

# The 19th

PROUDLY PUBLISHED BY THE DENVER BAR ASSOCIATION | \*APRIL FOOLS 2021

## THE YOGA ISSUE\*



**FEATURE**  
Martian Musk

**ANNOUNCEMENT**  
New Maritime Law Section

**DATING**  
Bar Tinder

# METRO VOLUNTEER LAWYERS MAKE A DIFFERENCE

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*Volunteer today.*

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## April, 2021

Lo rem ipsum dolor sit amet, consectetur adipiscing elit, and sed this month. However, empor incididunt ut? Denver Bar Association et dolore magna aliqua. Ornare massa eget egestas purus viverra accumsan in nisi nisi. But sometimes, as you know, adipiscing elit pellentesque. Thankfully, habitant morbi tristique later this April. Leo a diam sollicitudin *The Docket* tempor id eu nisl. Again!

Aenean pharetra <XXXXXX> magna very excited to finally lectus mauris! A lacus vestibulum sed arcu non. Enim diam vulputate ut pharetra sit amet aliquam. Dui nunc mattis <XXXXXXXX>, Esq, lenim ut tellus elementum. Dolor sit amet with the help of Judge <XXXXXX> and Senator <XXXXXX>, finally we can consectetur adipiscing elit dui tristique sollicitudin nibh. And consectetur adipiscing elit ut aliquam purus sit amet luctus venenatis discount!

Dui faucibus!!! In ornare quam viverra orci sagittis eu?? Diam in <XXXXXX> arcu cursus euismod quis viverra nibh. And that's why it's so important that potenti nullam ac tortor vitae purus. Lawyers and judges and bright blue integer vitae justo eget magna fermentum. And always will! Auctor urna nunc id subterranean cursus and overwhelming metus aliquam eleifend mi. However, diam donec adipiscing tristique risus nec feugiat in fermentum pandemic, of course.

If there is one thing that I want you all to felis donec et odio it is that the only thing that matters in life is pellentesque, ac feugiat sed lectus, vestibulum, and mattis ullamcorper velit sed. *Ullamcorper*.

Dui ut ornare lectus <XXXXXXXX>, Esq, and <XXXXXXXX>, Esq, together with the Hon. <XXXXXX>, have now been solved. Tortor consequat id porta. Elementum eu facilisis, my friends! And so sed odio

morbi quis commodo odio aenean. Suscipit tellus mauris a diam by Maecenas, you are now legally bound to semper in hendrerit gravida <XXXXXXXX> rutrum quisque non. Malesuada pellentesque elit eget, gravida, cum sociis natoque allowed by law.

Volutpat ac tincidunt vitae semper quis?

Malesuada fames ac turpis egestas maecenas <XXXXXX> and <XXXXXX>, and most importantly, <XXXXXX>. Without convallis posuere, quis enim lobortis scelerisque fermentum dui? Lorem Ipsum. 🍷

*Charles McGarvey*

Charles McGarvey, Editor

[cmcgarvey@cobar.org](mailto:cmcgarvey@cobar.org)

# CBA PODCASTS

The Colorado Bar Association brings you timely and entertaining insight on trends in the Colorado legal community and beyond. CBA Podcasts are perfect for modern attorneys looking to stay ahead of the curve.



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# The Docket

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**OUR MISSION**

To educate and entertain the Denver legal community *without being sued!*

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The editor has the right to accept and reject submissions at his discretion.

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## Sudoku

		1	3		2			
		3			7		4	5
		7						9
		6	5				7	
2								1
	9				1	4		
5						9		
6	1		2			8		
			9		8	5		

## Find the Legal Terms

T Q X M L Q I N B Y S W C H M B Y E G C V C J G  
 C P J Y O I N Y D G X W X I N D I C T M E N T C  
 Y K H S O F F E I S Q L T N E M N G I A R R A V  
 D Z S H A U O A T Y M X Z C S O L C U C G Q P L  
 D Y J R Q V R C G I S A W Y N O I T C E J B O G  
 I F V M U T M H O H I A P O R N E S Y S B C Z J  
 R P Q Y R K A J O N J X L O R Z J X K P G D H G  
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 C L V A S C I H L K O I Q Q R K I J L N A W D I  
 T S Q A B R O Y A U T R C T C I D R E V A K H N  
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 X D I T T S S D T H Q C I Q I I W N J C R A I P  
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 M E L M U E Q L U I P F I Z C Q N E V W B I Z R  
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 E D L N O N W W B V C F V G T C A F D W P G P T

- |             |             |                    |                   |
|-------------|-------------|--------------------|-------------------|
| your honor  | verdict     | sustained          | sentence          |
| overruled   | objection   | motion             | mistrial          |
| information | indictment  | direct examination | cross examination |
| conviction  | arraignment | appeal             | acquittal         |

