over needed self-care. Too many lawyers can give an anecdotal story of a personal or colleague's struggle with a mental health or substance use disorder. Further, too many lawyers experience isolation, particularly those in solo practice or working from home. The global pandemic has exacerbated this sense of isolation. The profession also falls short in its diversity, which corresponds to a diminished sense of belonging for many in the legal community. To spread the message about well-being and to combat the isolation many lawyers feel, the Colorado legal community needs resources that educate and inform lawyers on ways to take care of themselves and connect with others.

Colorado's legal community currently benefits from two robust and thriving programs connected to attorney well-being: the Colorado Lawyer Assistance Program (COLAP) and the Colorado Attorney Mentoring Program (CAMP). Both programs have grown substantially over the last several years. When the Colorado Task Force on Lawyer Well-Being convened in the fall of 2018, the Resources Committee examined ways to raise awareness of these excellent existing programs and to evaluate other tools that can elevate the well-being of the Colorado legal community.

## EXISTING RESOURCES: COLAP AND CAMP



### A. COLAP

COLAP is the free, independent, and confidential well-being program for the judges, lawyers, and law students of Colorado. COLAP began assisting Colorado's legal community in January 2012, following the adoption of Rule 254 by the Colorado Supreme Court in June 2011. COLAP's mission is to promote the well-being, resiliency, and competency of the legal community by addressing behavioral health concerns that compromise an individual's career, professionalism, cognitive skills, relationships, health, and overall efficacy. Concerns range from stress management, to burnout, compassion fatigue and secondary trauma, to drug and alcohol use, addiction, mental health, and career related concerns.

COLAP services include individual and workplace consultations, education through well-being and behavioral health CLE presentations and published articles tailored for the legal community, recovery support for substance use and mental health issues, assisting callers who have concerns about the well-being of colleagues or family members, providing thoroughly vetted and tailored referrals for personal and professional needs, critical incident/traumatic event support and processing, and voluntary monitoring agreements. COLAP's goal is to improve the civility and integrity of the legal profession, to assist in the retention of competent lawyers, and to protect the interests of the public.

COLAP operates independently from other agencies and entities, and all communications with COLAP are privileged and confidential. The COLAP team is uniquely qualified to assist the legal community with both their behavioral health issues and career-related concerns as both legal professionals and licensed clinicians, and all share a deep-seated commitment to this work.



## **B. CAMP**

The broad objectives of CAMP are to promote professional pride and identity in the legal profession; promote the pursuit of excellence in service to clients; and promote strong relationships between the bar, courts, clients, law schools, and the public, through the teaching of the core values and ideals of the legal profession and training in the best practices for meeting those ideals.

Mentoring is a solution to isolation in the profession. Mentoring breaks down organizational silos while also creating vital emotional stewardship. Mentoring relationships provide a safe space to discuss feelings, connect lawyers to resources that build resiliency, and offer peace of mind personally and professionally. That emotional support is vital as lawyers do their best to navigate a demanding profession. Mentoring has also been championed as a proven method to implement diversity and inclusion goals, close opportunity gaps, and retain lawyers within the profession.

CAMP generates meaningful and relevant mentoring relationships through 15 formal and informal mentoring programs. Each of these programs encourages mentoring pairs to incorporate principles of professionalism, ethics, law practice management, access to justice, and lawyer well-being into every mentoring relationship. CAMP also hosts educational speaking engagements for community partners across the state and produces monthly in-house professional development webinars through uniquely tailored CLE courses spanning topics related to Leadership Development, Practice Readiness, Practical Skills Training, and Professionalism & Wellness.

CAMP is a place where reflection, ambition, and constructive relationships lead to legal careers of purpose and positive consequence. The CAMP approach is to catalyze the power of collaboration among individuals with different perspectives, backgrounds, and areas of expertise to foster training and education with meaningful positive influence on legal practice in Colorado. CAMP cultivates an environment of thoughtful and informed professionalism and invests in the long-term intellectual, professional, and social growth of Colorado lawyers.

## EXECUTIVE SUMMARY

The Resources Committee met nine times between November 2018 and June 2020. The Committee makes the following recommendations:

1. Establish a Supreme Court committee charged with drafting a rule proposal that would allow Colorado lawyers to formally designate time off through a “notice of absence” filed in trial courts. At least two jurisdictions, Georgia and North Carolina, have such notices that could serve as templates for a Colorado rule.
2. Engage lawyers practicing outside the Front Range metro area with the message that lawyer well-being is important, as is connection. Ideas to accomplish this include:
  - A letter from the Colorado Supreme Court to chief judges of rural judicial districts regarding existing resources that support well-being;
  - Surveying local bar associations regarding resources, presentations, and programs that would be useful to their members when it comes to lawyer well-being;
  - Authorizing CLE seminars in non-traditional classroom settings, such as outdoor seminars;
  - Encouraging local bar associations to regularly offer gatherings so that lawyers in rural areas can connect with other lawyers. Activity-based gatherings may help incentivize involvement.
3. Create a brochure highlighting existing lawyer well-being resources in Colorado, including CAMP and COLAP, conveying the message that well-being matters to every member of the legal community, and providing “quick tips” that lawyers can employ daily to support their own well-being.

*Appendices 2-4 to this report discuss these specific recommendations in greater detail.*

In addition, the committee discussed other ideas for resources that would promote well-being. Those included:

1. Formation of a “speakers’ bureau” comprised of experts willing to present to lawyers, judges, and law students in Colorado on well-being topics;
2. Endowing a fund available to lawyers to offset the cost of mental health services;
3. Requiring lawyers to complete continuing legal education that pertains to well-being; and
4. Moving court e-filing deadlines from 11:59 p.m. to earlier in the afternoon or evening.

The committee did not pursue formal recommendations on these topics but believes it is important to discuss each briefly.



### **A. Speakers' Bureau**

The committee learned that COLAP presently maintains a list of individuals willing to share personal stories of recovery with individuals or groups, in addition to a group of volunteers who offer peer-to-peer support for behavioral health issues including stress management, substance use, and mental health issues. In addition, CAMP coordinates educational panels and seminars conducted by Colorado lawyers that incorporate aspects of well-being as they relate to professionalism and lawyer mentoring. The committee believes that there is no substitute for a convincing first-hand account of learning to manage or overcome a behavioral health issue that might impact someone's personal or professional life. Such accounts destigmatize these issues and may help encourage others to be proactive and get help. Lawyers interested in sharing their stories should consider getting involved with COLAP and CAMP.

### **B. Assistance Fund for Mental Health Services**

The committee believes mental health services would benefit many in the legal community, particularly young lawyers with student loan debt. It would require significant leadership and input from many stakeholders, as well as a willingness to address concerns such as confidentiality and administrative support. In the meantime, the committee learned that while COLAP cannot guarantee free resources for therapy, the agency does have a list of possible referrals, including the Waterman Fund of the Denver Bar Association for lawyers in practice over ten years whose license is in good standing and can demonstrate a financial need for assistance with the cost of therapy. In addition, employee assistance programs can be an option for some lawyers and should be promoted by employers. Making more lawyers aware of these existing resources is a positive step that does not require creation of a new fund.

### **C. Continuing Legal Education Requirements**

Mandatory continuing legal education on well-being issues will amplify the message but risks creating push-back if it is seen as a "must-do." Colorado has taken the positive step of allowing continuing legal education credit for well-being related programming.

### **D. Midnight E-filing Deadlines**

Last, a working group of this committee considered a recommendation to move the court e-filing deadline. That working group decided not to recommend a change, concluding that there is a benefit to lawyers and clients in having an 11:59 p.m. deadline, including flexibility for working parents and for lawyers who represent clients who need to meet outside the traditional 8 a.m. to 5 p.m. workday, and it allows lawyers the ability to use afternoon time for activities that promote well-being before returning to work tasks in the evening.

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# Law School Committee Report

The 2017 National Task Force on Lawyer Well-Being report, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*, provides 13 recommendations for all legal profession stakeholders, and then offers specific recommendations for judges, attorney regulators, legal employers, law schools, bar associations, professional liability carriers for lawyers, and lawyer assistance programs.<sup>29</sup> The recommendations seek to acknowledge the legal profession's mental health and substance use problems and to change the cultures in which law students are educated and lawyers practice law.<sup>30</sup> The National Task Force's report argues there are three reasons to address lawyer well-being: (1) to enhance the effectiveness of legal organizations; (2) to improve the professional and ethical behavior of lawyers; and (3) to help individual lawyers thrive in the physical, emotional, intellectual, occupational, social, and spiritual domains of work and life.<sup>31</sup>

The National Task Force report recommends that law schools:

- Identify organizational practices that may contribute to well-being problems, and assess changes that can be made;
- Educate faculty on well-being issues in the legal profession;
- Include well-being in the law school curriculum;
- Promote student resources that address mental health and substance use disorders;
- Survey student well-being anonymously;
- Facilitate networks to support students in recovery; and
- Discourage alcohol-centered social events.<sup>32</sup>

The Survey of Law Student Well-Being, the results of which were published in 2016, found that a high percentage of law students suffer from substance abuse and mental health disorders.<sup>33</sup> According to the same study, 17% experience some level of depression, 14% experience severe anxiety, 23% had mild or moderate anxiety, and 6% reported suicidal thoughts in the previous year.<sup>34</sup> Moreover, 43% of law students surveyed reported binge drinking at least once in the prior two weeks, and 22% reported binge drinking two or more times during that period.<sup>35</sup>

Law students have expressed a desire for practical information on how to address the stress, depression, anxiety, and substance abuse they encounter during law school. Law schools and law school faculty play a vital role in promoting student well-being efforts.<sup>36</sup>

<sup>29</sup> Buchanan et. al, *supra* note 12 at 4-6.

<sup>30</sup> *Id.* at 7, 12.

<sup>31</sup> *Id.* at 8-9.

<sup>32</sup> *Id.* at 35-39.

<sup>33</sup> Jerome M. Organ, David B. Jaffe, & Katherine M. Bender, *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 116 (2016).

<sup>34</sup> *Id.* at 136-37, 139.

<sup>35</sup> *Id.* at 129.

<sup>36</sup> *See id.* at 146-153.

The University of Denver Sturm College of Law (DU Law) and The University of Colorado Law School (CU Law) can create a sustainable and more healthy profession by focusing on mental health at the beginning of each law student and prospective law student's exposure to the profession.

The Law School Committee discussed at length the pressing issue of how DU Law and CU Law can create cultures of well-being so that students can thrive. The committee then developed a list of recommendations to guide legal educators and administrators in their efforts. As these guideposts and the full Lawyer Well-Being Task Force Report were about to be released to the Colorado legal community, the COVID-19 pandemic hit. Soon thereafter, George Floyd was murdered, resulting in nation-wide (even world-wide) protests and a renewed focus on systemic racism and racial justice issues. Over a period of a few short months, our world shifted in life-altering ways, prompting the Task Force committees to revisit their advice to the legal community, considering the current health and societal crises facing our nation and the legal profession.

Recognizing that COVID-induced conditions (hopefully) will not be permanent, it is nonetheless important for all law school stakeholders to understand that efforts to promote student well-being must necessarily consider the disparities in the pandemic's impact on students, depending on their life circumstances. Moreover, the renewed focus on systemic racism will, over the long term, continue to move students to demand that our institutions incorporate issues of racial justice and cross-cultural competence training into the law school curriculum. Students will also continue to place more pressure on law school officials to foster and promote diversity, equity, inclusion, and belonging in their educational environments. It is, therefore, imperative that everyone involved in setting students up for success in law school and beyond accept, without reservation, the connection between well-being and diversity, equity, and inclusion.<sup>37</sup>

The following recommendations consider the new normal we will face in a post-pandemic world, as well as the extra layer of support law schools must immediately provide for students, faculty, and staff who are still navigating learning and teaching during the pandemic. The committee also included suggestions for creating more diverse, inclusive law school environments and for requiring students to openly engage around issues of unconscious bias and systemic racism, all of which should be viewed as a permanent extension of the wake-up call we have received during this period of racial reckoning. The overall well-being of underrepresented students depends on the ability of law school faculty and administrators to establish a level playing field so that everyone, regardless of background and life experience, will know they can succeed. Indeed, the well-being of all students will be promoted by preparing them to address the needs and problems of our complicated society. The Law School Committee urges all law faculty and administrators to consider the following recommendations within the context of our current and future circumstances.

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<sup>37</sup> Buchanan et. al, *supra* note 12 at 36.

## LAW STUDENT WELL-BEING DURING THE COVID-19 PANDEMIC

1. Conduct informal survey of students regarding their needs during the pandemic.
2. Be very responsive to students (emails, texts, phone calls).
3. Expand schedules for remote counseling appointments.
4. Create online support tools.
5. Offer virtual support groups.
6. Conduct virtual town halls to keep students informed about COVID-19 protocols and provide opportunities for students to ask questions of senior administrators. In a crisis, emails are not enough.
7. Promote healthy coping mechanisms and self-care activities.
8. Until the pandemic ends, the landing page of law school websites should include links with direct access to Student Affairs and support resources relevant to navigating the pandemic.
9. Direct students to view Coronavirus Resources compiled by the American Bar Association. This set of resources includes a wealth of information regarding how to navigate the 1L year in a pandemic; adapting to remote learning; other online learning tips; how to succeed on remote law school exams; advice for recent law graduates and rising 3Ls as they navigate their job searches; Bar Exam updates; mental health resources; financial advice; and general COVID-19 information.<sup>38</sup>

## PERMANENT RECOMMENDATIONS FOR LAW STUDENT WELL-BEING

1. Create Law School Well-Being Committees to implement the initiatives outlined herein and consider implementing the other recommendations outlined in the 2016 study by the ABA Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation. These committees may consist of faculty, staff, and students.
2. Provide training for faculty and staff on law student well-being risks, mental health, and substance use disorders.
3. Develop a curriculum dedicated to in-depth coverage of lawyer well-being risks, topics, and resources to demonstrate the priority of law student well-being.
4. Incorporate well-being topics into all professional responsibility curricula and provide training for all faculty in methodologies aimed at integrating well-being issues into the teaching of any course.
5. With respect to Legal Ethics/Legal Professionalism class, reserve one class period for a guest lecture from a representative of the Colorado Lawyer Assistance Program (COLAP) to discuss well-being issues that impact the legal profession and offer resources to address those challenges.
6. For all required and elective courses, incorporate standard syllabus language regarding the availability of well-being resources provided by the law school and the larger university.
7. On each law school's website, publish all well-being resources offered by the law school, as well as

<sup>38</sup> *Coronavirus Resources and Information for Law Students*, A.B.A., available at [www.Americanbar.org/groups/young\\_lawyers/career-tools/coronavirus-resources-for-law-students](http://www.Americanbar.org/groups/young_lawyers/career-tools/coronavirus-resources-for-law-students).

support systems available across each university campus.

8. Create placards that faculty and staff can post on their office doors listing well-being resources available in each law school and across each university campus.
9. Include non-alcoholic alternatives at networking and social events for law students and prospective law students. De-emphasize alcohol-focused events and make them the exception, not the norm.
10. Recognizing the intersection of inclusion and well-being, collaborate with specialty bar association leaders in the Colorado legal community to provide specifically designed programming addressing those issues that can adversely impact the well-being of diverse students.
11. Develop formal mechanisms by which diverse law students can be introduced to diverse attorneys practicing in Colorado, e.g., panel discussions featuring diverse alumni telling stories about their own journeys through law school and their transitions into law practice.
12. Recognizing that mentoring often fosters greater engagement with the law school experience, encourage the mentor programs at DU Law and CU Law to partner with the Colorado Attorney Mentor Program (CAMP) to share valuable information regarding effective mentoring and to allow law students to participate in the informal mentoring opportunities currently provided by CAMP.
13. Recognizing the importance of formal academic advising to the well-being and success of law students, establish academic advising programs tailored to the administrative and academic structures of DU Law and CU Law.
14. Encourage designated members of the Law School and Business Case Committees to collaborate to develop a set of well-being related interview questions to be used by legal employers in their recruiting/hiring processes.
15. Recognizing that the well-being of diverse law students can be adversely impacted by interview processes legal employers use in recruiting and hiring, encourage designated members of the Law School and Business Case Committees to develop a guide to hiring across difference, including content designed to raise awareness about ways in which unconscious bias can affect decision-making across the spectrum of hiring processes.
16. Recognizing the long-term challenges of student loan debt and the resulting adverse impact on well-being, consider requiring law students to participate in loan repayment counseling and programming, as designed by DU Law and CU Law, so that each student is aware of his or her post-law school options regarding repayment.
17. An inclusive educational environment is one that values and celebrates differences. Creating such a climate requires shining a light on the history and lived experiences of underrepresented and oppressed groups in our country. Ignoring or downplaying this history further marginalizes diverse students and adversely impacts their well-being. These omissions in the legal education curriculum also do a disservice to majority students, who may otherwise be ill-equipped to use their legal skills to address the many inequities that still exist in our society. The Law School Committee therefore recommends that DU Law and CU Law review current course and program offerings addressing structural racism and the role law has played in perpetuating some of those systems. Both institutions should seek to fill gaps with more robust anti-racism and anti-bias curricular and extracurricular offerings.<sup>39</sup>

<sup>39</sup> Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 *CLINICAL L. REV.* 33 (Fall 2001).

18. Establish protocols and outlets for students to share concerns and fears regarding social unrest, racist incidents, and other distressing events occurring in our community and nation.
19. Offer opportunities for law students to engage in well-facilitated diversity dialogues or courageous conversations.
20. Establish an incident response team to address difficult interpersonal issues that arise between and among students, faculty, and staff.
21. Provide strong support (staffing and financial resources) for Offices of Diversity, Equity and Inclusion at DU Law and CU Law.
22. Provide ongoing unconscious bias training for students, faculty, and staff.
23. Develop a required class to teach students cross-cultural lawyering skills.<sup>12</sup>
24. Present a faculty development series addressing how to engage with students around the difficult social justice issues arising in assigned cases and other teaching materials.
25. Provide ally training for interested students, faculty, and staff.
26. Provide one-on-one inclusion coaching for all deans, managers, and directors—incorporating opportunities for individual leaders to explore their own biases and ways in which unconscious belief systems may drive decisions affecting the well-being of all members of the law school community.
27. Plan and present teach-ins for racial justice.<sup>40</sup>

The Law School Committee offers this list of recommendations to serve as a catalyst for brainstorming additional ideas from faculty, staff, and students at DU Law and CU Law as these institutions consider how to incorporate well-being and inclusion more effectively into their educational missions. Following the release of the Colorado Supreme Court Lawyer Well-Being Task Force Final Report, designated members of the Law School Committee will reach out to the deans of both Colorado law schools to schedule presentations on the decline of well-being among law students, current issues impacting diversity, equity, and inclusion, and the role that faculty and staff can play in fostering inclusive climates where all students can thrive.

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<sup>40</sup> Eddie Moore, *21-Day Racial Equity Habit Building Challenge*, AMERICA & MOORE, available at [www.eddiemoorejr.com/21daychallenge](http://www.eddiemoorejr.com/21daychallenge).



