



2020 Year-End Legal Update

A REVIEW OF SOME KEY CHANGES AND COMMON QUESTIONS ARISING FROM A YEAR LIKE NO OTHER

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Happy New Year from Baker Law Group!

We end this year full of gratitude. We are grateful for each and every client who entrusted us with their legal matter this year. We are grateful for the many new people we've met in 2020, as we joined chambers of commerce and networking groups for the first time. We are grateful for old friends with whom we have reconnected. Our sincere wish for each of you in 2021 is good health, healing, hope, and happiness.

To say that 2020 was a year of great change would be an understatement. We learned not to leave home without a mask and not to offer handshakes. We held business meetings, legal hearings, and family holidays by video. Everything from shopping to working to travel to dining looks different now than it did a year ago.

Like so many other areas, laws also underwent changes in response to this year's circumstances. Here are a few of the changes that took place in our practice areas 2020 and where they now stand.

Eviction Moratorium: Extended Through January 31, 2021

The CDC order entitled "Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19" has been extended through January 31, 2021 (Consolidated Appropriations Act, 2021 SEC. 502. EXTENSION OF EVICTION MORATORIUM).

The order temporarily halts residential evictions of covered persons for non-payment of rent. Evictions put people at higher risk of contracting COVID-19. The CDC issued this order as a public health measure which is aimed at preventing the spread of disease.

Types of Torts: A Quick Guide

The word "tort" might make you think of a rich desert, but we won't be sharing any torte recipes here — instead, we're taking a quick look at an important area of law that encompasses some of the most common types of lawsuits that people may find themselves involved in.

Torts is the civil area of law that deals with compensating victims of harm. Torts



Baker Law Group attorneys and staff participate in a Zoom meeting, which became a common practice in 2020.

It is important to note that the Order does not offer protections against evictions that are not related to non-payment of rent. In addition, the ban does not eliminate any rent due: covered persons will owe any unpaid rent and penalties and must fulfill their obligations under the lease after the expiration of the eviction ban.

Colorado's governor had also enacted state level protection against residential eviction due to non-payment even before the CDC initiated their order. The statewide order is set to expire on December 31, 2020. No specific proposal for an extension of the Colorado eviction ban has been adopted as of December 29, 2020.

Remote Notarization: From Emergency Authorization to New Law

As of December 31, 2020, a new Colorado law

on "remote notarization" will be in effect. The law previously required physical appearance before a notary public to have a document notarized.

With the onset of the pandemic in March 2020, Colorado's Governor issued an temporary order that suspended a requirement of personal appearance before the notary public to perform notarization. The order was followed by the adoption of emergency rules for "remote notarization" by the Secretary of State.

The new law will authorize notarial acts with respect to electronic documents of individuals who are not in the notary's physical presence. A notary performing a "remote notarization" must comply with rules established by the Secretary of State which include the use of real-time electronic communication and can vary based on the type of document being signed. The law also establishes standards for the remote identification of persons in the notarization process.

Business Liability Protection: Cut from Final Package

COVID-19 pandemic raised many concerns as to whether businesses may be liable for COVID-19 related damages.

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come in various shapes and sizes, and some are among the most well known types of legal action, such as assault and battery, trespass, and defamation.

However, there exists a multitude of tort actions that are less well known, such as the breach of a duty of care, negligent infliction of emotional distress, malicious prosecution, and intellectual property infringement. Each type of tort action, including the ones listed above, may be

categorized into three distinct categories, as follows.

Intentional Torts

Intentional torts refer to where a defendant knows that his or her actions would cause harm to another and acts anyway. An example of an intentional tort could take place where one commits defamation, or where one writes or verbally spreads false information about another person. **Continued on Page 3**



Baker Law Group Employee Spotlight: Paralegal Intern Konstantin Krylov

State(s) or Countries Previously Lived in: St. Petersburg, Russia

Years in Colorado: 4

School Attending and Emphasis of Studies: Arapahoe Community College, Paralegal Studies.