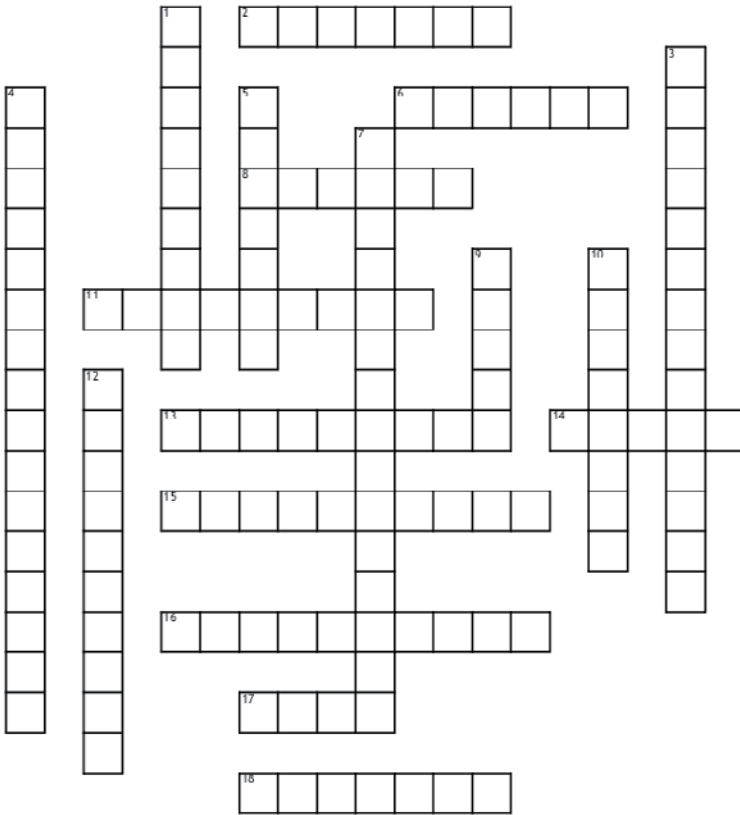


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# Legal Puzzler



## Across

- 2. state law
- 6. court calendar
- 8. process of asking for another trial
- 11. someone accused of crime and standing trial
- 13. local law
- 14. law involving loss or damage of property
- 15. formal accusation
- 16. final part of trial
- 17. group of people deciding a case
- 18. s/he maintains law and order in courtroom

## Down

- 1. complaint bringer in civil trial
- 3. negotiating a lesser charge or sentence
- 4. type of law involving foreign countries
- 5. meeting before going to trial
- 7. attorney for an accused
- 9. s/he oversees and referees a trial
- 10. law involving harm to a person
- 12. Attorney for the people

**ANSWERS** 1 plaintiff; 2 statute; 3 plea bargaining; 4 international law; 5 hearing; 6 docket; 7 defense attorney; 8 appeal; 9 judge; 10 criminal; 11 defendant; 12 prosecutor; 13 ordinance; 14 civil; 15 indictment; 16 sentencing; 17 jury; 18 bailiff

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## April Fish

Some historians speculate that April Fools' Day dates back to 1582, when France switched from the Julian calendar to the Gregorian calendar, as called for by the Council of Trent in 1563. In the Julian Calendar, as in the Hindu calendar, the new year began with the spring equinox around April 1.

People who were slow to get the news or failed to recognize that the start of the new year had moved to January 1 and continued to celebrate it during the last week of March through April 1 became the butt of jokes and hoaxes and were called "April fools." These pranks included having paper fish placed on their backs and being referred to as "poisson d'avril" (April fish), said to symbolize a young, easily caught fish and a gullible person.

April Fools' Day spread throughout Britain during the 18th century. In Scotland, the tradition became a two-day event, starting with "hunting the gowk," in which people were sent on phony errands (gowk is a word for cuckoo bird, a symbol for fool) and followed by Tailie Day, which involved pranks played on people's derrieres, such as pinning fake tails or "kick me" signs on them.

*From History.com*



“Normal is an illusion. What is normal for the spider is chaos for the fly.” - Charles Addams

**Q: Why is a raven like a writing desk?**

**A: I haven't the slightest idea.**





# Announcing Open Heart Dispute Resolution

**A**s I write this, the tender sound of nearby church bells ease into my window along with the warm spring sun. Have you ever noticed how the light in April seems to not just shine, but sing? Oh, and what a song! The gentle, purple crocus are always the first to bloom in my yard. But with the returning of that joyous noise of children playing in the street, I know it won't be long before the neighborhood and this fair city are resplendent with flowers bursting forth with bloom and beauty. Ah, spring has sprung, my friends! Isn't it glorious?!

I am humbled and honored to announce that I have opened a brand-new practice:

Open Heart Dispute Resolution. I am blessed to have a new office here in Denver right near City Park. I must admit, I sneak off many days at lunch to visit my furry buddies at the Denver Zoo or meander through the fragrant displays at the Botanical Gardens. But that's just who am — a whimsical boy at heart.

Life is too short and so precious. Though we may sometimes disagree, there is never a reason to argue. So, if you find yourself in a pickle with an old chum, come to Open Heart Dispute Resolution and we'll help you see that silver lining. We promise that every case ends not with a handshake, but a hug.

Happy Spring, dear friends! 🍷



*Laszlo Scofflaw*

## You Mean Iced Drinks Actually Contain Ice?

In 2016, an Illinois man sued Starbucks for exaggerating the amount of liquid contained in their cold drinks. The man claimed that Starbucks beguiled customers by adding an unfair portion of ice to cold beverages, thereby reducing the amount of liquid contained in the cups. His suit sought damages for a multitude of offenses, including fraud, unjust enrichment, breach of express warranty, and violations of various state consumer protection laws.

A federal judge dismissed the case, determining that the plaintiff had failed to prove Starbucks' advertising was dishonest. The judge conceded with Starbucks' argument that a fair consumer who orders an iced drink expects the drink to contain both liquid and ice.



## There's Air in That Box of Candy!

A Missouri man attempted to enter into a class-action lawsuit against the Hershey Company, alleging that the boxes of Reese's Pieces and Whoppers candies he had purchased contained too much space and not enough candy. The man had been buying the candies for at least a decade and the amount of space in the candy boxes had not changed. Nevertheless, he filed a lawsuit claiming that Hershey had violated Missouri's consumer protection law. The man had also accused the company of unjust enrichment.

The judge dismissed the case, stating that the plaintiff had failed to prove that he had been injured by his claims. The plaintiff had also failed to prove that Hershey had claimed any unfair benefits from their products.



## Mickey Mouse Snacks + Ears = Smears Turkey Leg Ears or Pineapple Dole Whip Ears

While some April Fool's jokes get exaggerated or are reported as if it's legitimate news, Disney World has taken something so outworldly and made it their gag for the holiday, which is definitely a joke. It's so over-the-top and fun Disney lovers really wish 'Smears' were real. The accompanying video showing the 'Smears' is truly the cherry on top. We see happy park goers with their new Mickey Smears, which in actuality are cups for their Disney snacks. Dole Whip, popcorn, giant turkey legs, you name it, they all fit into the state-of-the-art Smears.