# Judicial Well-Being Committee Report

## BACKGROUND

In recent years, several organizations have studied the demands of being a judicial officer and the impact those demands can have on the health and lives of the individuals serving in that role. Professional stressors include long hours, heavy workloads, understaffing, weighty decisions, traumatic cases, and safety concerns.<sup>41</sup> Individual stressors can include feelings of isolation, hyper-empathy, and the weight of high expectations (both public and private) on judicial officers to be perfect. The National Judicial Stress and Resiliency Survey, the results of which were released in 2020, concluded that the demands of the profession can negatively impact judicial officers' mental health and personal lives.<sup>42</sup> Solutions to the problem are multifaceted. They involve both training and support to elevate professional performance and establishing a positive environment that redefines professional success to include quality of life, mental health, and overall well-being. Without question, achieving a healthy integration of work and life will not only assist judicial officers' professional development and performance, but also increase job satisfaction and career longevity.

The Judicial Well-Being Committee developed recommendations for providing whole-person support to judicial officers. The committee identified specific areas of concern including: physical and mental health, stress management, family life, chronic illness or disability, aging, anxiety, depression, substance abuse, and burnout. The committee also discussed ways to change a professional culture that emphasizes unhealthy practices such as overwork and isolation, and creating workplace policies that realistically address judicial workloads, stress, and work-life integration.

Studies show that stressors experienced by judicial officers and staff differ somewhat from those experienced by other legal professionals. While some resources are available to assist judicial officers in meeting their professional and personal goals—see Appendix 5 for details—additional steps can be taken. After careful consideration and a review of existing resources, the committee identified the following areas as critical to providing judges with meaningful support:

- Creating a culture of well-being
- Fostering well-being by promoting peak performance
- Improving well-being in performance of everyday duties

<sup>41</sup> Swenson, Bibelhausen, et. al, *supra* note 11.

<sup>42</sup> Buchanan et al., *supra* note 12; Swenson & Bibelhausen et al., *supra* note 11.

## RECOMMENDATIONS

### A. Creating a Culture of Well-Being

The first step in supporting the well-being of judicial officers and staff requires fostering a culture that supports and emphasizes well-being. Professional “success” should be redefined to include work-life integration, the promotion of physical and mental health, and strengthened personal and family connections. Since the committee concluded its work, Colorado Judicial has taken concrete steps to support and promote judicial officer well-being:

- The Supreme Court has established a Judicial Well-Being (JWB) Standing Committee to oversee and initiate well-being initiatives.
- The JWB Standing Committee has launched and maintains a [Colorado Judicial Well-Being website](#) with information about well-being resources, programming, and opportunities for connection.
- Several judicial officers (including members of the JWB Standing Committee) are working with Sumi Lee, the Head of Judicial Diversity Outreach, to promote a diverse and inclusive bench and foster a culture that values diverse backgrounds and perspectives in the judicial branch and employment structure. More information on the Judicial Diversity Outreach Program is available here: <https://www.courts.state.co.us/Administration/Unit.cfm?Unit=diversity>

*See Appendix 5 for in-depth information on the JWB Standing Committee, Website, and Diversity, Equity, and Inclusivity Initiatives, as well as additional details for implementation.*

### B. Fostering Well-Being by Promoting Peak Performance

Judges want to do their jobs well. Judicial officer well-being is critical to peak performance on the bench. The committee recommends the following programs that support peak performance by providing training on self-care and self-awareness:

- Under the leadership of Task Force member Judge Gilbert Román, Colorado Judicial has launched a “Peer-to-Peer Coaching” program to assist mid-career judicial officers with issues such as heavy caseloads; emotional and physical responses to burnout/stress/isolation/trauma; time management; work-life integration; and professional development.
- The committee recommends additional professional development training, including on-boarding, transition support, and proficiency tools that can boost individual productivity.
- The committee also recommends ancillary programs to foster a culture of well-being, including use of senior judges to allow judicial officers to take necessary time off to address family emergencies and to recharge, brown bag lunches to share information on best practices, and webinars devoted to cultivating mindfulness in the judicial environment.

*See Appendix 5 for a more detailed description of the Peer-to-Peer Coaching program, professional development training, and use of the senior judge program.*



### C. Improving Well-Being in Performance of Everyday Duties

To improve the well-being of judicial officers, the committee recommends raising awareness of the issues that affect the personal, emotional, and mental health and well-being of our judges, and providing readily accessible tools to improve judges' everyday experiences. The committee's findings include:

- Physical and psychological safety is a top priority for judicial officers and their families. The committee recommends promoting training and collaboration with other entities (such as the State Court Administrator's Office and law enforcement agencies) to establish best practice protocols; improve preparedness; protect judges' personal information; streamline emergency notifications; and educate judges on home and courtroom safety procedures.
- Judges need additional support to navigate the elevated stress and scrutiny that comes with high profile cases, judicial retention processes, and demanding workloads.
- The committee recommends exploring the availability of on-site, confidential counseling to assist judicial officers encountering demanding situations involving vicarious trauma, job-related stress, personal issues, and burnout.
- The committee recommends providing proactive well-being check-ins by mental health professionals to promptly assess judicial officers for symptoms of vicarious trauma, anxiety, irritability, PTSD, compassion fatigue, observation of disturbing evidence and situations, sleep deprivation, and burnout, all of which can affect a judicial officer's performance and long-term physical and mental health.
- The committee urges the State Court Administrator's Office to foster a culture that reduces the stigma associated with the mental health impacts of the role of a judicial officer. Potential tools to improve the current culture could include judicial well-being roundtables, promoting greater awareness of available tools and resources, and supporting a culture that reduces stigma associated with a perceived failure to meet "superhuman" judicial standards.
- The existing senior judge policy permits use of retired judges to substitute for judges on dockets to avoid interruptions based on personal or family illness / medical leave, vacancies, training, or overscheduling. The policy provides for vacation coverage for judges in certain circumstances. The committee recommends increasing the availability of senior judges to support judges who need time away to recharge and to address family matters. Specific recommendations include improving the speed of assignments to address both short-term emergencies and planned time away.
- A member of the JWB Standing Committee now serves as a liaison to the Senior Judge Program Advisory Committee. This liaison will work with the Senior Judge Program Advisory Committee to implement the above suggestions, including navigating potential budgetary ramifications.
- To explore anecdotal evidence of implicit bias in the judicial retention election process, the JWB Standing Committee issued a survey in the spring of 2021 to explore judicial officers' experiences with the judicial performance review process. At the time this Report was released, the qualitative data obtained from that survey was still under review. The JWB Standing Committee will explore recommendations based on that data, including collaboration with chief judges during the evaluation process, outreach to the Executive Director of the Judicial Performance Commission, and partnering with Colorado bar associations to expand the diversity and backgrounds of commission members.
- The committee recommends expanding staff training to include well-being and vicarious trauma tools.

- The committee notes that transitions throughout a judicial officer’s career, such as an assignment to a new docket or area of law, elevation to chief judge or other judicial leadership position, or retirement, require additional support tools. The committee recommends expanding professional development and other educational opportunities to help judicial officers navigate these transition periods.

*See Appendix 5 for more detailed information on safety and security, well-being recommendations and processes, the Senior Judge Program, retention support considerations, and transitional tools. An in-depth discussion of each tool and recommendation is contained in the attached appendices.*

In conclusion, consideration of the human needs of judicial officers and staff will enhance peak performance, better serve the community, and arm individuals with the tools they need to self-sustain and thrive in a uniquely demanding position.

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# Data Gathering Committee Report

## BACKGROUND AND OBJECTIVE

The Data Gathering Committee researched and discussed how data gathering, via a survey or series of surveys of current Colorado attorneys, could assist the Task Force in assessing concrete steps to promote well-being among Colorado licensed attorneys.

After reviewing the results of two 2016 surveys of lawyers and law students, both of which revealed alarming levels of problem drinking and mental health disorders among U.S. attorneys, and after reviewing the 2017 National Task Force on Lawyer Well-Being report, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*, the committee agreed it would be beneficial for the Task Force to explore conducting its own follow-up well-being survey.

The committee first considered duplicating some aspects of the lawyer well-being survey commissioned by the ABA Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation (“ABA CoLAP Survey”), released in 2016. To this end, the committee explored the use of commercially available general professional burnout and stress level surveys. Dr. Eve A. Wood, M.D., one of the original committee members, presented various commercial [well-being survey instruments](#) to the committee referenced on the National Academy of Medicine website. These instruments included: Maslach Burnout Inventory, Oldenburg Inventory, Physician’s Work-Life, Copenhagen Burnout Inventory, Stanford Professional Fulfillment Index, Well-Being Index, The Patient Health Questionnaire, and various surveys at [The Stanford Medical WellMD website](#) in the areas of inquiry including, but not limited to, stress, anxiety, PTSD, and alcohol use. Committee members paid for and took several of these surveys as part of our research. The commercially available surveys, with the exception of the free surveys at the Stanford Medical WellMD website, were expensive (a surcharge would be charged for each individual participant) and too general. Further, the committee concluded that the data produced by such surveys would largely duplicate the information gleaned from the ABA CoLAP Survey.

After a review of the options available, and after helpful and insightful feedback from Sarah Myers, Executive Director of COLAP, and Ryann Peyton, Executive Director of CAMP, the committee decided to focus on building upon the results of the ABA CoLAP Survey. Instead of duplicating that survey’s work, the committee endeavored to formulate a shorter survey designed to provide specific insight into what services lawyers use to address well-being issues, whether lawyers know about existing court or Colorado Bar Association (CBA) services, and what additional services lawyers think would be useful. Such a survey would also inquire into what independent tools and strategies (such as exercise and self-care) are employed by Colorado lawyers, legal employers, and other legal organizations to promote lawyer well-being.

## RECOMMENDATIONS

Through its discussions and research, the committee came to the following conclusions: (1) sufficient data from other data collection exists to identify that the legal profession is at increased risk of burnout, depression, and substance abuse, and (2) the committee prefers to focus on gathering data for specific solutions that could be implemented in Colorado by either the Colorado Supreme Court or other stakeholders (legal employers or the CBA) to benefit Colorado attorneys. Additionally, such a survey would allow the Task Force to: (1) assess the efficacy of communications/outreach of current Colorado Supreme Court well-being related programming, (2) identify categories of the lawyer population who are not currently receiving services, and (3) provide information in determining the appropriate level of support for additional services and/or outreach. Finally, in collecting the above-described data, questions can be posed as to whether lawyers are willing to pay out of pocket or pay a small amount in addition to attorney registration fees to support well-being service delivery.

Given that sufficient data already exists to conclude that legal professionals are at increased risk of burnout, depression, and substance abuse, the committee recommends the Court continue to support existing programs seeking to improve attorney well-being. The committee hopes that future targeted survey data can provide additional information on needed resources.

Appendix 6 describes four discrete options for conducting a survey on lawyer well-being in Colorado as envisioned by this committee. The options vary in complexity, cost, and duration. Some feature a single moment-in-time “snapshot” survey. Others contemplate repeated assessment with a control group. The options are as follows:

- **Self-Survey Option.** The Task Force would undertake its own bulk of study based on West Virginia’s lawyer well-being study.
- **Academic Option.** The Task Force would employ Dr. Matthew Thiese at the University of Utah to duplicate a lawyer well-being survey he designed and administered for the Utah State Bar, as well as include Colorado in ongoing research.
- **Commercial Option 1.** The Task Force would employ The Center for Health, Work & Environment (CHWE) to initiate a survey pursuant to its bid entitled “Proposal for Colorado Task Force on Lawyer Well-Being,” prepared by Liliana Tenney, MPH, and Dr. Lee Newman, MD, MA. CHWE is a leader in conducting research, education, and practice to advance worker health, safety, and well-being.
- **Commercial Option 2.** The Task Force would employ Fran Simon, a Colorado data collection and analysis specialist, to undertake data collection and analysis of Task Force designed survey. Ms. Simon’s recently designed, programmed, tested, collected the data for, and analyzed several public surveys regarding the well-being of different demographic groups, as well as recently completing a confidential work force survey for one of the largest state government legal employers.

*See Appendix 6 for more information about each of these options.*

Of these options, the committee recommends that the Court retain Dr. Thiese to conduct an initial survey as well as ongoing data gathering surveys. Such surveys would be issued to members of the Colorado bar, as well as law students and judges. The survey would be confidential and anonymous. In addition to assessing general information about the current state well-being among Colorado attorneys, Dr. Thiese's survey is intended to identify general underlying contributing factors negatively impacting attorney well-being. The survey would inquire about a variety of personal factors that may increase attorney well-being, such as current successful stress coping mechanisms, positive and negative professional environmental factors, incivility, and the availability and use of Court and employer-sponsored support resources. The survey would also invite Colorado lawyers to share their views about what should be done to promote improved well-being within the legal profession.

The committee also recommends the Court specifically engage stakeholders including diversity, specialty, local, and state bar associations, and large legal employers to support data collection efforts. The committee recommends the Court, in conjunction with the CBA, actively and publicly support these data collection efforts. We recommend the CBA consider partnering to pay costs associated with collection efforts, as this work would benefit the legal profession as a whole. If possible, the committee supports inviting large legal employers and private firms to support a fund to engage data collection efforts.

In sum, the committee recommends the Court set short and long-term goals regarding:

1. Improving access to existing services.
2. Commitment to long term data gathering and support of well-being initiatives.
3. The retention of Dr. Thiese to design, implement, analyze and report on a survey of Colorado attorney, law student and judge well-being.

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# Task Force Recommendation Regarding Systemic Solutions to Incivility

Civil behavior is a core element of attorney professionalism and well-being. As the guardians of the rule of law that defines the American social and political fabric, lawyers should embody civility in all they do. Not only do lawyers serve as representatives of their clients, but they also serve as officers of the legal system and public citizens having special responsibility for the quality of justice. To fulfill these overarching and overlapping roles, lawyers must make civility their professional standard and ideal.

Recently, lawyers have begun articulating the essential components of lawyer well-being to include the competency of professionalism and have included civility under this rubric.<sup>43</sup> Workplaces are implementing civility training programs to reduce incivility and burnout, foster respectful and enjoyable work settings, and increase employee engagement.<sup>44</sup> There are myriad ways in which civility is germane to the overarching goals of the legal profession and to the well-being of lawyers.

The needed rebirth of civility, at a critical juncture in the evolution of the legal profession, should be seen by lawyers not as pain, but as gain. As the research conclusively bears out, (1) civil lawyers are more effective and achieve better outcomes; (2) civil lawyers build better reputations; (3) civility breeds job satisfaction; and (4) incivility may invite attorney discipline.<sup>45</sup>

The COVID-19 pandemic caused lawyers to communicate differently. Prohibited from face-to-face meetings and in-person courtroom arguments, lawyers had to adapt to communicating primarily through video conference, telephone, and e-mail. The opportunities for regular last-minute, step-outside-of-the-courtroom discussions to stipulate to evidence or negotiate a settlement no longer exist in the same ways—at least for now. These face-to-face dialogues are rooted in accountability and cooperation, and they have been critical to civility and collegiality in our profession.<sup>46</sup> With this tremendous pressure is the obligation for the legal profession to discuss civility, collegiality, and engagement and to generate systemic solutions to incivility and the negative well-being risk factors associated with incivility.

As part of the 2021 CLE rule changes, the Supreme Court reformulated the seven-hour ethics requirement into a broader, legal professionalism requirement.<sup>47</sup> Educational programming directed at promoting civility has been incorporated into this expanded professionalism requirement. Lawyers may now earn credit towards the previously difficult-to-get ethics credits by taking professionalism educational programs. By expanding this category of CLE credits, the Supreme Court is seeking to promote greater civility in the practice of law, which in turn has been shown to promote greater well-being in the practice of law.

43 Jayne R. Reardon, *Civility as the Core of Professionalism*, ABA BUS. L. TODAY (Sep. 2014), available at [https://www.americanbar.org/groups/business\\_law/publications/blt/2014/09/02\\_reardon/](https://www.americanbar.org/groups/business_law/publications/blt/2014/09/02_reardon/).

44 Katherine Osatuke, Michael Leiter, Linda Belton, Sue Dyrenforth, & Dee Ramsel, *Civility, Respect and Engagement at the Workplace (CREW): A National Organization Development Program at the Department of Veterans Affairs*, 1 J. OF MGMT. POLICIES AND PRACTICES 1, 25-34 (2013).

45 Reardon, *supra* note 43.

46 Brooke Meyer, *Civility and Cooperation in the Time of Coronavirus*, IAALS BLOG (Apr. 23, 2020), <https://iaals.du.edu/blog/civility-and-cooperation-time-coronavirus>.

47 See C.R.C.P. 250.2(1)(a) and Regulation 103.1(2). The revised CLE regulations are available at: [https://www.courts.state.co.us/userfiles/file/Court\\_Probation/Supreme\\_Court/Rule\\_Changes/2021/Regulations%20marked%20%2B%20clean.pdf](https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/2021/Regulations%20marked%20%2B%20clean.pdf).

In 1996, the Conference of Chief Justices adopted a resolution calling for the courts of the highest jurisdiction in each state to take a leadership role in evaluating the contemporary needs of the legal community with respect to lawyer professionalism. In response, the supreme courts of 14 states have established commissions on professionalism to promote principles of professionalism and civility throughout their states.

Many more states have, either through their supreme courts or bar associations, formed committees that have studied professionalism issues and formulated principles articulating the aspirational or ideal behavior that lawyers should strive to exhibit. Nearly all of these professionalism codes state at the outset that they do not form the basis of discipline but are provided as guidance: attorneys and judges should strive to embody professionalism beyond the minimum set forth in the attorney rules of ethics. They also typically echo a theme found in the Preamble to the Model Rules of Professional Conduct: lawyers have an obligation to improve the administration of justice.

In 2004, the Supreme Court of South Carolina amended the oath attorneys take upon admission to the bar to include a pledge of civility and courtesy to judges and court personnel and the language “to opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications.” It also amended the disciplinary rules to provide that a violation of the civility oath could be grounds for discipline. Similar civility pledges were added to the lawyers’ oath of admission by the Supreme Court of Florida in 2011 and by the Supreme Court of California in 2014. Colorado’s oath of admission states that lawyers will “treat all persons whom [they] encounter in [the] practice of law with fairness, courtesy, respect, and honesty.”

Some state and local bar associations in New Jersey<sup>48</sup>, Illinois<sup>49</sup>, Florida<sup>50</sup>, and North Carolina<sup>51</sup>, have taken the voluntary aspirational codes further and have adopted an intermediary or peer review system to mediate complaints against lawyers or judges who do not abide by the aspirational code. It is challenging to implement an enforcement mechanism in a way that inspires voluntary compliance with an aspirational code and the success of these mechanisms has been inconsistent.<sup>52</sup>

The focus on lawyer well-being will be maintained only if it is someone’s or something’s responsibility to maintain that focus. To help all sectors of Colorado’s legal community learn of effective approaches and best practices for civility and its impact on lawyer well-being, it is necessary to create a place where individual initiatives intersect and create systemic solutions to curb incivility and its resulting well-being impact on the profession.