Professional Goal: Earn a degree in paralegal studies, start professional paralegal career in legal industry.

Reason for Becoming a Paralegal: The legal industry gives many opportunities for professional and personal growth.

Hobbies and Interests: Skiing, camping, fishing, spending time with my children, reading.

Interesting Facts About St. Petersburg:

1. St. Petersburg was named as Europe’s “Leading City Destination” by the World Travel Awards (2019 and previous years).
2. St. Petersburg is located on the same latitude as the capital of Alaska (even a little further to the north).
3. Due to its northern location St. Petersburg has a curious phenomenon in summer when the sun does not descend below the horizon enough for the sky to grow dark (the White nights).

Reason for Moving to Colorado: Mountains and great people.

Favorite Thing About Colorado: Top-rated ski resorts, beautiful nature and endless outdoor opportunities.

Favorite Colorado Event or Destination: West Elk Loop scenic byway in fall.

Can I Contest? Who Can Contest a Will and Why

We often hear from people who are concerned about the validity of a loved one’s will. For example, they might think that the will is inconsistent with their loved one’s wishes, or believe that the will was executed at a time when their loved one was unable to understand what they were signing. When such concerns arise, survivors may wonder if and how they can legally challenge the will.

When someone challenges the provisions of a will, this action is called contesting the will. Will challenges come before the Court in the probate division, which oversees all matters dealing with a deceased person’s estate. The Court will only hear a will contest if the person contesting the will has both standing and a legal reason for doing so.

Who has Standing to Contest a Will?

Standing refers to the idea that only certain “interested persons” may bring a claim in court. This standing is based on a person’s relationship to the person who signed the will, also known as the “testator.” People considered to have standing to contest a will are the persons named in the will and the testator’s family members who would have inherited from the testator if not for the devises in the will – usually the testator’s children, spouse, or in some cases, other family members.

On What Grounds Can a Will Be Contested?

Once an individual contesting the will has proved proper standing, they also have to provide a legal basis for contesting the will. Some

bases for contesting a will are capacity, legal formalities, mistake and undue influence.

Capacity

To have sufficient capacity means that the testator was of sound mind and knew what they were signing and how they were distributing their estate. By showing the Court that the testator was not of sound mind when signing the will, a court may declare the will void.

Legal Formalities

Another way to legally contest a will would be to show the court that the legal formalities regarding the will were not followed. For instance, in Colorado, two witnesses must also sign a testator’s will. Therefore, if the testator did not follow the legal formalities required by probate law, a will may be declared void in certain circumstances.

Undue Influence

A third way to contest a will is by showing that there was undue influence upon the testator. This could occur if another person, who had a close relationship with the testator, exerts an unreasonable influence over the testator, such as threatening the testator into signing the will.

It is important to speak with an attorney that is well-versed in probate law before bringing any will contest forward. They can help evaluate standing as well as the legal basis and supporting evidence, and they can provide guidance on the process of a will contest.

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Business Spotlight: Brett Miller of Trilogy Financial

Wealth Advisor/ Financial Planner

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When it comes to investing and financial planning, there is no shortage of information available. But how do you know what information and what sources to rely on? That's where a trusted financial advisor can help. As Brett Miller, a wealth advisor at Trilogy Financial explains, "I work in an industry that through technology, professional titles and misinformation has become heavily commoditized. It is increasingly more difficult for consumers to understand what makes a great financial advisor without experiencing it firsthand."

Miller, who has been with Trilogy since 2012, strives to bring that experience to each of his clients. He says, "Always taking a fiduciary approach, I work hard to help my clients define and prioritize their most important goals. With a well thought out approach my team and I will then help by building strategies that minimize the risk in making key financial decisions."