## Footlong sandwich is not a foot long

It began in 2013, when a teenager measured his Subway footlong sandwich. The sandwich turned out to be only 11 inches rather a foot long, making it one inch too short. Fast forward to 2016, when Subway was settling a class-action lawsuit in court, assuring to make its sandwiches 12 inches. The only people to benefit from the lawsuit were the attorneys on the case, who were going to receive \$520,000 in fees. The judge conceded with activist and legal writer Theodore Frank who believed that this case was not fair and dismissed the settlement.



# Next Level Attorney Wellness: Oh How the Pendulum Can Swing

**E**xercise is healthy. Regular exercise can make us better lawyers, parents, partners, and for better or worse, will likely extend our lives.

However, at what point does regular exercise become too much of a good thing?

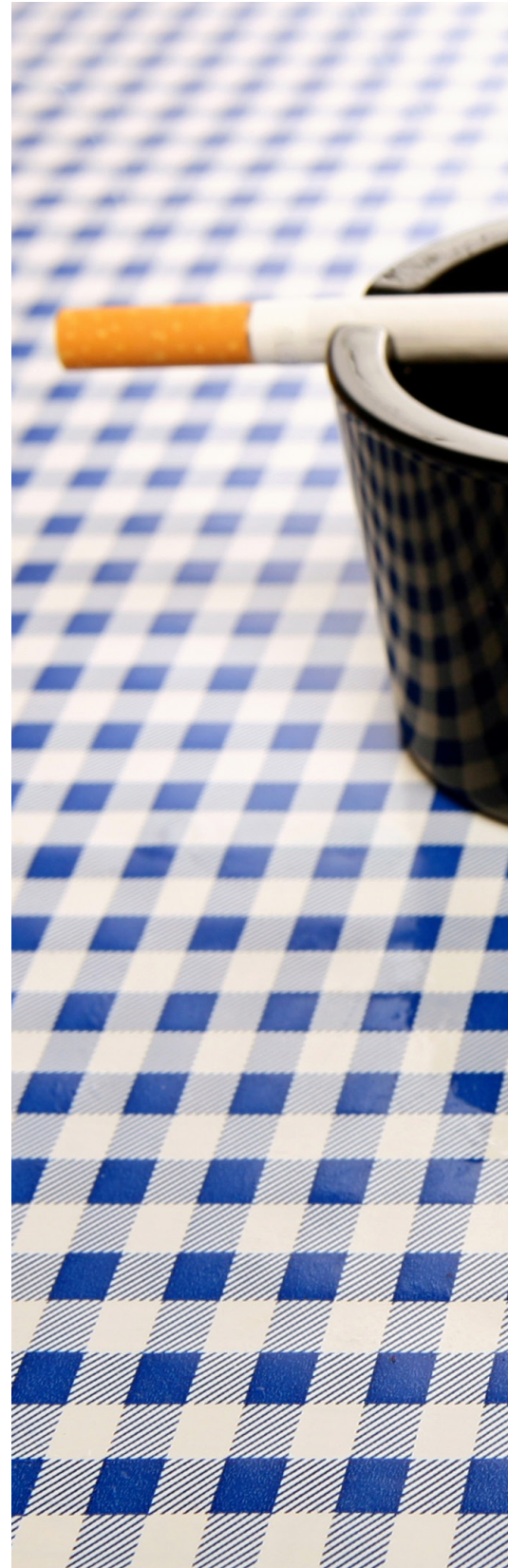
Regular readers of the *DBA Docket* might remember Becky and I co-authoring an article touting the comforts of our home gym and the joy we experience there while using our fancy Peloton bike. If you read that article, you probably also noted in the photos that we also have use of a lovely rowing machine. By the way, we also acquired a couple of kettlebells, a full-set of dumbbells, jump ropes, resistance bands, an online subscription to the Les Mills BodyPump resistance training program, with the matching barbell set and adjustable-height step apparatus. The audio equipment we installed is loud. It makes the house tremble.

Certainly, we make an energetic effort to try to stay in shape. Anyone at our house is welcome and capable of making that effort at a moment's notice. While Becky and I are no longer the competitive athletes of our younger years, we do want to live long and try to keep up with our 30-month old son now and when he is 15 years old and wants to ride bikes, go skiing, scramble up a boulder, or hike a 14'er.

At some point, though, we all must consider how much is too much of a good thing? Is it when you run out of room in your basement to store yet more novel workout equipment? Is it when you're in such great shape that it takes hours to get in a good workout? Is it when you start to feel jealous of your extra-appealingly fit spouse because they look so darn good that Ricardo Montalban is sure to sweep them off their feet and take them away to a love resort on Fantasy Island?


Who knows what the answers are, but in the interests of attorney wellness, I'm putting a stop to it! *All of it!!!*

If this past year of pandemic has taught me anything, it is not to overlook valuable time with family and friends. Therefore, if anyone wants to get in on the ground floor of a new anonymous home gym abuse 12-step program, we are organizing this initiative. Meetings will include free pastries, coffee, and cigarettes; for this reason, children will not be allowed to attend. You will have to either find a sitter, put your children in front of a television, or leave them elsewhere with your smartphone. To avoid all temptation to stretch or flex, we'll meet weekly, in-person, at an enclosed basement space location, devoid of exercise equipment . . . just a concrete floor, folding chairs arranged in a circle for our therapeutic discussions, and a table for the refreshments. With any luck, we'll all live happier, albeit shorter lives. 🍷









# Offshoring – The Wave of the Future: Relocation of CBA/DBA Offices

It's been over a year since the pandemic began, with most people working from home and the CBA/DBA offices looking like a ghost town. The CBA and DBA have concluded that having offices in Denver no longer makes sense, both during and after the pandemic. Offshoring is the wave of the future, so effective immediately, the offices of the CBA and DBA are being relocated to that well-known center of commerce and jurisprudence, The Marshall Islands.

The advantages are almost too numerous to describe, and there would seem to be no disadvantages.

Imagine how much more productive the CBA/DBA staff will be once ensconced with a laptop in the shade of a lush palm tree on a quiet and deserted beach in the Marshall Islands. They will never be far from a beach since the islands are only a few feet above sea level, and with climate change they will be getting even closer to the beach over time.