One such home for this work is the Colorado Attorney Mentoring Program (CAMP). Since 2016, CAMP has expanded its footprint in the Colorado legal community to offer much more than lawyer mentoring. CAMP’s work is driven by its core values of community, competency, and professionalism. To that end, CAMP is now recognized within the Colorado legal community as providing expert education, thought-leadership, and capacity building in areas of professionalism, civility, inclusion/belonging, communicating across differences, professional identity development, and leadership development in addition to providing access to meaningful mentoring and practice readiness skills.

48 PRINCIPLES OF PROFESSIONALISM, N.J. STATE BAR ASS’N, available at <https://tcms.njsba.com/PersonifyEbusiness/Default.aspx?TabID=2008>.

49 COOK COUNTY CIRCUIT COURT CIVILITY RULE, available at [https://www.cookcountycourt.org/Manage/Rules-of-the-Court/Read-Rule/ArticleId/50/13-11-Civility#:~:text=13.11%20Civility&text=\(i\)%20A%20lawyer%20shall%20treat,all%20written%20and%20oral%20communications](https://www.cookcountycourt.org/Manage/Rules-of-the-Court/Read-Rule/ArticleId/50/13-11-Civility#:~:text=13.11%20Civility&text=(i)%20A%20lawyer%20shall%20treat,all%20written%20and%20oral%20communications).

50 PROFESSIONALISM HANDBOOK, FLORIDA SUPREME COURT COMMISSION ON PROFESSIONALISM AND THE FLORIDA BAR STANDING COMMITTEE ON PROFESSIONALISM, available at <http://www.floridabar.org/tfb/TFBProfess.nsf/840090c16eedaf0085256b61000928dc/d6e4c998c764799685256b2f006cccf?OpenDocument>.

51 CREED OF PROFESSIONALISM. WAKE COUNTY BAR ASS’N, available at <http://www.nccourts.org/Courts/CRS/Councils/Professionalism/Creed.asp>.

52 Donald Nicolson, *Making Lawyers Moral? Ethical Codes and Moral Character*, 25 J. LEGAL STUD. 601 (Apr. 20, 2005), available at [https://strathprints.strath.ac.uk/917/1/LS\\_2025\\_4\\_20Nicolson\\_1\\_.pdf](https://strathprints.strath.ac.uk/917/1/LS_2025_4_20Nicolson_1_.pdf).

The CAMP office is well-positioned to further expand its role in cultivating civility and professional excellence in Colorado's legal community. Prioritizing civility in the legal profession facilitates effective communication, high-functioning teams, inclusive and productive communities, happier and more successful lawyers, and lawyer civic engagement. Put simply, prioritizing civility in the legal profession promotes professional excellence.

A potential restructuring of the CAMP office could meet this need through a focus on the following core priorities:

### **FOCUS AREA #1: SOCIAL RESPONSIBILITY**

A comprehensive appreciation of civility entails a focus on ethical and social responsibility in a diverse world.<sup>53</sup> Civility is a core ethical value that informs interpersonal interactions and supports social justice engagement. To achieve the profession's goals of providing access to justice, cultivating civic leaders, and improving public perception of the profession, lawyers must understand the characteristics of appropriate civil discourse and the inherent value to the profession and to the community of engaging as a civil member of bar.<sup>54</sup>

### **FOCUS AREA #2: COMMUNICATION**

Law is an adversarial profession. Lawyers must effectively solve problems while navigating overcrowded dockets, clients with reduced legal budgets, and increasingly limited opportunities for face-to-face communication with colleagues. This domain emphasizes the importance of clearly communicating one's ideas, expectations, and limitations, especially interpersonally. Inherent in civility is the ability to authentically communicate one's own personal ideas, while also respecting other people's outlooks. To achieve the profession's goals of sustainability and efficacy, lawyers must be committed to remaining actively engaged in dialogue in a manner that assures all voices are heard, even those with which one disagrees intensely.

### **FOCUS AREA #3: PROFESSIONAL IDENTITY**

Professional Identity encompasses effective self-reflection, teamwork skills, and leadership abilities. In line with this focus, civility includes the ability to think deeply about professional values, foster collaboration, and successfully encourage others. To meet the profession's goals of creating "Citizen Lawyers" and to support a lawyer's dual duties as officer of the legal system and public citizen, beyond the role client advocate, lawyers must reflect on professional values and professional identity. Routine reflection in these areas is paramount to the overall development of new lawyers as contributing members of the profession.

53 Shelley D. Lane & Helen McCourt, *Uncivil Communication in Everyday Life: A Response to Benson's "The Rhetoric of Civility"*, J. OF CONTEMPORARY RHETORIC, 3, 17-29 (2013), available at <http://contemporaryrhetoric.com/>.

54 Stephen Scales, *Teaching Civility in the Age of Jerry Springer*, 10 TEACHING ETHICS 1 (2010).



## **FOCUS AREA #4: MENTORING**

Law is a peer-review profession. Peer-review professions are those governed by an unwritten social contract under which society allows practitioners autonomy and self-regulation in return for the profession's commitment to the principles of professionalism, including effective peer review. Mentoring in many occupations serves a role modeling function, but mentoring in a peer-review profession has the unique additional obligation to internalize principles of professionalism and civility. Legal mentoring in Colorado must include a focus on civility if the profession is to realize its ideals and core values. Colorado's legal mentors must help lawyers develop professionally both in internalizing the principles of professionalism and in achieving the protégé's personal professional goals.

CAMP is already doing meaningful work in these four areas of focus. Restructuring and renaming the office to more accurately reflect this work could allow the office to more effectively reach and engage Colorado lawyers seeking to advance their own professional excellence.

Under a possible new structure and identity, Colorado can become a leader in providing lawyers with meaningful access to mentoring, leadership development tools, community building opportunities, practice readiness skills, and innovation in civility and professionalism. As such, the Task Force recommends that the Colorado Supreme Court create an exploratory process, engaging stakeholder representatives from diverse community perspectives, to recommend the most effective systemic solution(s) to address incivility and its associated well-being risk factors in Colorado's legal profession.

# APPENDIX 1

## SIX PROGRAM GOAL AREAS

BUSINESS CASE COMMITTEE

### 1. Create a Culture of Well-Being Through Leadership, Accountability, and Buy-In

Individual attorneys can take steps to advance their own mental wellness. They can engage in healthy lifestyles, limit the stresses in their personal and professional lives, and seek help when the need arises. When individual attorneys take steps to promote their own wellness, they simultaneously promote greater wellness in the legal profession.

However, individual effort is not enough. The legal profession will not achieve wellness unless the organizations that employ lawyers also commit to wellness. Improving wellness across these organizations will likely be in their best economic interests, in the form of reducing turnover and increasing productivity,<sup>55</sup> and it will make their organizations better places for their employees. But it will also require those organizations to change.

Change does not occur in organizations without leadership. Less than half of all organization change efforts meet their long-term goals.<sup>56</sup> Most of the time, change efforts fail because of employee resistance and lack of management support.<sup>57</sup> So the question becomes, “What are the actions that an organization must take to effectively change?”

Leaders play an active role in setting the culture of their organizations. Culturally, the legal profession has been slow to embrace attorney wellness and has, at times, celebrated self-destructive tendencies, such as overwork and the ability to “power through” personal challenges.<sup>58</sup> To break these cultural patterns, leaders in legal organizations cannot simply expect that change will occur without their active participation. Leaders must be the drivers and agents of change.<sup>59</sup> Stated another way, change is more likely to occur when leaders across the organization are willing to participate in the efforts for the betterment of a healthier whole.<sup>60</sup>

55 Reich, *supra* note 9.

56 Reed Desher, *The Role of Leadership in Change Management*, HUM. CAP. INST. (Jan. 20, 2017), [https://www.hci.org/system/files/article//files/field\\_content\\_file/The%2520Role%2520of%2520Leadership%2520in%2520Change%2520Management.pdf](https://www.hci.org/system/files/article//files/field_content_file/The%2520Role%2520of%2520Leadership%2520in%2520Change%2520Management.pdf).

57 Boris Ewenstein, Wesley Smith & Ashvin Sologar, *Changing Change Management*, MCKINSEY (July 1, 2015), <https://www.mckinsey.com/featured-insights/leadership/changing-change-management>.

58 Lizzy McLellan, *Is the Legal Industry Ready for a Culture Shift on Mental Health?*, LAW.COM (May 30, 2019).

59 Erika Jacobi, *Change Leadership v. Change Management – What Is the Difference and Why We Possibly Need Both*, LC GLOBAL (Nov. 30, 2015), <https://www.lc-global-us.com/change-talk/change-leadership-vs-change-management-whats-the-difference-and-why-we-possibly-need-both>.

60 Glenn Llopis, *Change Management Requires Leadership Clarity and Alignment*, FORBES (June 30, 2014), available at <https://www.forbes.com/sites/glennllopis/2014/06/30/change-management-requires-leadership-clarity-and-alignment/>.

Consequently, if an organization expects to promote change, its leaders must embrace a strategy that will allow it to forge a path to success. This path, derived from John Kotter's book *Leading Change*,<sup>61</sup> should include:

- **Establishing a Sense of Urgency:** As described throughout this document, attorney wellness is a crisis that the legal profession must confront openly and honestly. Unfortunately, many organizations, including legal organizations, are change resistant.<sup>62</sup> If leadership does not clearly establish "why" it is important for legal organizations to promote attorney wellness in a manner that can overcome complacency, particularly with mid and entry level<sup>63</sup> attorneys, any subsequent efforts may fall short.<sup>64</sup>
- **Creating the Guiding Coalition:** Many efforts to promote attorney wellness fail, despite good intentions, because leaders in the organization have not established ongoing responsibilities and support for them. Leaders must lead change from the top,<sup>65</sup> play an active role in supporting attorney wellness, and identify and charge the people who are going to lead the efforts to promote wellness. That guiding coalition must necessarily contain visible leaders in the organization, but it should also include others, such as those vested with human resources or managerial functions, who can enable success.<sup>66</sup>
- **Developing a Vision and Strategy:** Attorneys are busy professionals who face competing demands for their time and attention. Unfortunately, it is also true that many attorneys most in need of help are reluctant to admit it or seek it. To build empathy and shared purpose<sup>67</sup> and overcome some of the tendencies that could prevent a wellness effort from taking hold, the guiding coalition must first develop a vision of what the organization hopes to achieve and then develop an ongoing strategy to implement the vision across the organization.<sup>68</sup>
- **Communicating the Vision:** Most organizations underestimate the challenge of implementing change and fail to account for this difficulty when communicating their vision.<sup>69</sup> A coordinated communications strategy must first address the problems that prompted the organization to focus on attorney wellness and then provide ongoing messaging about both the continuing commitment and resources that will be focused toward addressing the problem.
- **Empowering Broad-Based Action:** Often legal organizations are both hierarchical and siloed.<sup>70</sup> In such an environment, attorney wellness runs the risk of becoming classified as another person or department's "problem." Breaking down the hierarchy, removing structural barriers<sup>71</sup> and silos, and thinking deliberately about how to empower people across the organization to work together to address attorney wellness creates broader-based support for a shared goal.<sup>72</sup>

61 John P. Kotter, *LEADING CHANGE* (2012).

62 *Overcoming Lawyers' Resistance to Change*, THOMAS REUTERS, <https://legal.thomsonreuters.com/en/insights/articles/overcoming-lawyers-resistance-to-change>.

63 Kotter, *supra* note 61 at 51.

64 Tessa Basford & Bill Schaninger, *The Four Building Blocks of Change*, MCKINSEY QUARTERLY (Apr. 11, 2016), [https://www.mckinsey.com/~/\\_media/McKinsey/Business%20Functions/Organization/Our%20Insights/The%20four%20building%20blocks%20of%20change/The%20four%20building%20blocks%20of%20change.ashx](https://www.mckinsey.com/~/_media/McKinsey/Business%20Functions/Organization/Our%20Insights/The%20four%20building%20blocks%20of%20change/The%20four%20building%20blocks%20of%20change.ashx).

65 Jacobi, *supra* note 59.

66 Kotter, *supra* note 61 at 51.

67 Ewenstein, *supra* note 57.

68 Desher, *supra* note 56.

69 Kotter, *supra* note 61 at 89.

70 *Overcoming Lawyers' Resistance to Change*, *supra* note 62.

71 Kotter, *supra* note 61 at 106.

72 *Id.* at 119.

- **Generating Short Term Wins:** Most change efforts fail because they never start.<sup>73</sup> Many organizations announce their ambitions, pledge to address a problem, and then set to work figuring out how to address it. A better strategy recognizes that change is incremental and identifies some short-term wins that the organization can claim and highlight.<sup>74</sup> This strategy allows the organization to maintain interest in solving the problem, demonstrate to skeptics that progress can occur, and sets the foundation for additional efforts.<sup>75</sup>
- **Consolidating Gains and Producing More Change:** Attorney wellness is a multifaceted problem, and the strategy for promoting attorney wellness must therefore also be multifaceted. During the process, it is important to take a step back and assess progress on multiple fronts, consolidate the gains that have been made across the organization, communicate them, and use them as the impetus for making more change.<sup>76</sup>
- **Anchoring New Approaches in the Culture:** As described above, leaders play a vital role in creating and sustaining organizational culture,<sup>77</sup> and attorney wellness efforts risk becoming short lived if they do not become part of the organization's culture. Leaders must continuously renew the focus on attorney wellness, demonstrate that it is consistent with the organization's best business interests, and invest stakeholders across the organization in building attorney wellness into the organization's ongoing business practices.

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73 Jacobi, *supra* note 59.

74 Ewenstein, *supra* note 57.

75 Kotter, *supra* note 61 at 127.

76 *Id.* at 150.

77 *Id.* at 166.

## Recommendations:

1. Recruit committed leaders. Firms should assign an equity owner interested in attorney well-being to review the available resources and educate the firm. An attorney or a committee should be designated as the well-being coordinator. Equity-owner buy-in is critical to demonstrate personal commitment to well-being. Similarly, leaders in other types of legal organizations need to be involved.
2. Reach a legal organization consensus with as much attorney input as possible on what constitutes well-being within the culture of the organization. Track the suggested areas contained in this template. Create any new areas deemed important.
3. Sign the ABA pledge on attorney well-being. Begin a plan to fulfill the commitments of the seven-point pledge:
  - Provide education to attorneys and staff on well-being topics such as mental health and substance abuse.
  - Disrupt the status of drinking-based events.
  - Develop visible partnerships with outside resources committed to reducing substance abuse disorders and mental health distress.
  - Provide confidential access to free addiction and mental health experts and resources, including self-assessment tools.
  - Develop proactive policies and protocols to support assessments and treatment for substance abuse and mental health problems.
  - Actively and consistently demonstrate that help-seeking and self-care are core firm cultural values.
  - Highlight the adoption of this well-being framework to attract and retain the best lawyers and staff.<sup>78</sup>
4. Analyze the remaining gaps between the desired well-being environment and the current office environment. Identify priorities to address.
5. Create a well-being plan. Consider:
  - The elimination or modification of existing policies that may be barriers to well-being.
  - The creation of new policies to promote well-being.
  - Providing training and education on attorney well-being and include these resources in new lawyer orientation.
  - Including well-being goals in performance reviews.
  - Asking about any well-being issues during exit interviews.
  - Supporting attorneys in their personal well-being plans.
  - Informing attorneys of the resources offered by the Colorado Lawyer Assistance Program (COLAP), [www.coloradolap.org](http://www.coloradolap.org).

<sup>78</sup> See Buchanan et al., *supra* note 12.

6. Create measurements and evaluations of well-being programs, including:
  - Subjective satisfaction with, and attitudes toward, well-being programs.
  - The extent of learning new information and skills.
  - Positive behavioral changes.
  - Measures of individual lawyer well-being and the elimination of unnecessary system stressors.

## 2. Foster Competence by Developing and Supporting Programs for Substantive Development and Mentoring

Why implement a professional development training program at your legal organization? To keep your clients happy, you must teach your lawyers and staff how to serve them. To keep your lawyers happy, engaged, and thriving, you must teach them how to do their job successfully.

Teach them how to write, advocate, and negotiate. Teach them the business of law, how to market, and how to interact with clients. Teach them your expectations, your organization's culture, your beliefs, and your values.

A 2020 PwC report, "Millennials at Work: Reshaping the Workplace," revealed that the millennial generation values the "opportunity for progression" within an organization as the single most important factor enticing them to a particular employer.<sup>79</sup> Such opportunities were of greater import than compensation.<sup>80</sup> Consequently, legal employers must focus on the "experience of practicing law." For starters, employers can promote collegiality and collaboration through mentoring and shared professional development experiences. Furthermore, legal employers can inspire consistent and committed hard work and effort by refocusing on investing in their lawyers.

This also makes professional development an increasingly important aspect of succession planning. By investing in its future leaders, legal employers will ensure that employees have the right skills to match the organization's growing needs and empower them to drive their own career advancements.

Investing in professional development creates a sense of belonging in lawyers which can improve your organization's recruitment of talent and, more importantly, retention of that talent. When an attorney leaves a firm, the cost to the firm ranges from \$400,000 to more than \$800,000 (for experienced attorneys).<sup>81</sup> Turn over costs the legal industry roughly \$9.1 billion annually.<sup>82</sup> The value proposition of professional development is easily found in the potential savings on lawyer attrition.

Finally, investments in professional development also decrease the risk of legal malpractice claims and attorney discipline. Teaching lawyers how to do their jobs effectively and efficiently will have significant preventive benefits to your organization's bottom line.

<sup>79</sup> MILLENNIALS AT WORK: RESHAPING THE WORKPLACE, PwC (2020), <https://www.pwc.com/co/es/publicaciones/assets/millennials-at-work.pdf>.

<sup>80</sup> *Id.*

<sup>81</sup> Mark Levin & Bruce MacEwen, *Assessing Lawyer Traits & Finding a Fit for Success*, JD MATCH (Mar. 2014), <http://therightprofile.com/wp-content/uploads/Attorney-Trait-Assessment-Study-Whitepaper-from-The-Right-Profile.pdf>.

<sup>82</sup> *Id.*

For more information regarding best practices of effective legal professional development programs consider the following resources:

- [TRAINING YOUR LAW FIRM ASSOCIATES](#), DRI (2017).
- Jill Switzer, [Millennial Lawyers Need Mentors, But the Legal Profession Is Slacking](#), ABOVE THE LAW, May 2, 2018.
- Jonathan White, [Self-Assessment Program Aims to Enhance Lawyer Competency and Client Satisfaction](#), COLO. LAW., Oct. 2017.
- Jordan Furlong, [Professional Development for the Future Law Firm](#), PD QUARTERLY, Nov. 2017.
- Sarah Kellogg, [The Professional Development Imperative: Ongoing Training Keeps New Lawyers Invested](#), WASH. LAW. July/Aug. 2015.