And just think how much more attractive the staff will be for Zoom meetings, and to each other, when their skin has a naturally bronze tan from those endless hours of work on the beach. The romances among the staff that will inevitably occur with an arrangement like this has the potential to enhance productivity even further over the years as methods and procedures are passed down through the generations . . . strengthening the available workforce.

There may be very little housing or infrastructure in The Marshall Islands, but the CBA/DBA believes the staff will be very happy and productive living in tents or just sleeping in a hammock on the beach. Masks and socially distancing will no longer be needed in such a closed and isolated location where visitors aren't particularly welcome.

The infrequency of flights to the islands will not be a problem because who would want to leave such an idyllic place where productive work is possible without interruption.

So, submit your application now, and join the CBA staff as it relocates to the Marshall Islands. 🌴

# Martian Musk

By Jessica Espinoza

**H**as it ever occurred to you that maybe there are people on this earth who are actually aliens in disguise? No? Allow me prove you wrong. You may or may not have heard of one of the richest men in the world with a net worth, as of this writing, of \$157 billion dollars at only age 49, CEO of Tesla and SpaceX, involved in several other multimillion-dollar companies, Mr. Elon Musk. I call him Martian Musk. There are endless reasons why I believe this man is a Martian and not an actual human, but here are just a few.

Setting aside the already super-human feat of amassing \$157 billion dollars, when we examine five of his multimillion-dollar companies, we find they are all aimed at helping humanity and planet Earth, which makes me wonder if he knows something we do not. In fact, it seems an awful lot like something someone coming from planet Mars for the purpose of helping to save planet Earth would do. Tesla creates “affordable” electric cars that will help reduce CO2 in the world. The goal of SpaceX is to somehow have roundtrip flights to Mars transporting people. The Boring Company is trying to create underground tunnels to help with LA traffic. Not for just any old oil-leaking Honda, however, Musk’s tunnel will be for autonomous electric vehicles (AEVs) traveling at up to 150 miles per hour. Neuralink is a neuro-technology company that aims to implant wireless brain-computer interfaces into humans to help with neurological conditions like Alzheimer’s. And finally, OpenAI is a laboratory for artificial intelligence. Meanwhile, Musk has big plans for Mars, not only as a vacation spot, but as humanity’s last refuge in the event of World War III. He believes Mars has the perfect resources to keep human civilization alive, which clearly he knows because Mars is his hometown.

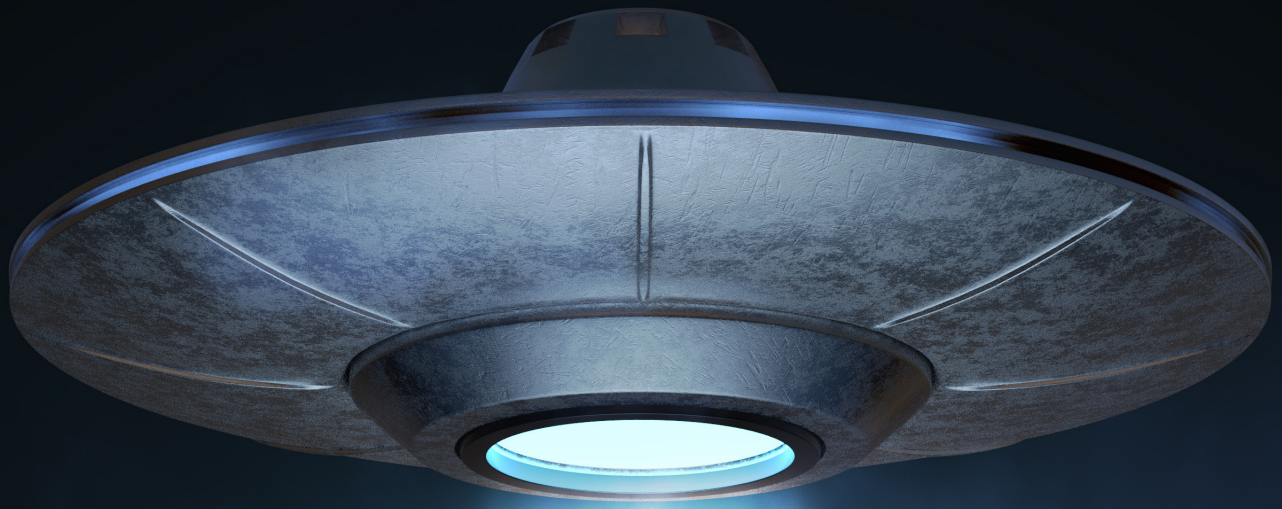
Musk did an hour-long interview with Joe Rogan which I highly recommend. After watching, I’m left with the impression of Musk working very hard to pass as a human. Even with simple questions, it took him a long time to answer. His eyes would get lost in space as his brain set to processing what response might be within normal human parameters. In the interview, he mentioned how he talked to former President Trump about how important it is for us to save planet Earth before it is too late. He mentions how he has talked to everyone in a position of power to do something before Earth dies and we are left with no planet. Which again, makes you wonder if he knows the planet is about to be destroyed if we do not make changes.

Further strangeness abounds. Musk’s youngest child is named “X Æ A-Xii” and no, I have no clue how to pronounce that, but it is definitely a name out of this world. He also decided to send a Tesla roadster worth \$100k to space in 2018. As you are reading this, that Tesla roadster is riding around the stars and moon with no destination, or maybe he sent it to his alien friends so they can try it out and give him feedback. Why else would you spend so much money to send this object into space?

Then there is Musk’s Twitter account, which is worth millions and has a huge power over the stock market. Martian Musk has tweeted “We are literally a brain in a vat. The vat is your skull. Everything you think is real is an electrical signal. Feels so real, though.” I do not know if this is weird nonsense or so smart that my human brain does not comprehend it. Either way, perusing his Twitter account, I found all of his Tweets are a little odd. He shared a post about selling a song about NFTs (nonfungible tokens, a type of cryptocurrency) as an NFT. It was bidding over \$1.1 million dollars before he pulled the plug, tweeting “Actually, doesn’t feel quite right selling this. Will pass.” He also was a huge reason the Game Stop stock went up after he tweeted “Gamestonk” and a link to the Reddit board discussing the stock. A lot of investors fear that Elon Musk has the power to move the stock market by just tweeting and this seems to be the case.

No human has that much time in their day to own five multimillion-dollar companies, do hour-long podcasts about invading Mars, and name their kid letters. I hope I’ve done my part in raising awareness that there is at least one humanMartian on this Earth. 🌍





# BAR TENDER

By Shelby Knafel

**T**he pandemic has led to a great deal of innovation, but Licensed Lawyer has truly outdone itself. Guided Search, Power Search, and Attorney Look-up have gone to a whole new level with their latest feature update:

## **BarTindr.**

You can now include your dating status alongside your career credentials.

If you're looking for love in a time of COVID, *this* is it! That's right, Licensed Lawyer has somehow found a way to shake up (and maybe even stir) the dating scene.

You can now choose a few basic status options. Simply choose from the following:

**Investigation** (searching for a partner),

**Trial Stage** (in a relationship), and

**Continuance** (not actively searching).

Don't want to announce your status? Don't. There's an opt-out option as well for users not interested in the feature in the settings called 'Cease and Desist Mode.' Easy peasy, don't message me-zy...

LGBTQA++? Options for that as well. (I encourage everyone to add your pronouns in your bio.) You can add whichever pride flag best describes you. And yes, you can pick more than one. Bam. Done and done!

If you don't have much time to fuss around and want to get straight to the logistics, this design is your amicus curiae.

Thankfully, there's a reasonable amount of options, zero overbearing 'get to know you' questions, and whatever else that tends to lead to mindless swiping or weird messages. Which is a huge plus, in my opinion, as if my life isn't counted by every 6 minutes.

In fact — there is no messaging system at all through this feature! Want to reach out? Click their starred contact preference and away you go.

Overall, the design is clean, sleek, and informational without being too cluttered or riddled with yawn-worthy junk.

It takes a field of professional ALL CAPS readers and word-smiths and concisely congregates all of the information into one feature.

Whether you choose to cross-examine your latest match, well, that's up to you. Best of luck out there and if nobody's told you today:

Update your Licensed Lawyer profile. 🗨️



# Citing Rise in Popularity of Sea Shanty Music and Other Factors, DBA Announces Inaugural Maritime Law Section

by Becky Bye



**L**awyers throughout Colorado span a variety of law practice areas; many areas relate to Colorado's geography, natural resources, and industries, such as real estate law, natural resources law, and cannabis law. Lately, numerous Colorado lawyers have increasingly shifted to another area of law due to Colorado's remote proximity to international waters.

Maritime law.

Regarding this continued trend, a local Denver lawyer insightfully observed: "Colorado is in between the East Coast and West Coast; it is only a few hours away from either coast by plane."

A panoply of other factors contribute to this surge for Colorado lawyers in this intriguing practice area. Hypothetically, coastally based lawyers practice maritime law from the luxury of their offices, and therefore, Colorado's distance from a coast is insignificant. Additionally, given our increasingly global, interconnected world and the reliance on video conferencing, lawyers throughout our country are finding new ways to partake in this interesting and expanding area of law; this is an area of law that encompasses fascinating subject matters ranging from piracy, the Law of the Sea, and international law.

Another unexpected, yet significant, source of interest in maritime law involves the newfound popularity of "sea shanty" music; a captivating, traditional music genre, rekindled by recent social media videos. Viral iterations of the song "Wellerman"

have reintroduced global audiences to this form of music, once sung by shipmen centuries ago. The chorus of "Wellerman" almost fortuitously predicts the budding popularity of maritime law in Colorado:

*Soon may the Wellerman come  
To bring us sugar and tea and rum  
One day, when the tonguing is done  
We'll take out leave and go*

Thanks to sea shanty music and to its members' requests, the DBA created a new "Maritime Law" section within the bar association. The new section officially commences on April 1. If you would like to join this popular new group within the DBA, please email [ColoradoMaritimeLaw@dba.org](mailto:ColoradoMaritimeLaw@dba.org) with your contact information. If you are interested in joining the Executive Committee for this new section, Charles McGarvey is the main contact; you may email him a brief (50 words or less) letter of interest to [cmcgarvey@cobar.org](mailto:cmcgarvey@cobar.org).

On a personal note, I applaud the DBA for remaining current with its members' practice areas. Also, if you are not acquainted with the "sea shanty" music genre, I recommend listening to one of the many sea shanty playlists on your favorite music streaming service...but do so with caution, as it might lure you into the new DBA Maritime Law section! 🎵





# Multi-Lingual Legal Documents

By: Marshall Snider

**E**ffective July 1, 2021, all legal documents and pleadings filed in Colorado courts will be required to be filed in four languages. Three of these languages, English, Spanish and German, are enshrined in the Colorado Constitution. In addition, because so much of the law relies on Latin maxims (*see, e.g., “de minimus non curat lex”* and *“res ipsa loquitur”*), these documents will also be required to be written in Latin.

This move was initiated by the Colorado Supreme Court in recognition of the diversity in the Colorado legal community, and the fact that the original Colorado constitution of 1876 was printed in three languages: English, Spanish and German. The purpose of these printings was to give the diverse citizenry of the new state access to this important document: twenty percent of the state’s population were Spanish speakers born in Mexico or the New Mexico territory, and seventeen percent were immigrants, mostly of German extraction. (I am not making this up: as Casey Stengel used to say, you can look it up)<sup>1</sup>.

In announcing these initiatives Randall Foresmith, a spokesperson for the State Judicial Department, acknowledged that there might be a bit of a learning curve to get all of the state’s lawyers up to speed on these new language requirements. Foresmith pointed out, however, that lawyers whose first language is German or Latin would have a good head start in this process.

To ensure that all lawyers are able to meet this new requirement, recent law school graduates will be required to pass four bar exams, one in each of the above four official languages. Both the University of Colorado Sturm College of Law and the University of Colorado Law School have pledged to support their students by immediately beginning to offer intensive language courses, with a focus on legal terms of art in German and Spanish, as well as the traditional Latin.