## Recommendations:

1. Create or redesign a professional development program that is available to all attorneys and incorporates all or a portion of the following best practices and characteristics:
  - The program is strongly supported and driven by the leadership of the organization.
  - The program incentivizes lawyers to participate either as trainees or as presenters. For example, an organization's commitment to stated billable hours goals or elements of its compensation system should reward active participation in professional development programs by all of its lawyers.
  - The program is targeted at all lawyers in the organization, not just new or young lawyers.
  - The program is designed to deliver appropriate levels of training at different stages of a lawyer's career.
  - The program covers "soft skills" as well as technical legal skills, including leadership, business development, client relationship management, supervision, teamwork, communications, and the like.
  - The program links formal training with on-the-job learning through coordination of assignments, mentoring, and other means.
  - The program incorporates highly interactive teaching methods.
2. Implement assignment systems that ensure equal access to challenging work and key clients. Create an assignment system that gives lawyers opportunities to develop expertise and work with colleagues at all levels of influence. Incentivize partners to choose different associates for different projects.
  - Monitor associates' work experience.
  - Ensure women and minority lawyers have the same opportunities to work on high quality, challenging projects with senior lawyers.

3. Create a meaningful evaluation system. Provide ongoing and timely feedback to lawyers so they can improve their skills. Incorporate associate-driven professional goal-setting into the evaluation process, to include work for the organization/employer and other professional and civic activities.
  - Focus on creating dynamic evaluations with substantive, meaningful feedback to provide lawyers with direction regarding career advancement.
  - Include discussion of the status and accomplishment of the associate's individualized goals and expectations as an agenda item at the time of the associate's annual performance review.
4. Create an effective and sustainable internal mentoring and sponsorship program that addresses and promotes the growth and development of junior lawyers, providing a sense of certainty that:
  - They are on the road to a rewarding career.
  - They are part of a team with more-experienced lawyers always available for consultation and advice.
  - Their work is important.
  - They receive constructive feedback.
  - Their professional development and individual career goals are important and supported by the organization.

One approach is to use the Colorado Attorney Mentoring Program to assist in developing these programs or improving current internal mentoring and sponsorship programs. Visit [www.coloradomentoring.org](http://www.coloradomentoring.org) for more information on the CAMP program.

5. Create an effective and sustainable "reverse mentoring" program where senior lawyers are paired with junior lawyer mentors to:
  - Close knowledge gaps.
  - Empower emerging leaders.
  - Bring generations together.

One approach is to use the Colorado Attorney Mentoring Program to assist in developing these programs or improving current internal mentoring and sponsorship programs. Visit [www.coloradomentoring.org](http://www.coloradomentoring.org) for more information on the CAMP program.

6. Complete the [Colorado Lawyer Self-Assessment](#) or incorporate the Self-Assessment into your organization's professional development/training program.
7. Ensure equal access to your organization's formal and informal professional development opportunities and mentoring opportunities for women and minority lawyers.

One approach is to use the Center for Legal Inclusiveness to provide training on topics such as:

- Implicit bias.
- Institutional barriers to inclusion.
- Best practices for creating inclusive legal organizations.



### 3. Develop Work-Life Integration and Flexible Work Schedules

Work-life integration is different from work-life balance. Work-life balance views work and life as separate spheres competing against one another for time and attention. Approaches to well-being centered on work-life balance have not worked well, especially in an era where it is difficult to shut down one part of life for another part of life. Work-life integration acknowledges that different parts of life shouldn't be in competition, but instead should support and nurture one another. It creates supportive structures within our professional lives, personal lives, and communities, and not a single-minded focus on maximizing one aspect of life. It is the intersectionality of work, home, community, and self. What that translates to is that each aspect of life—work, home, community, and self—becomes integrated without seeing any aspect as a sacrifice, viewing each part as supporting and nurturing of other parts.

Perhaps the most important aspect is finding the through-line or passion for each person. If a person can thread, for example, a love of art through each sector of their life, that attorney will be much more likely to find not only success, but also sustainability. If a person is allowed to pursue their passion at work for 5-10% of their time, they are much more likely to be happy, healthy, and will remain longer at a position.<sup>83</sup> If you're able to pinpoint what truly inspires a colleague, you're able to make a connection. That connectedness is critical in identifying how to retain an employee and how to engage and motivate them. It is the difference between thriving in a workplace and surviving in a workplace.

Google, for example, has a 20% rule which allows employees to devote an entire day each week to a Google-related passion project of their own choosing. The results are "phenomenal."<sup>84</sup>

Start by considering three principles: be real, be whole, and be innovative. To be real is to act with authenticity by clarifying what's important to you. To be whole is to act with integrity by recognizing how the different parts of your life (work, home, community, self) affect one another. This increases productivity, recruitment, and retention in very real ways. It also enhances an organization or individual's reputation—what many refer to as "brand enhancement."

#### **To Achieve Work-Life Integration, We Recommend the Following:**

1. Set values rather than policies in a workplace.
2. Encourage flexible schedules including remote work and project-based work.
3. Encourage and award vacations to avoid burnout.
4. Reward employees who exemplify the values of the organization, not simply "winning" or bringing in new clients.
5. Encourage dialogue.
6. Encourage self-expression.
7. Encourage using "work hours" to fulfill personal and home needs.
8. Support individuals bringing their authentic selves to work.
9. Consider on-site services (in-house health clinics and mental health services so employees can seek help early; some companies offer free nutritious meals and massage therapists on-site).

83 Samantha Radocchia, *Why Encouraging Your Team to Work on Passion Projects Benefits Your Company*, HACKERNOON (Aug. 2, 2015), <https://hackernoon.com/why-encouraging-your-team-to-work-on-passion-projects-benefits-your-company-c62eb2a5592f>.

84 Bryan Adams, *How Google's 20 Percent Rule Can Make You More Productive and Energetic*, INC. (Dec. 28, 2016), <https://www.inc.com/bryan-adams/12-ways-to-encourage-more-free-thinking-and-innovation-into-any-business.html>.

Flexible schedules and remote work are critical for a future workforce. Many industries already use different work arrangements to maximize productivity and to reduce burnout. The legal profession has yet to adopt many practices already in place in other fields. Although it should be discouraged, it is not unusual for employees to work during a vacation. Given that, it should not be frowned upon when an employee takes time off work to attend a school event. Encouraging employees to attend life events during the workday nurtures work and loyalty in employees.

Flexible schedules and remote work respect lawyers' desire for autonomy and control over their professional and personal lives. Legal organizations can promote this sense of autonomy by strategically delivering a message of balance when it comes to billable hour targets. Creating policies that explain that an inability to meet a billable hour target will not automatically result in termination or that encourage lawyers to proactively discuss why they may not meet a target without fear of penalty, convey an important message. They demonstrate that the organization values employee health, taking time to recharge, and commitment to family more than evaluating performance based on single metric. Likewise, setting a limit on the number of billable hours that may be rewarded reinforces the message that quality performance and client service is the organization's main objective. In addition, there is value in time off. Assume every employee will have at least two weeks of vacation a year when creating billable hour targets.

Further, legal employers should recognize that an inability to "disconnect" due to technology interferes with well-being. Studies show individuals will hold their breath while scrolling through and checking email.<sup>85</sup> Accordingly, think about an organization policy to discourage email use at night or before a certain hour in the morning. Lawyers, staff, and clients may be grateful not to hear their phone chime at midnight. Leadership is instrumental in forming new habits for an organization. Partners and other leaders within a legal organization should not routinely break the rule of respecting a person's time and should refrain from emailing late into the evening.

Businesses lose between \$450 billion and \$550 billion per year due to employee disengagement and burnout.<sup>86</sup> Research shows that more autonomy produces a happier and more engaged employee rather than increased pay, especially regarding Millennials.<sup>87</sup>

A foundation for increasing autonomy is a flexible work schedule which includes flexibility over daily schedules and over a person's career arc.

Beyond flexible schedules, employees should be encouraged to disconnect from work and recharge by taking vacations and not engaging in any work while they are on vacation. Taking extended breaks from work makes employees happier and more productive (68%).<sup>88</sup> Some companies have encouraged employees to use vacation time by paying them.<sup>89</sup> FullContact started giving "paid, paid vacations" where they pay employees \$7,500 to take a full vacation.<sup>90</sup> The legal profession should similarly value attorneys and employees and their contributions to an organization's success.

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85 Leslie Gordon, *How Lawyers Can Avoid Burnout and Debilitating Anxiety*, ABA J. (July 1, 2015), available at [http://www.abajournal.com/magazine/article/how\\_lawyers\\_can\\_avoid\\_burnout\\_and\\_debilitating\\_anxiety](http://www.abajournal.com/magazine/article/how_lawyers_can_avoid_burnout_and_debilitating_anxiety).

86 Jayson DeMers, *Research Says This Is the Secret to Being Happy at Work*, BETTER (May 22, 2017), <https://www.nbcnews.com/better/careers/research-says-secret-being-happy-work-n762926>.

87 *Id.*

88 Lisa Frye, *More People Are Taking Time Off, and That's Good for Business*, SHRM (June 1, 2018), <https://www.shrm.org/resourcesandtools/hr-topics/employee-relations/pages/workers-taking-more-vacation.aspx>.

89 Nancy Mann Jackson, *Science Says Your Employees Need Days Off*, FORBES (June 1, 2018), available at <https://www.forbes.com/sites/adp/2018/06/01/science-says-your-employees-need-days-off/#2d52aea62218>.

90 Jena McGregor, *Five Clever Ways Companies Are Helping Employees Fight Burnout*, THE WASH. POST (Sept. 30, 2014), available at <https://www.washingtonpost.com/news/on-leadership/wp/2014/09/30/five-clever-ways-companies-are-helping-employees-fight-burnout/>.

The increase in remote work due to COVID-19 put a spotlight on the inequitable distribution of home/life responsibilities, with women bearing the burden of “domestic work” in opposite-sex couples.<sup>91</sup> Women tend to do more of the domestic work and child-related planning even when the woman makes more money.<sup>92</sup> However, there is an opportunity to improve the ability for women to pursue career aspirations by making remote work permanent. Many tech companies are actively making remote work permanent for many, if not all, of their employees. From the open office, to even more agile developments, trends in the tech sector percolate into the broader corporate world. Some companies outside tech are following suit in the move to permanent remote work.<sup>93</sup> Many in the legal profession would benefit from flexible work arrangements and understanding childcare needs.

## Recommendations:

1. Transparency and encouragement about remote/flexible work policies.
2. Real-time feedback—it is critical for employees to obtain real-time feedback, especially in remote work situations.
3. Required in office touch points—there is such a thing as too much of a good thing. There should be regular check-ins and face time to allow colleagues an ability to connect and share knowledge.
4. Change—an acknowledgement that work arrangements are an evolution and will continue to change as the labor market and technology change.
5. Offer a range of flexible work options including, but not limited to:
  - Remote working availability;
  - Reduced work hours plan;
  - Balanced hours plan;
  - Sabbatical availability;
  - Job sharing;
  - Compressed schedules;
  - On-ramping.
6. Consider a maximum cap on the number of billable hours for which lawyers can be rewarded or compensated in any given year.
7. Explain to lawyers that an inability to meet the minimum hour requirement will not automatically trigger termination.
8. If it is within the firm’s business model, promote non-partner track options less focused on billable hours.

<sup>91</sup> Jessica Bennett, “I Feel Like I Have Five Jobs”: Moms Navigate the Pandemic, N.Y. TIMES (Mar. 20, 2020), available at <https://www.nytimes.com/2020/03/20/parenting/childcare-coronavirus-moms.html>.

<sup>92</sup> *Id.*

<sup>93</sup> Angus Loten, *For Many, Remote Work Is Becoming Permanent in Wake of Coronavirus*, WALL ST. J. (May 21, 2020), <https://www.wsj.com/articles/for-many-remote-work-is-becoming-permanent-in-wake-of-coronavirus-11590100453>.

9. Set an annual minimum hour requirement based on the assumption that a lawyer will take at least two weeks off during the year. Consider paying for vacations in addition to the PTO to encourage vacations.
  - More organizations are permitting unlimited PTO, but employees don't take it.
  - Organizations should have a vacation policy. Make sure it is followed.
10. Clearly communicate that if a family or personal obligation arises and interferes with a lawyer's ability to meet billable hour requirements, the firm will endeavor to provide flexibility and support.
11. Permit employees to engage in pro bono legal services and have those hours count toward billable hours.
12. Develop policies that encourage lawyers and staff to curb email use. Share those policies with clients.
13. Allow for time off for childcare and personal needs without penalizing attorneys.

#### 4. Promote Diversity, Equity, and Inclusivity to Increase Organizational Success and Well-Being

The research is clear: diverse organizations perform better. Not only are they more profitable,<sup>94</sup> but they are in a better position to recruit talent,<sup>95</sup> and their diverse teams make better decisions than homogeneous groups.<sup>96</sup>

While diversity alone is a laudable goal, organizations, and the individuals within them, fare better when they pursue diversity, inclusion, and equity.

- **Diversity** —The presence of difference within a given setting. Often diversity will refer to the social identities of people within an organization.<sup>97</sup>
- **Inclusion** —The process by which people with different identities feel valued and welcomed in each setting.<sup>98</sup> Inclusion is a set of behaviors that embrace diversity and leverage them to make the organization more successful.<sup>99</sup> An organization can be diverse without being inclusive.<sup>100</sup>
- **Equity** — A process to ensure people have access to the same opportunities, while recognizing that not everyone starts from the same place and that eliminating barriers may be necessary to ensure opportunity.<sup>101</sup>

The United States Supreme Court has recognized the value of diversity in many contexts, and, in one case commented, "Effective participation by members of all racial and ethnic groups in the civic life of our Nation is essential if the dream of one Nation, indivisible, is to be realized."<sup>102</sup> The benefits of diversity,

94 Vivian Hunt, Sara Prince, Sundiatu Dixon-Fyle & Lareina Yee, *Delivering Through Diversity*, McKinsey & Company (2018).

95 Shele Bannon, Kelly Ford & Linda Meltzer, *Understanding Millennials in the Workplace*, 81 THE CPA J. 61-65 (2011).

96 Erik Larson, *New Research: Diversity + Inclusion = Better Decision Making at Work*, FORBES, Sept. 2017.

97 Meg Bolger, *What's the Difference Between Diversity, Equity, and Inclusion*, GENERAL ASSEMBLY BLOG (May 24, 2020), <https://generalassemb.ly/blog/diversity-inclusion-equity-differences-in-meaning/>.

98 *Id.*

99 William Arruda, *The Difference Between Diversity and Inclusion and Why It Is Important to Your Success*, FORBES (Nov. 22, 2016), available at <https://www.forbes.com/sites/williamarruda/2016/11/22/the-difference-between-diversity-and-inclusion-and-why-it-is-important-to-your-success/#217eb885f8f5>.

100 Bolger, *supra* note 97.

101 *Id.*

102 *Grutter v. Bollinger*, 539 U.S. 306 (2003).

however, are not limited to race and ethnicity, and apply with equal force to other social identities, including gender, sexual orientation, age, ability status, religion, and creed. And effective participation in the civil life of our nation should include the opportunity to receive a legal education and practice the profession of law.

Despite the importance of diversity in promoting a just society, law remains one of the least diverse professions, both in terms of racial and ethnic diversity and gender diversity.<sup>103</sup> Equally concerning is the fact that approximately 70% of diverse associate attorneys and approximately 85% of diverse lateral attorneys leave their firms within five years of being hired.<sup>104</sup>

Diversity and inclusion impact the well-being of employees within organizations. In one study, over 80% of employees who experienced, or even witnessed, bias in the workplace reported that it had a negative effect upon their happiness, confidence, and well-being.<sup>105</sup> Unfortunately, in many organizations, employees often feel that they must “cover” one or more aspects of their identities, even though research demonstrates that their performance suffers when they do so.<sup>106</sup> Ultimately, a sense of belonging within an organization reduces employees’ stress levels and improves their physical health and emotional well-being.<sup>107</sup>

To achieve inclusion’s benefits and promote well-being, organizations must do more than simply treat diversity as a question of demographics. Organizations that value diversity only as measured by the demographic profile of designated groups will fare less well than organizations that broadly value inclusion.<sup>108</sup> Consequently, organizations should focus upon dimensions of organizational culture that promote employee belonging and retention, including:

- **Common purpose** — Individuals experience a connection to the mission, vision, and values of the organization.
- **Trust** — Individuals have confidence that the policies, practices, and procedures of the organization will allow them to bring their best self to work.
- **Appreciation of individual attributes** — Individuals perceive that they are valued and can successfully navigate the organizational structure in their expressed group identity.
- **Sense of belonging** — Individuals experience their social group identity as being connected with and accepted in the organization.
- **Access to opportunity** — Individuals perceive that they can find and utilize support for their professional development and advancement.
- **Equitable reward and recognition** — Individuals perceive the organization as having equitable compensation practices and nonfinancial incentives.
- **Cultural competence** — Individuals believe the institution has the capacity to make creative use of its diverse workforce in a way that meets business goals and enhances performance.
- **Respect** — Individuals experience a culture of civility and positive regard for diverse perspectives.<sup>109</sup>

103 Allison E. Laffey & Allison Ng, *Diversity and Inclusion in the Law: Challenges and Initiatives*, A.B.A. (May 2, 2018), <https://www.americanbar.org/groups/litigation/committees/jiop/articles/2018/diversity-and-inclusion-in-the-law-challenges-and-initiatives/>.

104 NALP 2018 UPDATE ON ASSOCIATE ATTRITION.

105 Terri Cooper & Elizabeth Horn, *The Bias Barrier: Allyships, Inclusion, and Everyday Behaviors*, DELOITTE (2019), available at <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/about-deloitte/us-inclusion-survey-research-the-bias-barrier.pdf>.

106 Dorie Clark & Christie Smith, *Help Your Employees Be Themselves at Work*, HARV. BUS. REV. (Nov. 3, 2014), available at <https://hbr.org/2014/11/help-your-employees-be-themselves-at-work>.

107 Pat Wadors, *Diversity Efforts Fall Short Unless Employees Feel that They Belong*, HARV. BUS. REV. (Aug. 10, 2016), available at <https://hbr.org/2016/08/diversity-efforts-fall-short-unless-employees-feel-that-they-belong>.

108 Jeff Schwartz et al., *Rewriting the Rules for the Digital Age, 2017 Deloitte Human Capital Trends*, DELOITTE (2017), available at <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/human-capital/hc-2017-global-human-capital-trends-us.pdf>.

109 Sharina D. Person et al., *Measuring Diversity and Inclusion in Academic Medicine*, ACAD. MED. (2015).

Ultimately, the employees within an organization are less likely to thrive and experience wellness if the organizations themselves do not promote diversity, inclusion, and equity. If an organization commits to promoting diversity and reflects that commitment through a culture of inclusion and by enacting policies that provide equity of opportunity, it will likely experience greater success.