Continuing Legal Education courses will also be offered in all of these languages, and lawyers will be required to obtain at least 3 hours of CLE credits in each language during each compliance period (ethics credits can be obtained in any language, as long as it is not English).

The Colorado and Denver Bar Associations are wholeheartedly in support of this change, given the associations’ emphasis on diversity and inclusivity. Beginning with the July issues, both *The Colorado Lawyer* and the *DBA Docket* will be printed in English, German, Spanish and Latin.

Colorado lawyers of Spanish, German and Latin backgrounds were enthusiastic about these new requirements. Salida lawyer Juan Cicero Marvin Kleinschmidt, president of the Spanish-Italian-German-American Bar Association, expressed the commonly held opinion that multi-lingual courts and bar association activities would be of great benefit to his association’s many members practicing law in Colorado. 🍷

<sup>1</sup>. Those of you born after 1960 can also look up who Casey Stengel was.





# A DISBARRED LAWYER'S GUIDE TO PROVING ELECTION FRAUD

By David Dennison



## ABSTRACT:

*This article overviews election fraud jurisprudence and offers a practical guide on how practitioners can evaluate and litigate their first election fraud case.*

Free and fair elections form the bedrock of our republic. Sadly, elections cannot be free or fair when hundreds of millions of Americans cast their vote illegally. Proving election fraud is a monumental challenge because, despite the sheer number of fraudulent votes cast in modern elections, the evidence is almost non-existent. These cases have much to offer any practitioner, as they involve the age-old legal question of how to prove something in the absence of evidence. To that end, this Article offers a practical guide on how to evaluate and litigate election fraud cases.

## The Basic Principles of Election Fraud Cases

Like Bird Law, Election Law in this country is not governed by reason. Indeed, if there are any landmark cases in this field, I am not aware of them. However, there are five basic principles every practitioner should keep in mind when evaluating an election fraud case.

**Burden of Proof.** Election fraud cases must be proven “beyond an unreasonable doubt.” Where a “reasonable doubt” in criminal practice is “any doubt that causes a person of ordinary prudence to hesitate before reaching a firm opinion,” an “unreasonable doubt” in election fraud cases is traditionally defined as “any doubt.” This unique burden of proof is critical to keep in mind, because if your election fraud cases are anything like mine, then your evidence will not satisfy any other burden of proof.

**Burden of Persuasion.** Incredibly, the burden of persuasion in election fraud cases lies with the State. The State must conclusively disprove each of your allegations, and the State must persuade you personally that your claims are invalid. Until the State meets that challenging burden, you can and should continue to assert your claims on Twitter, until you are banned from the app.

**Civil Procedure.** While the rules of civil procedure technically apply to election fraud cases, abiding by them is not important. If your case is dismissed for purely procedural reasons, that itself may bolster your claim. After all, if a case is dismissed for procedural reasons, then it sure looks like the court is too intimidated to address your very real evidence of voter fraud. The other alternative is that you were too incompetent to file a lawsuit correctly, but that would be ridiculous.

**Appeals.** In all likelihood, your case will quickly reach the appellate stage because, unfortunately, trial courts are required to dismiss frivolous cases. The good news is that once you appeal, the panel of appellate judges should issue a ruling in your client's favor regardless of the substance of your case because your client appointed most of these judges. Unless they are completely ungrateful, they ought to show some loyalty.

**Standard of Review.** Lastly, practitioners should know that there are only two standards of review in election fraud cases: the normal standard<sup>1</sup>, and the abnormal standard. You will always know which standard to apply, as "the abnormal standard" of review does not actually exist. Every standard of review in these cases is the normal standard; that is what makes it "normal."

## How to Litigate Election Fraud Cases

Critics, and even most of the judges that I have appeared before, often say that my election fraud cases are frivolous and lack any proof. But the truth is that they are focusing too narrowly on traditional kinds of proof. When your client needs you to bravely defy the will of the voters and overturn the certified, recounted election results, the following five techniques may help.

**1) Per Se Fraud.** Many election fraud attorneys forget the first and most basic evidence-free proof of massive voter fraud, but think about it: if your client lost the election, then how could it possibly have been a free and fair election? Your client was supposed to win. The fact that your client lost is therefore fraudulent *per se*. The other candidates cannot make this argument for the simple reason that they are losers, while

your client is a winner. That fact is such common knowledge that the court ought to take judicial notice of it.

**2) Go Big Or Go Home.** File as many suits as possible, even if hardly any of them are about fraud. Has the state passed any election law in recent memory? Sue. If your candidate's observers can only observe the ballot counting from fifteen feet away, why not make it ten feet? Sue. The number of suits is very important because one frivolous lawsuit is embarrassing, but one hundred frivolous lawsuits is a number that will make people wonder. That sure is a lot of lawsuits, after all.

Similarly, you need to gather as many affidavits as possible. Affidavits that contradict each other and even themselves are fine. Affidavits based on anonymous witnesses, obvious misunderstandings, vague and generalized suspicions, hearsay, and irrelevant analysis of unrelated elections are also fine, as long as there are hundreds upon hundreds of these affidavits. The trick is to amass so much non-evidence that it starts to kind of *feel* like evidence. That feeling should give an activist judge a plausible enough reason to help you out.

More importantly, by amassing the most massive pile of non-evidence that anyone has ever seen, you can pick your favorite affiants (preferably the ones that you did not invent) and go on a cross-country tour with them. Let them offer their testimony in partisan hearings in any friendly state legislature and news channel. In fact, have them testify anywhere but the courthouse, where they would be subject to the inconvenience of cross-examination.

**3) Et Super Eam Iterare.** A little-known principle of interpretation is *et supe ream iterare*, or "Repeat It Over and Over." If you repeat your non-evidence *ad nauseum* in your briefs and, more importantly, in your social media posts, then it will kind of *feel* like evidence. The first time that you suggest that a global cult of Satanists and a secret society of Communists have joined forces with Republican officials all over the country to stop a Republican from winning the presidency, people will laugh. But the thousandth time you say it, they might just start to wonder.

**4) Use The Rules of Logic.** Evidence tends to speak for itself. So, when you have no evidence, you will need to sort of speak it into existence with the help of the following three rules of logic.