## **Recommendations:**

1. Participate in the Colorado Pledge to Diversity to introduce your organization to talented law students from traditionally underrepresented backgrounds and provide summer clerkship opportunities to diverse law students. Visit <https://coloradoplege.com/> for more information on joining The Pledge.
2. Join the Center for Legal Inclusiveness to provide your employees with access to diversity, inclusion, and equity training, resources, and events. Visit <https://centerforlegalinclusiveness.org/> for more information on joining CLI.
3. Create an effective and sustainable internal mentoring and sponsorship program for women and diverse lawyers. Utilize the resources of the Colorado Attorney Mentoring Program to assist in developing these programs or improving current internal mentoring and sponsorship programs. Visit [www.coloradomentoring.org](http://www.coloradomentoring.org) for more information on the CAMP program.
4. Directly offer or support lawyers in attending business development symposia or other educational opportunities specifically designed for women and traditionally underrepresented lawyers.
5. Develop a robust and substantive diversity, equity, and inclusion initiative within the organization.
  - Consider creating a position dedicated to improving and sustaining diversity, inclusion, and equity within the organization.
  - Develop a diversity and inclusion action plan.
  - Include diversity, inclusion, and equity goals in the organization's business or strategic plan.
  - Create ongoing programming and educational opportunities for lawyers regarding implicit bias.
  - Evaluate institutional barriers to the success of women and diverse lawyers and create a plan to remedy those barriers.
  - Survey employees on organizational culture, lawyer autonomy, and morale.
6. Modify the organization's "billable" hour models or requirements to incentivize participation in diversity, inclusion, and equity education and initiatives.
7. Collaborate with clients and other legal organizations to advance the discussion of inclusion and equity in the profession, generate ideas, and develop strategic initiatives to address racism and sexism in the legal profession.
8. Expand your organization's diversity and inclusion efforts to include unconscious bias and antiracism trainings to help your organization's members effectively address and combat prejudice, discrimination, and racism.
9. Expand pro bono commitments, explore new relationships with organizations that are on the front lines of advancing equity and inclusion in the legal system, and financially support initiatives that seek to end racial inequity in the justice system.

10. Provide organizational leaders/managers with training in leading through crisis to effectively deal with the emotions, behaviors, and attitudes of the people involved in or facing a crisis and better understand the disparate impact of crisis on women and lawyers of color.
11. Encourage and support attorneys joining and assuming leadership roles in diversity bar associations, such as the Colorado Women's Bar Association, Sam Cary Bar Association, Colorado Hispanic Bar Association, Asian Pacific American Bar Association, South Asian Bar Association, Colorado Lesbian, Gay, Bisexual, Transgender Bar Association, and the Colorado Indian Bar Association.
12. Evaluate compensation practices within the organization to determine and remedy any disparate impact upon diverse attorneys and staff.

## 5. Assess Compensation Metrics to Promote Well-Being

Creating a culture of well-being entails thoughtful reexamination of the traditional billable hour model as the primary performance metric for lawyers. This does not mean dispensing with the model entirely, but it does mean assessing alternative or additional ways to compensate lawyers and staff for performance. As mentioned among the challenges in the introduction to this Recognition Program, the billable hour is a source of stress and anxiety. Considering how to value lawyers and staff's contributions in other ways may positively impact this well-being risk factor.

Multifactor compensation systems are one possible starting point. These should focus on both results and professional growth. These multi-factor compensation structures can also tie to laudable results, such as a successful result for a client or positive client feedback.

Consideration should also be given to bonus compensation structures that consider more than a lawyer's impact on the organization's profits realized. Legal employers can look to client results, going above-and-beyond on a certain project, and a willingness to take on new challenges and be supportive of other members of the firm. The goal is to reward employees for involvement in activities that both enhance the firm's bottom-line and that they find fulfilling on a professional level. Doing so will bolster overall morale and well-being and promote a culture of initiative taking within the organization.

Taking a careful look at performance evaluations is another way to reduce stress and disentangle the mystery associated with who advances and who does not. Firms should implement fair and objective performance evaluations with explicit, objective, observable, and measurable criteria applied fairly to all associates. Some suggestions for improving the performance review process may be found in these articles:

- Jill Switzer, [Performance Reviews Suck but This Biglaw Firm Is Trying to Change the Game](#), ABOVE THE LAW, Apr. 18, 2018.
- Marian Carlson, [Grading the Teacher: Association Evaluations of Partner Performance](#), THE COLO. LAW., Mar. 2004.
- Gayle Cinquegrani, [Some Law Firms Are Ditching Annual Reviews for Associates](#), BLOOMBERG LAW, Apr. 18, 2018.
- [US BigLaw Firms Could Be Next to Abolish Annual Reviews](#), LAW360, June 13, 2017.
- David Lat, [An Inside Look at the Skadden Annual Review Process](#), ABOVE THE LAW, Oct. 13, 2011.

Last, client development opportunities need to demonstrate equal access for all lawyers. A firm should look at whether after-hours client interactions, or those that require travel, ensure equal access. Some lawyers may have family commitments that limit their ability to participate. Client development needs to be available for all lawyers who wish to participate in it.

## Recommendations:

1. Consider multi-factor compensation structures that take into consideration more than billable hours. These structures may focus on client results and professional growth and development. These structures should also incentivize involvement in activities that promote balance and well-being.
  - Consider providing billable hour credit for pro bono work, legal community activities (such as bar association or organization leadership) or well-being activities.
  - Explain this multi-factor compensation structure to all attorneys.
  - If it is appropriate for the firm or organization, evaluate whether an open compensation system might positively impact the organization's culture and advance well-being among lawyers.
2. Provide bonus compensation tied to metrics other than strictly hours billed, clients retained, or profits realized.
3. Assess and consider modifying your performance evaluation system. Put in place fair and objective performance evaluations with explicit, objective, observable, and measurable criteria applied fairly to all associates. Assure that all attorneys are fully aware of the factors considered in the performance evaluation system. Provide a good faith objective assessment to junior attorneys of how and when they can expect advancement in the firm.
4. Provide equal access to training and education for client development ("Rainmaking") skills.
5. Evaluate alternative pricing models that reward efficiency and results, rather than hours billed.

## 6. Make Clients Part of the Conversation about Well-Being

Attorney well-being is good for clients and this message must be broadcast to all clients of legal organizations. We must give clients a seat at the table as stakeholders and discuss the ways in which lawyer well-being will result in a better work product for the client.<sup>110</sup>

Nowadays, clients demand more legal work at a lower price. The days of billing as many hours from as many lawyers as possible are over. And clients will no longer accept invoices with no questions asked. This is shown by limitations on inexperienced lawyers working on matters, rules limiting how many lawyers may attend a trial or deposition, travel restrictions, and many other "outside counsel guidelines."<sup>111</sup> In short, clients expect real-time, concise, practical advice tailored to the client's unique business strategy and risk profile and delivered in a technologically savvy method.<sup>112</sup>

<sup>110</sup> Meg McEvoy, *Law Firms Respond to Demand for Alt. Fee Models*, BLOOMBERG L. ANALYSIS (June 17, 2019).

<sup>111</sup> *Working Effectively with Outside Counsel Checklist*, THOMPSON REUTERS (2016).

<sup>112</sup> Nicholas Gaffney, *The Future Practice of Law*, L. PRAC. TODAY (Dec. 2016) (Panel Discussion), <https://www.lawpracticetoday.org/article/the-future-practice-of-law/>.



Because law is a service business, it stands to reason that better lawyer well-being means better organizational success and enhanced service to clients.<sup>113</sup> Many clients believe in well-being for their employees and expect the same from their lawyers. Clients are also concerned with certainty in the cost of legal service and, above all, efficiency and results.

Legal organizations must explain the value of sustained well-being for their lawyers. These values include: more engagement; lower lawyer turnover; higher productivity; and more institutional knowledge.

Firms and law departments must tell clients they intend to accommodate the whole of the employee and not merely view them as a unit of production. As another ultimate benefit to the client, this will give these firms and departments a competitive advantage for the best talent.<sup>114</sup>

### **Recommendations:**

1. Explain to clients the organization's commitment to lawyer well-being and invite an in-depth discussion about how well-being makes for better client service.
2. Show clients the organization takes this issue seriously with a long-range plan that will ensure continuity.
3. Discuss with clients how service will be enhanced by: lower turnover; higher productivity; greater institutional knowledge; better judgment and risk evaluation; and enhanced problem solving.
4. Propose partnering with one or more clients on a long-term well-being program to cement the relationship and assure that both organizations commit to meaningful and successful goals.
5. Investigate alternative pricing models that reward efficiency and results, rather than rewarding lawyers and firms for the more hours they bill. Billable hours should not be the firm's unit of inventory. Instead, the product sold and provided to the client should be excellence, efficiency, and success.
6. Explain to the clients the organization's pledge to lawyer well-being and its participation in the Supreme Court Recognition Program on Attorney Well-Being.

<sup>113</sup> See Buchanan et al., *supra* note 12.

<sup>114</sup> Gaffney, *supra* note 112.

# APPENDIX 2: NOTICE OF ABSENCE PROPOSAL

Colorado Task Force for Attorney Well-Being

## OBJECTIVE

Practicing lawyers are, to an extent, always on call. If a lawyer wishes to take time off for personal reasons, family reasons, to catch up on practice-related matters, or for a vacation, he or she runs the risk those plans may be disrupted due to scheduling of hearings, trials, depositions, case management conferences, etc. Giving Colorado lawyers a tool that lets them plan to spend time away from practice, perhaps for a mental health break, perhaps for time with family and loved ones, or perhaps for a vacation, will foster resilience and renewal.

At least two states, Georgia and North Carolina, permit lawyers to file a notice with state trial courts alerting courts and opposing counsel as to dates the lawyer will not be available to appear. A working group of the Resources Committee of the Colorado Task Force on Lawyer Well-Being recommends the Colorado Supreme Court establish a committee to consider a rule (or rules) that would adopt a similar notice of absence in Colorado.

## PROCEDURE

The Resources Committee discussed the concept of a notice of absence throughout 2019. With committee support for such a recommendation, a working group formed in October 2019 to propose a recommendation.

The working group reviewed the court rules from Georgia and North Carolina establishing absence periods and sought input from colleagues. Georgia's Court Rule 16 creates "Leaves of Absence" for up to 30 days. North Carolina's General Rules of Practice for the Superior and District Courts contain Rule 26, titled "Secure Leave Periods for Attorneys." North Carolina permits up to three calendar weeks of leave annually. Both state rules include provisions for when a notice of leave of absence must be filed, its contents, and procedures for objection. Georgia's rules state unless an objection is filed, the requested leave "will stand granted without entry of an order." Both state rules provide that a notice may not be filed if the proposed absence dates conflict with existing scheduled matters or hearings.

One of the lawyers in the working group who formerly practiced in Georgia describes that state's rules as placing the burden largely on lawyers to manage situations where a notice has been filed and a matter either is set or there is an attempt to set a matter. This is because of Georgia's rules' procedures for handling objections to a notice.

## RECOMMENDATIONS OF THE WORKING GROUP

The Working Group recommends that the Colorado Supreme Court establish a committee to meet with stakeholders throughout Colorado's legal community for input on this concept. Stakeholders would include judges, practicing lawyers in the government and private sectors, and court administration professionals. With input from these stakeholders, the committee should proceed to develop and present a proposed rule for the Colorado Supreme Court to consider. A rule proposal should address:

- The total amount of time a lawyer may designate under such a notice of absence and whether such time may be consecutive or cumulative.
- That a lawyer may be allowed by his or her employer or under other laws to take more time off than permitted by any proposed rule.
- That filing a notice of absence is voluntary.
- Procedures for designating an alternate lawyer who may be available if an urgent matter arises during a lawyer's leave of absence.
- Conferral requirements with opposing counsel before a lawyer designates a period of absence, where practicable.
- Ways to make such a notice manageable from a court's perspective. For example, can a lawyer's notice be color-coded in the Colorado Courts E-Filing register of actions so that it is easy for judges and clerks to see? Should lawyers be required to identify any notices of absences they have filed or intend to file when filing proposed case management orders so that any scheduling issues can be addressed at case management conferences?
- The rule must clearly state that such a notice may not be filed if there is a matter already set for any of the dates designated on a lawyer's notice of absence.

**The working group thanks attorney Beth Appleton for her input on this proposal.**

*Text of Georgia and North Carolina's rules appears on the following pages.*

# GEORGIA UNIFORM SUPERIOR COURT RULES

## Rule 16. LEAVES OF ABSENCE

### Rule 16.1. Leaves for Thirty (30) Calendar Days or Less

An attorney of record shall be entitled to a leave of absence for thirty days or less from court appearance in pending matters which are neither on a published calendar for court appearance, nor noticed for a hearing during the requested time, by submitting to the clerk of the court at least thirty (30) calendar days prior to the effective date for the proposed leave, a written notice containing:

- a) a list of the actions to be protected, including the action numbers;
- b) the reason for leave of absence; and
- c) the duration of the requested leave of absence.

A copy of the notice shall be sent, contemporaneously, to the judge before whom an action is pending and all opposing counsel. Unless opposing counsel files a written objection within ten (10) days with the clerk of the court, with a copy to the court and all counsel of record, or the court responds denying the leave, such leave will stand granted without entry of an order. If objection is filed, the court, upon request of any counsel, will conduct a conference with all counsel to determine whether the court will, by order, grant the requested leave of absence.

The clerk of the court shall retain leave of absence notices in a chronological file two (2) calendar years; thereafter, the notices may be discarded.

### Rule 16.2. Leaves for More Than Thirty (30) Calendar Days or Those Either on a Published Calendar, Noticed for a Hearing, or not Meeting the Time Requirements of 16.1

Application for leaves of absence for more than thirty (30) days, or those either on a published calendar, noticed for a hearing, or not submitted within the time limits contained in 16.1 above, must be in writing, filed with the clerk of the court, and served upon opposing counsel at least ten (10) days prior to submission to the appropriate judge of the court in which an action pends. This time period may be waived if opposing counsel consents in writing to the application. This procedure permits opposing counsel to object or to consent to the grant of the application, but the application is addressed to the discretion of the court. Such application for leave of absence shall contain:

- a) a list of the actions to be protected, including the action numbers;
- b) the reason for leave of absence; and
- c) the duration of the requested leave of absence.

### Rule 16.3. 16.1 or 16.2 Leave

A 16.1 or 16.2 leave when granted shall relieve any attorney from all trials, hearings, depositions and other legal proceedings in that matter. This rule shall not extend any deadline set by law or the court.

#### **Rule 16.4. Denial of Application for Leave**

Any application for leave not filed in conformance with this rule will be denied. Notice shall be provided substantially as on the attached form.

To: All Judges, Clerk of Court, and Counsel of Record

From: Name of Attorney

RE: Notice of Leave of Absence

Date:

Comes now (attorney's name) and respectfully notifies all judges before whom s/he has cases pending, all affected clerks of court, and all opposing counsel, that s/he will be on leave pursuant to Georgia Uniform Court Rule 16.

1. The period of leave during which time Applicant will be away from the practice of law, is: (dates of leave). The purpose of the leave is:
2. All affected judges and opposing counsel shall have ten days from the date of this Notice to object to it. If no objections are filed, the leave shall be granted.

name of attorney

Bar No.

address of attorney

phone number of attorney

**CERTIFICATE OF SERVICE**

This is to certify that I have this date served a copy of the foregoing Notice of Leave of Absence upon all judges, clerks and opposing counsel listed on the attached Exhibit A, by depositing the same in the U.S. Mail with adequate postage affixed thereto.

This \_\_\_ day of \_\_\_\_\_,

Name of attorney

EXHIBIT A  
(Sample)

<b>Name of Case Case Number</b>	<b>Name of Judge Court/County</b>	<b>Opposing Counsel</b>
Jones v. Jones 98-3333	Brown DeKalb/Superior	opp. atty. A (address)
Smith v. Exxon 97A-454545	Black Cobb/State	opp. atty. B (address)
Schwartz v. Craig & Co. E-6789	Grey Fulton/Superior	opp. atty. C (address)

## NORTH CAROLINA SUPERIOR AND DISTRICT COURT RULES

### Rule 26. SECURE LEAVE PERIODS FOR ATTORNEYS

**Definition; Entitlement.** A “secure-leave period” is one complete calendar week that is designated by an attorney during which the superior courts and the district courts may not hold a proceeding in any case in which that attorney is an attorney of record. An attorney is entitled to enjoy a secure-leave period that has been designated according to this rule.

#### **(b) Allowance.**

(1) Within a calendar year, an attorney may enjoy three different secure-leave periods for any purpose. A secure-leave period that spans across calendar years counts against the attorney’s allowance for the first calendar year.

(2) Within the twenty-four weeks after the birth or adoption of an attorney’s child, that attorney may enjoy twelve additional secure-leave periods for the purpose of caring for the child.

**(c) Form of Designation.** An attorney must designate his or her secure-leave periods in writing.

**(d) Content of Designation.** An attorney’s designation of a secure-leave period must contain the following information:

(1) the attorney’s name, address, e-mail, telephone number, and state bar number;

(2) the date of the Sunday on which the secure-leave period is to begin and the date of the Saturday on which it is to end;

(3) the allowance that the secure-leave period will count against, with reference to either subsection (b)(1) or (b)(2) of this rule;

(4) the dates of any previously designated secure-leave periods that count against that allowance;

(5) a statement that the secure-leave period is not being designated for the purpose of interfering with the timely disposition of any proceeding;

(6) a statement that the attorney has taken adequate measures to protect the interests of the attorney’s clients during the secure-leave period; and

(7) the attorney’s signature and the date on which the attorney submits the designation.

#### **(e) Where to Submit Designation.**

(1) *In Criminal Actions.* The attorney must submit his or her designation of a secure-leave period to the office of the district attorney for each prosecutorial district in which the attorney’s criminal actions are pending.

(2) *In Civil Actions.* The attorney must submit his or her designation of a secure-leave period to the office of the senior resident superior court judge for each superior court district and to the office of the chief district court judge for each district court district in which the attorney’s civil actions are pending.

(3) *In Special Proceedings and Estate Proceedings.* The attorney must submit his or her designation of a secure-leave period to the office of the clerk of the superior court of the county in which the attorney's special proceedings or estate proceedings are pending.

(4) *In Juvenile Proceedings.* The attorney must submit his or her designation of a secure-leave period to the juvenile case calendaring clerk in the office of the clerk of the superior court of the county in which the attorney's juvenile proceedings are pending.

**(f) When to Submit Designation.** An attorney must submit his or her designation of a secure-leave period:

(1) at least ninety days before the secure-leave period begins; and

(2) before a proceeding in any of the attorney's cases is scheduled for a time that conflicts with the secure-leave period.

But because of the uncertainty of a child's birth or adoption date, the superior court or district court scheduling authority must make reasonable exception to these requirements so that an attorney may enjoy leave with the child.

**(g) Depositions.** A party may not notice a deposition for a time that conflicts with a secure-leave period that another party's attorney has designated according to this rule.

**(h) Other Leave.** Nothing in this rule limits the inherent power of the superior courts or the district courts to allow an attorney to enjoy leave that has not been designated according to this rule.



# ADDENDIX 3: PROMOTING WELL-BEING AMONG LAWYERS IN RURAL COMMUNITIES

Resources Committee  
Rural Lawyer Working Group

## OBJECTIVE

The objective of this working group is to explore how to connect lawyers in rural communities with resources—programs, presentations, support networks, literature, etc.—that can bolster their well-being.

## BACKGROUND

Lawyers practicing in Colorado’s rural communities face unique challenges with respect to well-being. These challenges include isolation from professional mentors, the difficulty of maintaining privacy when seeking counseling services, and having practices that require time-consuming travel for client meetings and court appearances.