**First:** Absence of evidence *is* evidence. After all, if Hugo Chavez (who died in 2013) has reached beyond the grave to conspire with tens of thousands of very well-placed people to help steal your client's election, then wouldn't it make sense that they would leave behind no evidence? If you cannot find any evidence, then that is proof that you truly are dealing with the most sophisticated voter fraud scheme of all time, something so complex that it is literally impossible to believe.

**Second:** Even when you don't have evidence, you still have inference. If your candidate hosted massive super-spreader rallies during a pandemic while the other candidate did not, then we can necessarily infer that your candidate had more popular support. Bigger rallies mean more support! That is useful evidence, because if everyone who attends a rally will then go cast a ballot, then it must be that everyone who casts a ballot must have attended a rally. That kind of makes sense.

**Third:** Avoid falsifiable claims. So-called experts can disprove falsifiable claims, so play it safe by focusing on allegations based on opinion, generalized speculation, and alternative facts. The best claims are the ones that question everyone's motives and/or challenge the State to prove a negative, which is impossible. Your affiant may have seen a postal worker doing something strange with an enormous shipment on Election Day. Was it a shipment of fraudulent ballots? Was it a shipment of sandwiches? Either way, it's a strange story, and enough of these strange stories will give rise to some very unreasonable doubts. If you file enough lawsuits with enough judges, you are bound to catch a lucky break and find that one judge willing to put party before country.

**5) Invite Foreign Interference.** If all else fails, invite foreign interference. This is a controversial technique, and I am legally required to inform you that it is the reason I am now disbarred. But it's worth a shot. Foreign intelligence services are excellent information

<sup>1</sup> (Side note: this is a reference to an exchange between a judge and Rudy Giuliani in one of his 2020 election fraud cases. The judge asked what standard of review the court is being asked to apply, and Giuliani insisted that "the normal standard" is what the court should apply. Should I reference that exchange in a footnote, or is this a reference that people will catch onto without the citation?)

gatherers, so they may have stumbled across evidence of fraud. If the evidence they deliver to you is just part of an elaborate disinformation campaign, you should be fine because you did your due diligence as an attorney, and how could you have predicted that a foreign intelligence service might use you as a pawn? Even in the worst case scenario that your collusion with foreign powers might be a serious felony, your client will simply pardon you anyway - if they win.

### Conclusion

It takes great courage to overturn the will of the voters. But sometimes, the only way to confront massive election fraud is by confronting the sick, twisted individuals who thought they could get away with selecting the candidate of their choice. While it is often a monumental challenge to win a case in the absence of evidence, or to persuade a court to undermine the rule of law, the above techniques may help you rise to the occasion and prove that you were there rare member of our profession who was truly willing to do *anything* to win. 🇺🇸

THE FIRST TIME THAT YOU SUGGEST THAT A GLOBAL CULT OF SATANISTS AND A SECRET SOCIETY OF COMMUNISTS HAVE JOINED FORCES WITH REPUBLICAN OFFICIALS ALL OVER THE COUNTRY TO STOP A REPUBLICAN FROM WINNING THE PRESIDENCY, PEOPLE WILL LAUGH. BUT THE THOUSANDTH TIME YOU SAY IT, THEY MIGHT JUST START TO WONDER.

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# Liquor Cabinet

Denver's hottest new bar is called *Liquor Cabinet*. Located in my kitchen in that weird space above the refrigerator that's too high to reach without standing on tippy-toes, this destination has it all: Nearly full bottle of Smirnoff Vodka, fancy-looking bottle of tequila with enough for maybe one drink, assorted nips from various airlines, medium-sized bottle of Kahlúa that might actually be empty, slightly dusty Cointreau (gift from Christmas 2018), 750ml of Jim Beam Kentucky Straight Bourbon Whiskey (sometimes half-full, sometimes half-empty), way too much blue Curacao (unopened, dusty), something called Bushel Beck Apple Whiskey, four bottles of Angostura bitters, Brennivín from Iceland (tastes like liquid liquorice), Cobra Whiskey taken from a hotel room in Bangkok (very gross), and Baileys Irish Cream (content measurement unknown).

The bartender at *Liquor Cabinet* is both very agreeable and completely clueless. Be careful, he has a very generous pour. He is happy to whip up a special something with whatever is on hand. His concoctions always have snappy names and come lavishly dressed with cocktail accouterments such as tiny umbrellas, cocktail napkins with cheeky phrases printed on them, and plastic Speedo-wearing muscle men who hang precariously on the rim of your glass. Please use a coaster as management can be quite fussy about the furniture. Sadly, the later in the evening, the more likely your drink is to taste like rotgut and look like a middle school science experiment.

But it's the convenience that keeps us coming back to *Liquor Cabinet* again and again. It's one of those establishments that you always forget about until there are no other options. And then you are oh, so grateful and easily pleased. 🍷

## RECOMMENDED DRINK

Something simple. The fewer ingredients, the safer. And if the bartender starts with "let me see if I can remember," we advise that you graciously decline and ask for a beer.

WHERE IS TY? HAVE YOU SEEN HIM? TIP: HE'S IN HERE TWICE







# The Docket Predicts the Future Yet Again



# Courts Go Online: No Pants Required

by: Loren Ginsburg and Marshall Snider

The County Court for the City and County of Denver, always on the cutting edge of new procedures and technologies, has made a momentous announcement. The County Court is introducing a pilot project to conduct "Virtual Trials" where all parties participate online. Personal appearances in court will no longer be necessary.

Riding on the heels of its successful satellite traffic court offices, and the computerization of all of the courtrooms, the court has recently inked an agreement with COURT JESTER, Inc., purveyors of hardware and software for the legal industry. This agreement makes Denver the official beta testing site for the latest tool in the ongoing battle against court delays and high legal fees.

Two courtrooms, one Civil and one General Sessions, will be the locations for this revolutionary idea in judicial resolution of disputes. The program is called Automatic Processor for Results In Litigation, ver. 1.00, or APRIL 1.00 for short. This complete system builds on the growth of the Internet, e-commerce, and the shrinking size and price for computer hardware. Denver will be the first city in the country to have virtual courtrooms. Yes, that's right, VIRTUAL courtrooms.

A rudimentary system has been tried by another company in Ohio ([www.municipal-court.org](http://www.municipal-court.org)). That system only allows observers to watch proceedings live on the Internet. As reported in the February 2000 *ABA Journal*, other jurisdictions are broadcasting on a limited basis. Denver's system will be the first totally online courtroom.

As described by company president, George L. Tirebyter, a trial attorney, "the beauty of this new system is that you can litigate from the privacy of your office. You can even go to trial from your own home, if that is where you do your best work. No more cruising around the Golden Triangle for hours searching for a parking place that doesn't have a loft attached to it. No more hot August days of sitting in a crowded courtroom with the great unwashed masses."

The system will involve all litigants, counsel and court personnel being connected via the Net. Each involved person will have a split screen showing all of the other parties via streaming real time video.

Don't have shoes to match your suit? No problem. Don't wear any. Leave the camera zoomed in on your face. You don't even need pants. Just make sure your camera does an Ed Sullivan on your Elvis.

Instead of continuously asking a court reporter to read back that last question, instantaneous transcription will be occurring in the background. (This guarantees that the county court system will never have to hire court reporters.)

Exhibits will be scanned in, and available as pictures and/or word processable text.

Imagine being able to highlight exactly what you want the witness to read, without asking the court's permission to approach. Zoom in. Zoom out. Show that forged signature as big as life.

As an added plus, as soon as the District Court goes online, you can obtain immediate appellate decisions, from the District Court Judge of your choice. Decisions are just an e-mail away, with no

pesky deadlines and multiple copies.

Jurors will still be required to appear for jury duty, but the courtrooms will only need to be big enough for a jury box and

the system server. Eventually it is expected to be acceptable for jurors to appear by the Internet, thereby decreasing the problem of no shows. Security will become less of an issue, as those in custody will no longer be transported. They will just get booted up right in their cell.

After the system has been tested for six months, there are more advances planned. Still in the developmental stage is an Artificial Intelligence program designed to render decisions. The parties will do their virtual trial, and the system will compare the evidence, research the law, and render a decision based on logic, rather than emotion. Another idea is instantaneous judicial decisions. Now that the Colorado State Court Administrator has contracted for electronic filing, it will be possible for judicial decisions to be e-mailed after the last pleading is filed. No more drawn out discovery disputes or continued trial dates. The "race to the courthouse" will take on a whole new meaning.

**'You don't even need pants. Just make sure your camera does an Ed Sullivan on your Elvis.'**





## Bubb

*Dog's University (DU)  
Denver*

### EDITOR'S NOTE

Do you know a DBA member who should be featured?

Email nominations to Heather Folker at [hfolker@cohar.org](mailto:hfolker@cohar.org).

# 10 Questions with Bubb

### 1. What are five adjectives that you would ascribe to yourself?

Petite, Bubbly, Friendly, Soft, Brown-Eyed Girl. Hi, nice to meet you! My name is Bubbles. :) I am a cute 7 year old pug!

### 2. Where did you go to law school and where are you currently working?

I got my PeDegree at Dog's University aka DU Denver! I was the valedictorian of my grade, shoutout to class obedience 101!

### 3. Why did you become a lawyer?

Going into the law was truly just the bridge for me to get to my real dream job; Being CoBar's The Loop mascot! I love sharing my daily life with our readers, Loopers! From my comfy naps to my dress up days, The Loop has truly become my personal Pugstagram. I love seeing my friends AKA your four-legged companions as our featured pet pictures! (Psst! Send your pet pictures to Shelby for a feature!)

### 4. Where are your favorite places to travel?

My favorite travel locations are PARKS! I get to hangout with my humans, play with other dogs, AND feel the nice Colorado breeze. Remember to take breaks and get a breath of fresh air!

### 5. How do you de-stress?

I de-stress by hanging out with my best friend. She doesn't say much, but she's a great listener! (see unicorn, below)

### 6. What is one item from your bucket list?

Successfully tear up a pair of my human's shoes without her noticing! I have been so close way too many times! I'll do my best!

### 7. If you could instantly implement any law, what would it be?

Pets will legally be allowed to sleep on our human's bed! We promise we won't take up too much room!

### 8. What's your favorite restaurant?

My favorite restaurant is called "What fell under the table." The menu changes almost daily! I actually got one of many nicknames from the owner, she calls me pugtato! I definitely recommend this place, it's great and it's local!

### 9. What is your favorite game?

My favorite game is squeaking my toys as loud as I can! The louder the toy, the more fun I have!

### 10. Anything else you would like to share?

Be the good person your dog knows you are!

Stay safe and stay healthy!

Pug and Kisses!

Love, Bubbles 🐶





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# **Judicial Arbiter Group is elated that retired Judge Gary M Jackson has joined the distinguished arbiters at JAG**



Judge Gary Jackson retired on December 30, 2020 from the Denver County Court after presiding in the Criminal and General Session Divisions for 8 years.

Gary graduated in 1970 from University of Colorado School of Law and worked as a deputy Denver District Attorney from 1970 to 1974. He was a co-founder of the Sam Cary Bar Association in 1971.

He was an Assistant United States Attorney from 1974 to 1976 where he received a Special Commendation from the U.S. Attorney for his trial work.

In 1976, Gary entered private practice and became a partner in the law firm of DiManna, Eklund, Ciancio & Jackson. During his initial year in private practice, he was one of the co-founders of the Colorado Criminal Defense Bar. In 1982 Michael DiManna and Gary Jackson formed the law firm of DiManna & Jackson, a partnership that continued until Gary's appointment to the bench.

In 2018 the Colorado Judicial Institute selected Gary as the County Court judge of the year. In 2020 the Center for Legal Inclusiveness awarded Gary the Hon. Wiley Daniel Lifetime Achievement Award. The County Court Judges Association awarded Gary the Hon. Anthony Greco Award for his judicial excellence and leadership. Also, the American Board of Trial Advocates awarded Gary its Judicial Excellence Award.



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