Bar associations outside the Front Range are vibrant. They offer good opportunities for networking. In addition, local district attorney or public defender’s offices can provide important professional mentoring. Nonetheless, it can be harder for lawyers in rural communities to identify support networks. Moreover, lawyers in rural communities often have broad-based practices and have different professional development needs than many lawyers practicing in metropolitan areas.

## PROCEDURE

This working group’s members included lawyers practicing in Edwards, Glenwood Springs, and Gunnison, as well as a judge from Lake County. This working group is aware of the “Rural Practice Program” mentor program with the Colorado Attorney Mentoring Program (CAMP). The working group is also aware of the volunteer network operated by the Colorado Lawyer Assistance Program (COLAP). COLAP’s volunteer network pairs lawyers with other lawyers who share personal or professional experiences. The support network that develops enjoys the protection of C.R.C.P. 254. The working group heard from the executive directors of both organizations.

## RECOMMENDATIONS OF THE WORKING GROUP

The working group recommends promoting COLAP’s volunteer network and CAMP’s Rural Practice Program even more aggressively among lawyers in rural communities. Notably, local bar leadership would benefit from learning about these programs. Those leaders may want to have representatives from COLAP and CAMP speak to their membership. Further, a letter from the Colorado Supreme Court to chief judges explaining these resources and the connection between well-being and professionalism could be helpful in raising awareness of these resources.

In addition, part of the message to lawyers in rural communities should be to encourage involvement in CAMP and COLAP as a mentor or volunteer. Lawyers may find sharing their experience and expertise with another lawyer satisfying.

The working group also recommends creating a survey for local bar associations outside the Front Range. Such a survey should ask what additional resources, presentations, and programs would be helpful to their members regarding well-being.

This working group recommends thinking creatively about (CLE) seminar environments. Current CLE rules and regulations reinforce a traditional classroom or office desk learning environment. The working group suggests considering changes that could encourage outdoor seminars, which would be a draw in communities where time outdoors is a priority.

Last, this working group recommends that local bar associations remain committed to providing opportunities for lawyers to interact. Fun and active local bar events can be particularly helpful in giving lawyers in rural communities an opportunity to connect. Moreover, our experience during the COVID-19 pandemic has proven that interactions do not have to be face-to-face. Virtual coffee socials and happy hours are a valuable way to bring people together. Further, the involvement of local judges in bar association activities can be a draw with attendance. Such involvement by the bench also sends the positive message that judges, who are seen as leaders, prioritize work-life balance. Rafting trips with members of the bench in the Fifth Judicial District have been well-attended and are an example of this type of activity. By giving lawyers in rural communities the opportunity to connect, local bar associations play an important role in alleviating isolation that lawyers in rural communities sometimes face and the associated stress and anxiety such isolation can cause.

# ADDENDIX 4: WELL-BEING BROCHURE

## QUICK TIPS FOR YOUR OWN WELL-BEING

**GET INVOLVED** – Involvement in diverse professional roles—such as teaching, mentoring, supervising, or administration, in addition to direct practice—puts individuals into contact with a larger community and fosters a sense of interconnection and renewed hope.

**PRACTICE MINDFULNESS** – Present-focused attention to ongoing shifts in the mind, body, and surrounding world helps enhance patience, presence, and compassion. A simple tool is to observe your body as you breathe deeply.

**PRACTICE HOLISTIC SELF-CARE** – Recognize that self-care carries an ethical component. If you do not take care of yourself, you are at risk of harming others. Holistic self-care is essential to your personal and professional well-being.

**BE STRATEGIC** – Develop a range of strategies to help maintain psychological and physical boundaries between work and personal life. Limit time spent debriefing with loved ones. Take time off to travel. Schedule social activities and hobbies. Maintain clarity about the limits of your legal expertise.

**UTILIZE SUPPORT SYSTEMS** – Recognize the importance of debriefing. Debriefing with coworkers and utilizing peer support can help reduce workplace stress. If you do not have co-workers, or you do not feel comfortable talking to co-workers, call COLAP to confidentially discuss your stressor or for consultation and therapeutic referrals.

## RESOURCES

The Colorado Supreme Court website provides links to task force findings, the Colorado Task Force on Lawyer Well-Being's report, and the report of the Pilot Project for the Well-Being Recognition Program for Legal Employers.

[www.coloradosupremecourt.com](http://www.coloradosupremecourt.com)  
> Colorado Task Force on Lawyer Well-Being.

### COLAP

The Colorado Lawyer Assistance Program is your free and confidential well-being program providing consultation, education, and support. [www.coloradolap.org](http://www.coloradolap.org); [info@coloradolap.org](mailto:info@coloradolap.org)  
Confidential Phone Line: 303-986-3345

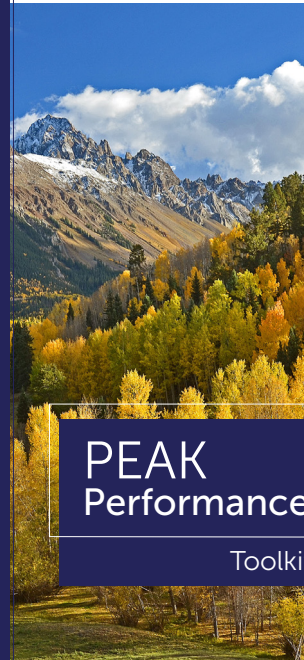
### CAMP

The Colorado Attorney Mentoring Program promotes community, competency, and professionalism through mentoring resources. [www.coloradomentoring.org](http://www.coloradomentoring.org)  
303-928-7750

### CBA

The Colorado Bar Association provides practice management resources, and opportunities to connect to your community and become more versed in your practice area. [www.cobar.org](http://www.cobar.org)  
303-860-1115

**Suicide Prevention Hotline**  
800-273-8255



PEAK  
Performance

Toolkit



Colorado  
Lawyer Well-Being

## WHAT IS LAWYER WELL-BEING?

Well-being is a continuous process in which lawyers strive for thriving in each area of their lives: Emotional, Intellectual, Occupational, Physical, Spiritual, and Social.

*Report of the National Task Force on Lawyer Well-Being, Bree Buchanan & James Coyle, et al. (2017).*

Well-being is about determining what works for you. Begin with one or two thoughtful goals in each of the six dimensions. Utilize support systems and resources to achieve your goals.

## WHY DOES IT MATTER?

- A 2016 study of 13,000 attorneys revealed as many as 36% qualify as problem drinkers, 61% report struggling with anxiety at some point in their careers, and 46% reported concerns with depression.
- Suicide is a concern in the legal profession, something too many lawyers know through anecdote.
- Collectively, lawyers influence all aspects of our society, economy, and government. Impairment among the profession is not only detrimental to the ethical standards of the practice, but our clients, communities, government, legal and non-legal cultures.

## DEFINING LAWYER WELL-BEING

A continuous process in which lawyers strive for thriving in each dimension of their lives:

EMOTIONAL	INTELLECTUAL	OCCUPATIONAL	PHYSICAL	SPIRITUAL	SOCIAL
Value emotions. Develop ability to identify and manage our emotions to support mental health, achieve goals and inform decisions. Seek help for mental health when needed.	Engage in continuous learning. Pursue creative or intellectually challenging activities that foster ongoing development. Monitor cognitive wellness.	Cultivate personal satisfaction, growth, and enrichment in work. Strive to maintain financial stability.	Strive for regular activity, good diet & nutrition, enough sleep, and recovery. Limit addictive substances. Seek help for physical health when needed.	Develop a sense of meaningfulness and purpose in all aspects of life.	Develop connections, a sense of belonging, and a reliable support network. Contribute to our groups and communities.

*Report of the National Task Force on Lawyer Well-Being, Bree Buchanan & James Coyle, et al. (2017).*

To view the complete report, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*, please visit [www.lawyerwellbeing.net/the-report/](http://www.lawyerwellbeing.net/the-report/)

## SOME EXAMPLES OF HOLISTIC SELF-CARE GOALS

Practice mindfulness; keep a gratitude journal; reflect; cultivate hobbies; volunteer; snuggle; love your pet.	Exercise your mind in ways that are not related to work; create art; play chess and card games; work on crossword puzzles; and read books for pleasure.	Work with a CAMP mentor to set earning goals and weekly steps to meet those goals; attend Bar meetings at least quarterly; teach.	Schedule and get 6-8 hours of sleep every night; eat nutritious meals, limit alcohol and sugar intake; breathe, relax, meditate; exercise and move regularly.	Take a personal values assessment; draft your own mission statement; define the purpose of your work and other activities; spend time in nature.	Spend time with friends and loved ones; talk with colleagues; join a state, local, or specialty bar and attend its events; contact COLAP for ways to get connected.
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# APPENDIX 5: RECOMMENDATIONS FOR JUDICIAL OFFICER WELL-BEING

Judicial Well-Being Committee Recommendations

## A STANDING COMMITTEE

In response to recommendations from the Judicial Well-Being Committee, the Chief Justice established a Standing Committee on Judicial Well-Being (“the JWB Standing Committee”) to carry forward the work of the larger Task Force as it relates to judicial officers. The JWB Standing Committee serves as the ongoing hub of judicial well-being activity for the state.

Justice Márquez presently chairs the JWB Standing Committee. The JWB Standing Committee is comprised of at least one member of each of Colorado’s 22 judicial districts. The full JWB Standing Committee meets every other month, with working groups of the JWB Standing Committee meeting on alternating months. Full JWB Standing Committee meetings occur via WebEx or MS Teams to promote greater participation from members in outlying regions.

The JWB Standing Committee will focus initially on all well-being issues affecting judicial officers, with the goal of expanding to the larger Judicial Branch, and all of its employees, in the future. The JWB Standing Committee maintains the Colorado Judicial Well-Being website and hosts opportunities for judicial officers to discuss well-being issues, share ideas, ask questions, and seek resources to improve judicial well-being. The JWB Standing Committee will develop programming ideas for the statewide judicial conference and will support the various initiatives identified by the Judicial Well-Being Committee (security, retention support, professional development, etc.).

## WEBSITE

With assistance from the State Internet Portal Authority, the Judicial Well-Being Committee created a new external website at (<https://judicialwellbeing.colorado.gov/>) to serve as a one-stop location for information about well-being resources, programming, and opportunities for connection and accessible by all Colorado state, county, and municipal judicial staff. The new logo for the website, representing well-being in the Colorado legal profession, can also be used by firms that participate in the Colorado Well-Being Recognition Program for Legal Employers.

The website, which the JWB Standing Committee maintains, contains resource material that previously resided on the Judicial Intranet. Unfortunately, that material was difficult to locate and required several clicks for a user to reach. By migrating these existing resources to the new, freestanding website, the information is now accessible to Denver County Court judges (who do not have access to the Judicial Intranet), as well as anyone who may be interested in the well-being work being done in Colorado. The home page is periodically updated with featured articles, and the various links on the site direct users to articles, podcasts, upcoming events, programming, and opportunities for connection. The website serves as the information hub for the various well-being initiatives of the Judicial Well-Being Committee.

## DIVERSITY & INCLUSIVITY PROGRAM

The Colorado judicial branch is comprised of competent, diligent individuals with a commitment to a strong, independent judiciary. But according to a 2016 study by the American Constitution Society, Colorado has one of the worst “gavel gaps” in the country—meaning, there is a significant disparity between the race and gender composition of the courts and the communities they serve. For example, while women represent fifty percent of Colorado’s population, they make up just over forty percent of state judges.<sup>115</sup> Men and women of color represent approximately thirty-four percent of the population, but they comprise only sixteen percent of judicial officers.

A lack of diversity on the bench can affect the well-being of minority judges and the overall effectiveness of the judicial branch. According to the findings of the ABA, “organizational diversity and inclusion initiatives are associated with employee well-being, including, for example, general mental and physical health, perceived stress level, job satisfaction, organizational commitment, trust, work engagement, perceptions of organizational fairness, and intentions to remain on the job.”<sup>116</sup>

Minority judges face additional pressures and stress that go beyond the high level of stress already associated with being a judge. Women and judges of color may feel even more isolated than their colleagues, have a lower sense of belonging to the overall enterprise, suffer from feelings of tokenism, and feel a special responsibility to represent a particular group. The National Task Force on Lawyer Well-Being observed that a significant contributor to well-being is a sense of “organizational belongingness,” which has been defined as “feeling personally accepted, respected, included, and supported by others.”<sup>117</sup> A weak sense of belonging is strongly associated with depressive symptoms.

African American, Hispanic, Asian, and Native American judges, as well as LGBTQ members of the bench, may face unique challenges, and the commitment to judicial diversity does not end upon appointment. The Judicial Well-Being Committee urges ongoing commitment to ensuring cultural competency and sensitivity in identifying and addressing these issues as they emerge, and to creating programs that promote long-term successes of diverse judges.

### **The committee’s recommendations focus on three primary areas:**

1. Recruiting women and lawyers of color to apply to the bench. Because more diverse judges on a court may enhance judges’ feelings of belongingness and positively impact decision-making, the JWB Standing Committee should support and expand efforts to recruit diverse judges.
  - Partner with the Judicial Diversity Outreach program (<https://www.courts.state.co.us/Administration/Unit.cfm?Unit=diversity>) and the Center for Legal Inclusiveness to implement the pilot project “Dream Team 2.0” – an intensive six-month coaching program designed to help diverse candidates apply for judgeships.
  - Encourage judges to share their pathway to the bench experiences and strategies at programs such as the “Java with Judges” virtual coffee meeting series, the CWBA’s “Storming the Bench” events, and CBA/CLI’s “You Be the Judge” series.
  - Partner with organizations working to increase diversity in the Colorado legal community to create a pipeline to the bench for diverse lawyers.

<sup>115</sup> The judicial diversity statistics include county court, district court, and Court of Appeals Judges of the Colorado state courts as well as the Justices of the Colorado Supreme Court that were active and serving on the bench as of August 31, 2021. The data does not include demographic information for judges that were appointed but not yet taken their oaths of office as of August 31, 2021, Denver County Court judges, Magistrates, or Water Referees.

<sup>116</sup> Buchanan et al., *supra* note 12 at 15-16.

<sup>117</sup> *Id.* at 16.

2. Developing resources to address the unique challenges and pressures faced by minority judges. To understand these issues, the Diversity, Equity, and Inclusion subcommittee of the Standing Committee issued a survey in spring 2021 seeking feedback on judges' experiences with the performance review and retention processes. The DEI subcommittee has also launched "Chamber Chats," monthly virtual meetings for diverse judicial officers to discuss specific issues.
  - Review the data collected from the 2021 survey and explore specific recommendations based on the data to assist districts in understanding the issues facing diverse judicial officers and developing strategies for addressing those issues.
  - Solicit and collect information from chief judges and other managers to identify issues that have arisen for diverse judges.
  - Develop resources or programs for diverse judges to address particular problems that contribute to stress and other adverse effects on their mental and physical well-being.
3. Enhance training on diversity and equity issues at all levels of the Judicial Branch. Many courts have no training on diversity, inclusivity, and equity issues. The JWB Standing Committee should encourage and assist chief judges and other managers within the judicial branch in raising awareness of these issues and addressing concerns of women and judges of color in their districts.
  - Partner with outside organizations, such as the Center for Legal Inclusiveness, to provide training for districts, including a session at judicial conference.
  - Support efforts to provide training on implicit bias to nominating and performance commissions.

## FOSTER WELL-BEING BY PROMOTING PEAK PERFORMANCE

### A. Peer-to-Peer Coaching Program

In a statewide survey conducted in 2018 by the Colorado Judicial Educator's Office, Colorado judicial officers were asked what they find most challenging about being a judge or magistrate.<sup>118</sup> Over half of the respondents noted one or more of the following categories (1) Case & Work Loads; (2) Burnout-Stress-Isolation-Trauma; and (3) Time & Work/Life Balance.<sup>119</sup> When asked what would help them in dealing with these challenges almost half identified having a confidante colleague or mentor and/or being observed or observing a docket.<sup>120</sup>

In response to this feedback, with the support of judicial branch leadership, Colorado became the fourth state to implement a peer-to-peer coaching program for judicial officers in 2019. The Peer-to-Peer (P2P) coaching program is a professional development resource that provides an innovative support system for judicial colleagues by matching a judicial officer with a peer coach, in a setting that provides a confidential relationship and focuses on the specific needs of each individual participant. Unlike mentoring programs, which generally incorporate teaching and training components, P2P is a comprehensive program that encompasses topics such as stress management, work/life integration, and meeting the professional development goals of each individual.

<sup>118</sup> Peer-to-Peer Coaching for Judicial Officers, Needs Survey Results (2018) (unpublished survey) (on file with Task Force leadership), Question 9.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*, Question 6.

This program is geared toward judicial officers who have served at least two years on the bench. Judicial branch leadership recognized that judicial officers with two or more years of experience face a variety of professional and personal challenges, including fatigue (burn out), well-being issues, work/life integration, isolation, and access to ongoing professional development.

Current training and mentoring opportunities typically address traditional judicial functions but fail to examine other issues that can and do affect the ability of judicial officers to achieve personal and professional success over time. The P2P program was created to identify personal and professional practice gaps that not only promote individual well-being, but also encourage the retention of experienced judicial officers. The objective of the P2P program is to utilize existing resources (judges and retired judges) to coach current judges who request assistance. The program is strictly voluntary and is not associated with any performance improvement or corrective action plans.

The P2P program launched in September 2019, with a training session for coaches, and received a two-year start up grant for \$86,000 grant from the State Judicial Institute, in addition to an \$86,000 match funding allocation from the Colorado Judicial Department. This grant was later extended for a third year. For 2021-22, the leaders of the P2P program expanded participation to judicial officers with fewer than two years' experience, and proactively recruited additional diverse coaches, recognizing that many of our newer judicial officers are also diverse.

The Judicial Well-Being Committee recommends that the P2P Executive Committee pursue a line-item request of additional funding each year beginning in FY21/22 in order to sustain this coaching program long term.

## **B. Professional Development Training, including on-boarding**

Being a judicial officer is extremely demanding. It is complex, highly visible, with performance proficiency having a significant effect on the lives of the individuals involved.

The Judicial Well-Being Committee is aware that the pressure of maintaining a high level of performance within this environment can negatively impact the well-being of individuals on the bench over time. Therefore, the committee recommends that the Colorado Judicial branch broaden its focus on providing professional development opportunities to allow judicial officers to perform at their best and in a healthy way throughout their careers on the bench.

Specifically, the committee recommends:

1. Providing judicial officers with information on best practices and methodologies that promote judicial well-being.
2. Creating a culture that emphasizes well-being as a priority, including an expectation that conferences and educational programs will incorporate components on judicial well-being and mindfulness.
3. Creating a "Train the Trainers" program that emphasizes practices, methodologies, and other considerations to improve judicial officer well-being.
4. Promoting the use of, and accessibility to, senior judges as a resource for judicial officers to pursue development opportunities and resources.
5. Creating a series of "brown bag" lunches and/or webinars devoted to aspects of mindfulness and well-being that judicial officers and staff can access locally.

### **C. Improving Well-Being in Performance of Everyday Duties**

A top priority for judicial wellness should be the physical and psychological safety and security of judicial officers. The well-being of our judicial officers is greatly impacted by whether they feel safe at work or at home. The committee recommends the following best practices:

#### **a. Know your support network**

John Putbrese is the head of security at the State Court Administrator's Office (SCAO). His job is the safety and security of judicial officers and staff. Get to know him and reach out to him any time you have safety concerns or questions. Also know your local law enforcement agencies.

1. Provide your local law enforcement agencies with the personal home addresses of your judges. Each time a new judicial officer is appointed, ensure their home information is added to the law enforcement database so that it is in the system for welfare checks or increased patrols. When there are current threats to judicial officer safety, make sure that the local law enforcement agencies have the addresses on high alert.
2. Have local law enforcement provide judicial officers with a safety walk-through of their homes to receive pointers on what they can do to stay safe.
3. Encourage all judicial officers to keep their home addresses private. The Colorado General Assembly has recognized the inherent danger that comes with being a judicial officer and passed Colorado House Bill 09-1316, which allows removal of names and addresses from public record. Each county has a different procedure for removing names from the Assessor's Office and the Clerk and Recorder's Office. Judicial Officers should be advised to contact their local office to determine what this procedure entails.
4. On Judicialnet (Colorado Judicial's internal website), there is now a security tab that addresses these issues. Chief judges should send a yearly reminder to ensure all new judicial officers have received this important information.
5. Encourage judicial officers to learn about mental preparedness so that when they find themselves in a difficult situation, such as meeting a defendant in public, they have a response prepared for dealing with these situations. Provide trainings through SCAO every two years and more frequently if needed.

#### **b. Keep the lines of communication open**

A judicial officer who has been threatened should notify SCAO **immediately**. Local law enforcement should also be contacted with a report generated. SCAO should send out alerts to judicial officers who may be impacted by the threat. If a threat has been made against a judge, all judges who have a case involving that person should be notified. Judicial officers are at a great disadvantage if they are not kept apprised of relevant information. Do not rely on the evening news to provide the most accurate and up to date information.



### **c. Psychological safety**

When a judicial officer is going through a high-profile or particularly heinous case that puts their physical or psychological safety and security at an increased risk, reach out to them often and make sure they are doing OK. This type of disruption can have a lasting impact on every aspect of their lives. Remember that the effect of safety and security on judicial well-being includes both physical and emotional safety: making sure judicial officers **feel** safe at both home and work. Judicial officers and staff must feel that the branch supports and cares about them. The JWB Standing Committee should explore the feasibility of having counselors reach out to judges dealing with difficult cases and offer free, confidential counseling services provided by the state. Such counselors should be well-trained in the areas of vicarious trauma and be culturally competent in dealing with the types of issues commonly affecting judicial officers.

### **d. Well-Being Check-Ins**

In a recent national survey, 29.7% of judges reported stress specifically linked to exposure to cases involving severe trauma or horror.<sup>121</sup> Vicarious trauma is a type of secondary traumatic stress that involves symptoms associated with Post Traumatic Stress Disorder (PTSD) resulting from exposure to, and empathic engagement with, traumatic events. For judges, this includes exposure to gruesome evidence and disturbing family circumstances. Judicial officers preside over shocking graphic forensic evidence, not to mention exposure to highly stressed, unreasonably contentious, and traumatized victims, parties, and attorneys. Judicial officers are not immune from secondary trauma. While presiding over these types of cases, judges must continue to effectively manage the case, the courtroom, the jurors, and other participants. The emotional impacts on the judicial officer's short-term and long-term mental health are unpredictable and can affect the performance on the bench, interpersonal relationships, and long-term physical and mental health.

Symptoms of vicarious trauma generally include changes in self-identity, spirituality, and psychological needs. There are usually disruptions in an individual's sense of safety, trust, and control. Specific symptoms might include:

- Elevated anxiety, such as being vigilant, jumpy or easily startled;
- Being constantly on guard and alert to possible threats to self, family, or loved ones;
- Difficulty concentrating;
- Difficulty sleeping;
- Anger or irritability;
- Having images from cases intruding into thoughts and dreams;
- Dreading working with certain types of cases or clients;
- Avoiding or becoming less responsive to clients, cases or colleagues, family members or social network;
- Avoiding people, places or events connected with trauma; and/or
- Starting to become numb.

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<sup>121</sup> Swenson & Bibelhausen et al., *supra* note 11 at 11.

Compassion fatigue and burnout, both of which can result from untreated secondary trauma, present with additional symptoms such as physical, mental, and emotional exhaustion and feelings of resentment or contempt for “needy” people in a judge’s life. This neurological and physiological state of simultaneous tension and exhaustion compromises judicial professional values, negatively impacting not only problem-solving abilities, objectivity, and neutrality, but also understanding and compassion. This includes a loss of compassion for our own selves as we become “hypercritical of our decisions, actions and behaviors,” further compromising objectivity and focus.

To overcome the difficulty judicial officers have in accepting that we may be negatively impacted by our work, individual, systemic, and cultural changes and interventions are required. Judicial officers commonly believe if they acknowledge the predictable impact their position has on their mental health that they will be perceived as weak and incapable of handling the position. In fact, recognition of secondary trauma is healthy. The committee urges the SCAO to create and promote a culture that minimizes the stigma often associated with the mental health impacts of the role of a judicial officer and advocate for improvement of the current culture.

**To that end, the committee proposes the following recommendations:**

1. Well-being Check-Ins: The committee proposes that SCAO explore the feasibility of a state-funded program that offers up to three mental health counseling sessions for judicial officers during or immediately following high profile cases similar to what is now offered in some jurisdictions to jurors who serve on high profile homicide and sex assault cases. The services should be provided by licensed behavioral health therapists with certifications and specialization in trauma-informed care akin to that provided to law enforcement. Such services should be anonymous with no reporting by the counseling service, and could be initiated either by the judge or as a “well-being check in” by the counseling service when a judge is identified as presiding in a high profile/high stress case. The judge would have discretion to decline the service. However, an initial inquiry from the service may establish a connection for the judicial officer in the future if a potential need arises. Such a service would be distinct from the services of COLAP and would be designed to provide an immediate, private service to the judicial officer paid for by SCAO.
2. Judicial Roundtables.
3. Increased education and training for judges and staff on secondary trauma.
4. Increased awareness and referral to resources (Judicial website, COLAP, Peer to Peer, Colorado State Employee Assistance Program (C-SEAP), etc.).
5. Increased individual commitment from the judiciary to well-being; fostering a culture that decreases stigma around help-seeking behavior and minimizes the “super hero” complex experienced by many judicial officers.

## SENIOR JUDGE PROGRAM

Colorado has a senior judge program that authorizes the Chief Justice of the Colorado Supreme Court to use retired judges to perform judicial duties. The program currently focuses on assigning retired judges to cases to avoid interruption of the court's docket to the detriment of litigants due to illness, or unexpected absence of a judge, judicial vacancy, judicial training, or overscheduled dockets.

The Judicial Well-Being Committee recommends a broader use of senior judges to promote the well-being of judicial officers by allowing for increased availability of the use of senior judges. Broader use of the program would enhance a judicial officer's ability to integrate their professional and personal lives, maintain positive mental health, and ultimately improve service to the citizens of our communities. The present Senior Judge Program is subject to specific narrow criteria (recusal, unexpected absence or illness of a judge, judicial vacancy, judicial training or education, or an overscheduled docket) and is constrained by these criteria and the limited number and availability of approved senior judges in the program. Recent legislative changes have expanded the Senior Judge Program by allowing for additional senior judge contract days and available contract increments. The Senior Judge Program Advisory Committee is working to create recommendations for updates to the existing program policies and procedures to reflect these legislative changes as well as evolving needs of the courts and judicial officers.

Many of the recommendations in this Appendix address the demands of the position of a judicial officer, the resulting stressors and our objectives for achieving improved performance, increased job satisfaction and longevity. Many of these objectives are dependent on judicial officers having the ability to use senior judges for docket relief on a more consistent and broader basis.

The committee recommends an enhanced senior judge program that increases the number of senior judges and authorizes senior judges for docket relief for the following situations:

1. Judicial education and training;
2. Supplemental "on-boarding" training for new judicial officers that goes beyond the one-week orientation session;
3. Emergency short-term use when a judge has a short-term illness;
4. Longer-term medical leave such as surgery and treatment for serious medical conditions;
5. Vacation time coverage for judicial officers, to provide the ability to truly be absent from the responsibilities of the office while on vacation;
6. Time off to attend to the needs of sick family members, aging parents, death of a family member/ close friend, and other life events.

The JWB Standing Committee now has a liaison representative with the Senior Judge Committee established by the Chief Justice. The committee proposes that the Senior Judge Committee work with the JWB Standing Committee liaison to implement the above suggestions, including exploring any budgetary issues.

## RETENTION SUPPORT

As part of Colorado's merit selection process for justices and judges, Colorado employs a rigorous judicial performance evaluation program. The evaluation process is a particularly stressful time for justices and judges. Surveys have suggested that implicit bias can surface in this process, leading to lower evaluations for women and diverse justices and judges.<sup>122</sup> Judicial officers have also faced sudden and well-financed opposition campaigns late in the election season. These dynamics have heightened anxiety during a process that is intended to honestly assess judicial performance, provide constructive feedback, and ultimately improve skills. The committee recommends giving judges the tools for coping with these stressors and use this process to improve their performance.

### **A. Create a system of support and collaboration during the evaluation process.**

Judges tend to isolate and not seek the advice of others as they navigate the evaluation process. Judges have nevertheless expressed a great interest in receiving peer support and social support from trusted people based on information from the recent National Judicial Stress and Resiliency Survey.<sup>123</sup>

There is an acute need to support judges as they go through the evaluation process. Senior judges or trusted colleagues should be made available to judges as they go through the evaluation process. These trusted colleagues can bring a valuable perspective to these survey responses and use them to ultimately improve performance. This collaboration may also expose implicit bias that many surveys have found exists in these performance surveys. Supporting our other judges will counter the effects of these inequities and promote greater diversity and inclusiveness on the bench.

### **B. Design surveys and adopt practices to eliminate implicit bias in evaluation process.**

Studies that have found implicit bias in judicial performance evaluations have also recommended ways these surveys can be redesigned and implemented to eliminate or reduce the potential for implicit bias. The committee recommends that the Office of Judicial Performance Evaluation (OPJE) review the survey's design to comply with these recommended practices. OPJE should also train its commission members about these studies and the need to guard against implicit bias during the evaluation process.

### **C. Chief judges should educate performance commissions about dynamics in their districts which may negatively affect performance.**

Particular dynamics at work in a district may affect judicial performance, such as increases in filings that can lead to increased docket pressure. A chief judge can serve as a bridge between the commission and the individual judges. A chief judge can provide important context to explain these dynamics and the resulting pressures faced by the judicial officer when handling a certain docket.

<sup>122</sup> See Jennifer K. Elek et al., *Judicial Performance Evaluation: Steps to Improve Survey Process and Measurement*, 96.2 JUDICATURE 72 (Sept. / Oct. 2012) (analyzing judicial performance surveys used in eighteen states and four model surveys); see also Joyce S. Sterling, *The Impact of Gender Bias on Judging: Survey of Attitudes Toward Women Judges*, 22 COLO. LAW. 257, 257 (1993); Inst. for the Advancement of the Am. Legal Sys., *Leveling the Playing Field: Gender, Ethnicity and Judicial Performance Evaluation*, 2 (2012).

<sup>123</sup> Swenson & Bibelhausen et al., *supra* note 11 at 16-17.

#### **D. Encourage individuals and lawyers with expertise and diverse backgrounds to apply for performance commissions.**

Performance commissions are called upon to evaluate judges who handle a wide variety of dockets in jurisdictions that have a diverse population. The committee recommends that diverse and specialty bar associations and other stakeholders encourage their community members and lawyers to apply for these performance commissions so their perspectives can inform an evaluation.

#### **E. Make resources available to judges facing opposition campaigns during retention elections.**

In the aftermath of campaigns that were launched against certain judges late in the 2018 retention election cycle, the District Court Judges Association approved the hiring of a public information officer to serve the functions as approved in CJEAB Op. 19-01. Judges should become active in their associations and learn of the resources available to them when confronted with these organized opposition campaigns during a retention election.

### **STAFF CONSIDERATIONS**

One critical component of judicial well-being that can be overlooked is the judicial officer's role and responsibilities as a leader, both within the judge's own chambers, and within a broader court. A judge's well-being may significantly affect the well-being and performance of her or his chambers staff as well as greater court staff. In addition, stressors that affect the judge's performance—ranging from a demanding case load or difficult litigation—also affect individual chamber staff members. Accordingly, it is important to consider the training of court personnel, and to make resources that are available to judicial officers available to staff members as well.

#### **A. Addressing Judicial Officer Performance Concerns**

Sometimes a judicial officer's performance concerns adversely affect staff members. It is imperative for staff members to have at least one, and ideally more than one, avenue to raise concerns regarding judicial officer performance and to have such concerns adequately investigated without fear of retribution. In addition, it is also important for the judge to have an opportunity to respond appropriately to any such identified concerns. In the United States Court of Appeals for the Tenth Circuit, two such plans exist—a procedure that permits the filing of judicial misconduct complaints, which can be found at <https://www.ca10.uscourts.gov/ce/misconduct>, and a plan specifically to address employment discrimination complaints, which may be found at

<https://www.ca10.uscourts.gov/form/employee-dispute-resolution-edr-plan>.<sup>124</sup> Each has express provisions that prohibit retaliation. In the Colorado state courts, such complaints may be made to the Colorado Commission on Judicial Discipline if they pertain to judicial conduct.

Equally key to addressing these performance issues is a mechanism for staff members to raise concerns that do not rise to the level of judicial misconduct. The Tenth Circuit's ECR Plan includes a mechanism for counseling and mediation short of the proceeding contemplated by the EDR Plan. The Judicial Department

124 The United States District Court for the District of Colorado has implemented a separate, but consistent, Employment Dispute Resolution ("EDR") Plan. <http://www.cod.uscourts.gov/AbouttheDistrict/EmployeeDisputeResolutionPlan.aspx>.

believes in the effectiveness of alternative dispute resolution and is adopting mediation throughout our internal workplace. This program provides employees with resources and options in resolving internal workplace conflict. The goal of the program is to foster more effective working relationships through open communication, problem-solving, and effective interpersonal skills, and to encourage a culture of employees who are empowered to resolve problems at all levels. To promote both judicial and staff wellness, such informal mechanisms can serve an important function in balancing all interests involved. Developing informal mechanisms allows the courts and judicial officers to foster a culture where concerns raised are viewed as an opportunity to improve or excel, rather than attack that inherently triggers a defensive response, when a complaint is filed, or an issue raised.

## **B. Specific Training of Court Personnel**

As reflected by literature and resources offered by the National Center for State Courts, training should be offered for staff at all levels within the courts, including but not limited to law clerks, judicial staff, and other justice partners. The National Center for State Courts' website includes a Judicial Stress Resource Guide, which features resources including addressing Secondary or Vicarious Trauma Among Judges and Court Personnel; improving morale within the courthouse during times of budgetary uncertainty; and staff retention issues. Certain non-profit organizations, such as SHIFT Wellness, have specific focuses upon tools, including training, that can be used with judicial professionals to address vicarious trauma. See <https://www.shiftwellness.net/judicial/>.

Here in Colorado, judicial officers and courts should not overlook the resources available from the Colorado Lawyer Assistance Program (COLAP) that can also be applicable for staff members. COLAP conducts judicial roundtables at annual judicial conferences and may also be available to bring similar support to staff training sessions.

Issues concerning judicial well-being are not static; they emerge and evolve with regularity. For example, attacks from sovereign citizens, protests that can place personal safety at risk, and attacks on the bench by elected officials create stressors which may require deliberation to formulate an appropriate and specific response.

Accordingly, the committee recommends that periodic meetings occur to identify and address emerging concerns, as well as to solicit successful programs and innovations from around the state that address judicial well-being. In doing so, we can best maintain the relevance and vitality of the Judicial Well-Being website, as well as make recommendations for annual trainings. The committee further recommends annual staff training that includes avenues to raise any internal concerns regarding judicial performance, and discussion of resources available to staff members. The committee also recommends including well-being topics in mandatory staff training, perhaps in conjunction with mandatory training regarding harassment and/or safety.

## TRANSITIONS

Throughout a legal career, transitions can be times of positive professional growth, but they can also be times of significant stress, particularly for judges who occupy positions where the expectations and stakes are high. Assisting judges with professional transitions is a primary goal of the judicial well-being workgroup. For the purpose of this report, the committee considered three primary areas of transition:

### A. Joining the court or starting a new docket/area of law

In a statewide survey conducted in 2018, Colorado judicial officers reported feeling “thrown in” to their positions, particularly when they were asked to oversee a docket in an unfamiliar area of law.<sup>125</sup> Survey respondents overwhelmingly expressed a desire to receive more training before they took the bench.<sup>126</sup> Many wished they had had an opportunity to “shadow” their predecessor and/or to have a mentor judge to provide one-on-one assistance.<sup>127</sup>

#### Recommendations:

- Encourage and support judicial districts in adopting the existing statewide onboarding guidelines, modified as necessary to meet each district’s unique circumstances and conditions.
- Expand access to and use of the senior judge program to allow judicial officers to take advantage of training opportunities during times of transition.
- Create a formal judicial officer mentoring program for new judicial officers and judges rotating to a new docket.
- Create a peer-to-peer network or listserv that allows judges with subject matter expertise to provide timely support to new or transitioning judicial officers.

### B. Starting a new leadership role such as Chief Judge or Lead Judge for a specific area

Serving as a new Chief Judge, leading a collaborative initiative, or managing a court reform project can be exciting but also challenging. At times, judicial officers find their new roles require different skills from those they acquired on the bench. Providing additional time, resources, and support to Colorado judicial officers who assume new leadership roles is a priority area for the judicial well-being workgroup.

#### Recommendation:

- Use the judicial Peer-to-Peer (P2P) coaching program to match judges with prior leadership experience with judges entering leadership positions.

<sup>125</sup> Peer-to-Peer Coaching for Judicial Officers, *supra* note 118, Question 4.

<sup>126</sup> *Id.*, Question 6.

<sup>127</sup> *Id.*

### **C. Preparing for retirement**

Like many major life changes, retirement is a significant event that can lead to stress. The committee is committed to helping judicial officers smoothly transition into a new, rewarding phase of their lives.

#### **Recommendations:**

- Expand marketing of post-retirement opportunities, including the senior judge program, peer-to-peer coaching, and other community service projects.
- Provide additional resources to assist in post-retirement planning, including sessions regarding PERA, health insurance, and financial planning.



# APPENDIX 6:

## Survey Options

The Data Gathering Committee obtained four different survey options. The options vary in complexity, cost, and duration. Some feature a single moment in time snapshot survey. Others contemplate repeated assessment with a control group. The options are:

### **SELF-SURVEY OPTION**

The Colorado Task Force would undertake its own bulk of study based on West Virginia's lawyer well-being study. The committee's draft of an expanded West Virginia study is available upon request.

#### **Pros of this option**

- Low cost to distribute via survey vendor such as Survey Monkey.
- Ease of distribution as the survey could be distributed via the attorney registration mass email blast.
- Availability of some comparison data with West Virginia's results.

#### **Cons of this option**

- Lack of scientific-based evidence supporting the questions asked and interpretation of results collected.
- Respondents' concern of providing information they perceive could be used to support a grievance.
- Respondents' concerns of a lack of confidentiality.
- Lack of data confidentiality and security from using third party vendor such as Survey Monkey.
- Increased expenditure of resources to collect results. As some questions are open-ended, a person would have to be employed to review and categorize open-ended question answers for possibly 10,000+ responses.
- Employing an outside expert to analyze the data collected.

## ACADEMIC OPTION

### Recommended by this Committee

Employ Dr. Matthew Thiese at the University of Utah, [https://faculty.utah.edu/u0067419-MATTHEW\\_S\\_THIESE/hm/index.html](https://faculty.utah.edu/u0067419-MATTHEW_S_THIESE/hm/index.html), to duplicate a lawyer well-being survey he designed and administered for the Utah State Bar. The Utah survey focused on both negative and positive impacts of interventions designed to improve well-being of lawyers and judges.

In anticipation of this report, Dr. Thiese submitted a ballpark bid to design, implement, administer, and analyze a lawyer well-being survey for Colorado.<sup>128</sup> As noted in his bid, titled "Mental Health of Lawyers, Law Students, support staff and Judges In Colorado: A Cross-Sectional Study," he addresses the committee's request to survey Colorado lawyers, law students, and judges. His bid explains:

This proposal aims to continue that (Utah) research by conducting assessments of law professionals in Colorado. We will also conduct in-depth analyses of relationships between potential risk factors, including work related factors (e.g. law practice type, rural vs. urban location), personal factors (e.g. physical activity levels, medical history), and personal factors (e.g. age, gender) and negative health outcomes, including alcohol abuse, substance abuse, depression, anxiety, burnout, work-life balance. No other study has evaluated these factors among this population.

### Highlights of the study procedures would include the following:

1. His group will obtain a list of active lawyers and judges in Colorado and randomly sample from that list to identify those they will approach for recruitment and inclusion in the study. They will also collect a convenience sample from those attending Colorado Bar Association meetings and from firms willing to provide access to their law professionals.
2. They will recruit law students using printed materials, emailed invitations, and personal invitations.
3. They will invite volunteers to participate.
4. They will schedule and administer questionnaires.
5. They will compile the data and analyze it for prevalence and associated factors and will present findings, in aggregate, to interested groups and publish in peer-reviewed medical journals.
6. They will generate descriptive statistics based on the results of the study. Summary statistics will be analyzed, and multivariate logistic regression will be performed to obtain adjusted odds ratios. Prevalence of the indicators will be calculated, with odds ratios determined among occupational groups.

As for cost, Dr. Thiese proposes three options:

1. An initial cost to replicate the epidemiologic study that was done in Utah, which includes:
  - Scientifically sound, randomized data collection of up to 1000 law professionals using the questionnaire used in Utah.
  - Summary statistics of each population group: Law Students, Attorneys, Legal Administrative Professionals, and Judges.

<sup>128</sup> His bid is also available for the Court's confidential review.

- Detailed analyses to identify associated factors.
  - Presentation of results at a conference(s) and in article(s).
2. A minimally higher cost to replicate epidemiologic study process used in Utah, collecting key data on knowledge, use, and understanding of services in Colorado, which includes:
    - Scientifically sound, randomized data collection of up to 1,000 law professionals using a modified Colorado Questionnaire.
    - Summary statistics of each population group: Law Students, Attorneys, Legal Administrative Professionals, and Judges.
    - Presentation of results at a conference(s) and in article(s).
  3. Or a minimally higher cost to replicate the epidemiologic study that was done in Utah and include additional data on services of interest to Colorado, which includes:
    - Scientifically sound, randomized data collection of up to 1,000 Law professionals using a combined Utah and Colorado questionnaire.
    - Summary statistics of each population group: Law Students, Attorneys, Legal Administrative Professionals, and Judges.
    - Detailed analyses to identify associated factors.
    - Presentation of results at a conference(s) and in article(s).

If legal administrative professionals were not included in any of the above elements, the total cost would be reduced.

#### **A. Pros of this option**

- Availability of scientifically based questions and expert result analysis.
- Comparison data from Utah and possibly other states (he is currently looking at including over 30 states in nationwide survey/study).
- Shared cost and/or possible partial cost off-set through possible grant funding.
- Repeat surveying over time by the same vendor and under scientifically proven methodology.
- Use of a controlled, randomly selected cohort as well as volunteer participants, possibility for multi-year follow-up surveys to measure movement/outcomes.
- HIPAA-compliant surveys.
- IRB-approved surveys.
- Dr. These completed a nearly identical task, and Colorado will benefit from not being the first survey taken or analyzed on this subject.
- Survey and analysis falls squarely within Dr. These's core competency.
- Survey results have opportunity to benefit legal profession outside of Colorado.

## B. Cons of this option

- The cost of retaining is Dr. Thiese higher than the self-study option.
- Pressure to make data results publicly available (even with confidentiality controlled).
- Timeline may be longer if Dr. Thiese seeks grant funding.

## COMMERCIAL OPTION 1: THE CENTER FOR HEALTH, WORK & ENVIRONMENT

Employ the Center for Health, Work & Environment (CHWE) to design, initiate and review results of a custom survey. In October 2019, CHWE, led by Lee Newman, MD, MA, submitted a bid to conduct this survey.<sup>129</sup> CHWE's bid, titled "Proposal for Colorado Task Force on Lawyer Well-Being," was prepared by Liliana Tenney, MPH, and Dr. Lee Newman. CHWE is a leader in conducting research, education, and practice to advance worker health, safety, and well-being. Representatives from the Colorado Task Force on Lawyer Well-Being contacted CHWE in July 2019 with the request to develop a proposal for conducting research on the well-being of Colorado's legal community.

As outlined in its bid, CHWE would lead the development and execution of a research pilot to meet the primary objectives of: (1) understanding the underlying factors associated with poor health and well-being among law professionals in Colorado; and (2) identifying opportunities for effective interventions that are effective and scalable in improving the health and well-being of legal professionals in Colorado. The secondary objectives include: (1) conducting focus groups and key informant interviews with law professionals in Colorado to assess their attitudes, knowledge, and health behaviors; (2) developing and administering a state-wide survey of law professionals to assess the leading factors associated with poor mental health (depression, anxiety, burnout, substance use, suicide) and needs for change; (3) conducting a workplace culture assessment through Health Links to collect data on organizational factors of Colorado law firms to determine the structural norms, policies and supports that shape employee well-being; and (4) designing and piloting an intervention for improving individual and organizational factors associated with well-being.

CHWE would complete its work in two phases: Phase I: discovery and review, and Phase II: intervention design and pilot. In Phase I, CHWE proposes a fast-tracked discovery and review phase to collect information through a mix of focus groups, interviews, and surveys over a six to twelve-month period. This process will involve determining design for data instruments with guidance from expertise in Total Worker Health®, occupational health psychology, occupational safety, and stakeholders.

In Phase I of CHWE's proposal, CHWE would focus on the *workplace* or *organizational* determinants that map to worker-level and organizational-level outcomes. Therefore, information would be needed to answer key questions including: (1) what is burden and need of the issue(s), (2) what are employee perceptions of well-being across the industry, (3) what impact can changes to organizational policies and practices have on worker health and well-being, and (4) what contextual factors should be considered for designing interventions that maximize reach, effectiveness, adoption, implementation, and maintenance? Discovery activities would be geared towards assessing the following: attitudes, knowledge, behaviors, workplace culture, contextual work and environmental factors, turnover rates/attrition, workforce demographic disparities, resources, and needs and interests. In accomplishing these tasks, CHWE would conduct focus groups, conduct key informant interviews, design and conduct a state-wide lawyer survey, and data analysis.

<sup>129</sup> The CHWE's bid and organizational bios/information are also available for the Court's confidential review.

In Phase II, CHWE proposes a two-month work plan to identify champions (lawyers willing to tell their stories) and design a toolkit which would include: a law firm survey, technical assistance and advising to 25 firms for the pilot, training, resources, a state-wide recognition program and evaluation.

CHWE's cost estimate is significantly higher than the self-survey, Dr. These's proposal, and the fourth option outlined below.

PHASE 1 (12 months) costs would cover:

- UCD personnel salaries
- Travel (local and regional)
- Participant incentives
- Health Links assessment fees
- Indirect Costs (GAR 7% and 10% Center admin)

PHASE 2 costs would cover:

- UCD personnel salaries
- Travel
- Health Links assessments & advising
- Marketing
- Training materials
- Video testimonials
- Indirect costs (GAR 7% and 10% Center admin)

#### **A. Pros of this option**

- Availability of scientifically-based questions and expert result analysis.
- Possible repeat surveying over time by the same vendor and under scientifically-proven methodology.
- Use of a controlled, randomly-selected cohort as well as volunteer participants, possibility for multi-year follow-up surveys to measure movement/outcomes.
- Dr. Newman and his team are internationally-recognized and sought-after for work in this specific field. They are a reliable vendor with assured quality control.
- Dr. Newman and his team have the infrastructure in place already to implement this type of survey.
- Presumably would be faster.
- Colorado-centric team.
- Less travel for in-person interactions.

## B. Cons

- Cost of retaining CHWE
- Objectives not completely in line with the committee's, but further customization is possible
- No coordinated efforts with other states

## COMMERCIAL OPTION 2: EMPLOY FRAN SIMON

Employ Fran Simon to undertake data collection and analysis of Task Force designed survey.<sup>130</sup> The committee was referred to Ms. Simon and met with Ms. Simon early in the process. She has designed, programmed, tested, collected the data for, and analyzed the following public surveys as well as reported the findings. Her reported findings were reported by the clients in public reports which can be found at:

*Invisible: The State of LGBT Health in Colorado*, ONE COLORADO (2012) [https://one-colorado.org/wp-content/uploads/2017/06/OneColorado\\_HealthSurveyResults.pdf](https://one-colorado.org/wp-content/uploads/2017/06/OneColorado_HealthSurveyResults.pdf).

*2016 Needs Assessment: A Look into the Lives of Lesbian, Gay, Bisexual, Transgender, and Queer Coloradans and Their Families*, ONE COLORADO, [https://one-colorado.org/wp-content/uploads/2018/08/2016\\_OneColorado\\_NeedsAssessment.pdf](https://one-colorado.org/wp-content/uploads/2018/08/2016_OneColorado_NeedsAssessment.pdf).

*A Conversation with Coloradans*, ONE COLORADO EDUCATION FUND (2010), [https://one-colorado.org/wp-content/uploads/2017/06/SurveyResults\\_BigBook-1.pdf](https://one-colorado.org/wp-content/uploads/2017/06/SurveyResults_BigBook-1.pdf).

In addition to these publicly reported surveys, Ms. Simon has completed a confidential work force survey for one of the largest state government legal employers. The committee believes that if the Court pursues this option, the above-referenced, confidential survey could be used as foundation for the future targeted survey recommended above.

Ms. Simon's initial cost estimates, based on very limited information, are more than the self-survey, slightly below and, with add-ons, very close in price to Dr. Thiese's bid, and significantly lower than CHWE's bid. These costs would cover:

1. A questionnaire design with limited revisions/back and forth, program survey in survey software, test survey, manage data collection, data analysis, topline report (what percent said what based on total sample), and two banner tables (all survey questions by subgroups of demographics, etc.). This assumes the sample will be provided and email invitations and reminders will be sent by someone else, and survey length is  $\leq 10$  minutes.
2. All of the work described in number 1, above, plus the add-ons of no limit on questionnaire revisions and inclusion of a full detailed report (includes graphs for every question and calls out differences by subgroups), sending of email invitations and reminders (if desired), unlimited banner tables/data cuts. Also included is consulting on sample design, email invitations and reminders, comparisons to other surveys where possible, interpreting results, sharing results, etc. Assumes survey length is  $\leq 10$  minutes.

Of note, these costs will increase somewhat with survey length.

<sup>130</sup> Ms. Simon's resume is attached and notes of her verbal project quote are available to the Court for its confidential review upon request.

### **A. Pros of this option**

- Availability of scientifically-based questions and expert result analysis.
- Possibility of repeat surveying over time by the same vendor and under scientifically proven methodology.
- Presumably would be fast turnaround once engaged.
- Data scientist with track record and prior similar experience. This vendor has studied Colorado legal employers and understands the cultural and systemic issues that impact lawyer well-being.
- Colorado-based and available for in-person meetings.

### **B. Cons of this option**

- Lack of immediate availability.
- Retention cost.
- No coordinated efforts with other states.
- Would focus on data collection based off our survey, although further customization is available.
- Does not produce fancy marketing glossy materials of survey, we would need another vendor for that.

# APPENDIX 7:

## Task Force Membership as of January 2019

**Chair:** Justice Monica Márquez, Colorado Supreme Court

1. Klinton Alexander, Dean, University of Wyoming College of Law
2. James Anaya, Dean, University of Colorado Law School
3. Judge Emily Anderson, 17th Judicial District (Broomfield)
4. Debra Austin, Professor, University of Denver Sturm College of Law
5. Chief Judge Matthew Azer, Office of Administrative Courts
6. Karen Bershenyi, Investigator, Office of Attorney Regulation Counsel
7. Jessica Boynton, Assistant Dean of Student Affairs, University of Denver Sturm College of Law
8. Rachel Catt, Harrington Brewster & Clein, P.C.; President-Elect, Colorado LGBT Bar Association
9. Sarah Coleman, Coleman Law
10. Michael Dougherty, Interim District Attorney, 20th Judicial District (Boulder)
11. Tina Fang, Chief Deputy Public Defender, Glenwood Springs
12. Patrick Flaherty, Executive Director, Colorado and Denver Bar Associations
13. Mark Fogg, General Counsel, COPIC; former president, Colorado Bar Association
14. Margaret Funk, Chief Deputy Regulation Counsel, Office of Attorney Regulation Counsel
15. Leanna Gavin, University of Colorado Law School Student, Class of 2020
16. Mark Gifford, Wyoming Bar Counsel
17. Chip Glaze, Deputy Director, Colorado Lawyer Assistance Program
18. Peter Goldstein, Special Counsel, Harris Law Firm; Chair, CBA/DBA Professionalism Coordinating Council
19. Judge Elizabeth Harris, Colorado Court of Appeals
20. Christine Hernández, Hernández & Associates, P.C.; Chair, Immigration Section Hispanic National Bar Association; President-Elect, Colorado Hispanic Bar Association
21. David Hersh, Shareholder, Burg Simpson; Chair, Committee on Conduct, United States District Court for the District of Colorado
22. Karen Hester, Chief Executive Officer, Center for Legal Inclusiveness
23. Courtney Holm, Courtney Holm & Associates, P.C.
24. Judge Amanda Hopkins, 12th Judicial District (Alamosa)
25. Gideon Irving, University of Denver Sturm College of Law Student, Class of 2020
26. Patricia Jarzowski, Law Office of Patricia Jarzowski; former president, Colorado Bar Association
27. Erin Kristofco, Assistant Regulation Counsel, Office of Attorney Regulation Counsel
28. Joi Kush, Partner, Johnson Kush, P.C.; Chair, CBA Young Lawyers Division
29. Presiding Disciplinary Judge William Lucero, Colorado Supreme Court
30. Rodrigo Lugo, University of Colorado Law School Student, Class of 2020



31. Ruth Mackey, Senior Corporate Counsel, TTEC; Immediate Past President, Colorado Hispanic Bar Association
32. Patrick McCarville, Deputy State Public Defender, Trinidad
33. Dawn McKnight, Deputy Regulation Counsel, Office of Attorney Regulation Counsel
34. Scott Meiklejohn, Scott A. Meiklejohn, LLC; Colorado Lawyers Helping Lawyers
35. Emily Mendoza, University of Denver Sturm College of Law Student, Class of 2020
36. Jennifer Mendoza, Judicial Educator, Office of the Colorado State Court Administrator
37. Sarah Myers, Executive Director, Colorado Lawyer Assistance Program (COLAP)
38. Misae Nishikura, Director of Recruitment & Professional Development, Holland & Hart
39. Lucia Padilla, Assistant Attorney General, Colorado Attorney General's Office; Colorado Hispanic Bar Association, At-Large Board Member
40. Ryann Peyton, Executive Director, Colorado Attorney Mentoring Program (CAMP)
41. Carolyn Powell, President and General Counsel, MCR Development; Vice President, Colorado Chapter of the Association of Corporate Counsel
42. Patty Powell, Former Associate Dean of Student Affairs, University of Denver Sturm College of Law
43. Judge Gilbert Román, Colorado Court of Appeals
44. Lys Runnerstrom, Deputy District Attorney, 20th Judicial District (Boulder)
45. Jessica Russell, Chief Administrative Officer, SummitStone Health Partners
46. Judge Jonathan Shamis, Lake County Judge
47. Bruce Smith, Dean, University of Denver Sturm College of Law
48. Judge Theresa Spahn, Denver County Court Judge
49. Jack Speight, Director, Wyoming Lawyer Assistance Program
50. David Stark, Faegre Baker Daniels; Chair, Colorado Supreme Court Advisory Committee
51. Amy Symons, Symons & Ratner, CBA Solo/Small Firm Section President
52. Amanda Upson, Tuck and Roll Productions; Founder, Mother Attorneys Mentoring Association (MAMA)
53. Dianne Van Voorhees, Teddi Ann Barry, P.C.
54. Magistrate Judge Nina Wang, United States District Court for the District of Colorado
55. Jonathan White, Professional Development Counsel, Office of Attorney Regulation Counsel
56. Sharon Wilkinson, Executive Director, Wyoming State Bar
57. Eve Wood, M.D., Psychiatrist, Executive Coach and Founder A Healthy Lawyer
58. Jessica Yates, Attorney Regulation Counsel

The Colorado Supreme Court website provides links to task force findings, the Colorado Task Force on Lawyer Well-Being's report, and the report of the Pilot Project for the Well-Being Recognition Program for Legal Employers.

[www.coloradosupremecourt.com](http://www.coloradosupremecourt.com)

> Colorado Task Force on Lawyer Well-Being.

The Colorado Judicial Well-Being website is designed to strengthen performance on the bench, enhance job satisfaction and work-life balance, and foster community within our profession. It is accessible to all members of the legal profession, and includes resources helpful to lawyers and judges.

[www.judicialwellbeing.colorado.gov](http://www.judicialwellbeing.colorado.gov)

### COLAP

The Colorado Lawyer Assistance Program is your free and confidential well-being program providing consultation, education, and support.

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

[info@coloradolap.org](mailto:info@coloradolap.org)

Confidential Phone Line: 303-986-3345

### CAMP

The Colorado Attorney Mentoring Program promotes community, competency, and professionalism through mentoring resources.

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

303-928-7750

### CBA

The Colorado Bar Association provides practice management resources, and opportunities to connect to your community and become more versed in your practice area.

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

303-860-1115

### Suicide Prevention Hotline

800-273-8255



**Colorado**  
Lawyer Well-Being