Trilogy Financial's Denver location is an independent firm, and one of nine Trilogy offices across the country. They offer a range of services to both individuals and small businesses, including financial planning, financial advising, investment management, retirement planning, business strategies, tax efficient strategies, gifting strategies, risk management, life and long term care insurance, estate and inheritance planning, tax-free and tax-deferred growth strategies.

Outside of the office, Miller is active in local non-profits. He serves as Board President of the Mile High Club of Denver and as a board member of the Glendorn Foundation. He is also involved in the Morgan Adams Foundation, which supports pediatric cancer research.

Miller invites you to reach out for a conversation to see if Trilogy may be a good fit for you.

(Investment advisory services offered through Trilogy Capital Inc., a Registered Investment Advisor. Trilogy Capital markets advisory services under the name of Trilogy Financial, an affiliated but separate legal entity.)

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Republicans proposed the following measures to shield business from such lawsuits: set a one-year statute of limitations for COVID related claims, raise the burden of proof for such claims (clear and convincing evidence standard), limit such claims to federal courts and extend these protections through 2024. Democrats pushed back on the proposals arguing that businesses should not be protected if they put the health of employees at risk. The proposals were removed from the new relief bill as a result of compromise between the leaders of Congress.

The Authority of the Governor

While there has been no change to the scope of governors' authority during 2020, many state governors have been exceptionally visible and active in issuing orders. Some citizens have wondered— or even questioned— exactly what authority is vested in a governor.

Colorado law provides for the Governor's authority in the event of emergencies: According to Colorado Revised Statutes, "the governor is responsible for meeting dangers to the state and people presented by disasters" (C.R.S. § 24-33.5-704). Colorado Disaster Emergency Act (C.R.S. § 24-33.5-701 et seq) provides for the following emergency powers of the Governor: issue quarantine orders and evacuations; suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, or combustibles; suspend statutes that prescribe the conduct of the state business or state agency that may hinder response to a disaster; utilize any private property (with compensation) if it may be deemed necessary to cope with a disaster. The concept of the executive emergency powers is based on the works of John Locke and is also used on the federal executive level.

We hope that 2021 will see less need for emergency orders. Whatever comes our way, we will be monitoring changes and ready to assist.

Torts, Continued from Page 1

Negligent Torts

Second, negligent torts refer to where a defendant fails to exercise a level of care that a reasonably prudent defendant would in similar circumstances. An example of a negligent tort could be where a distracted driver injures another.

Strict Liability Torts

Finally, a strict liability tort refers to when a person is held liable for the consequences of his or her action, regardless of his or her intent to harm another. An example of a strict liability tort may be when a person participates in extremely haz-

ardous activities and subsequent harm to another results, such as when a person uses explosives and injures someone nearby.

Remedies

Just as torts (and also tortes!) come in all shapes and sizes, so do the remedies that may be awarded to a harmed person. For example, a victim of a tort may recover money for lost wages or receive an injunction to prohibit someone from continuing a threatening action.

Defenses

Finally, there are a few major types of defenses to a tort claim, and these defenses vary by state. A few defenses of interest are consent, comparative

or contributory negligence, and illegality. First, for example, a victim that was harmed may not be able to sue under tort law if the victim consented to an activity. Second, comparative and contributory defenses refer to when a court may not award a victim full monetary damages if the victim caused their own harm (in part or in full). Third, if a victim was engaging in illegal behavior at the time the injury occurred, the victim may not be able to recover money damages, either.

Of course, every case is different, and anyone considering bringing a tort action should consult with an attorney. More information can be found on our Civil Litigation Resources website page.



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COLORADO CORNER

10+ Winter Outdoor Activities (that Aren't Downhill Skiing)

For many Coloradans and visitors, winter means downhill skiing. But the slopes aren't the only option for enjoying the outdoors during the winter months. Here are a few alternative ideas for making the most of the season.



es offer a sleighing experience.

Camping: Whether your preference is a tent, cabin, RV, or yurt, camping is not just a summertime activity! Many state parks offer winter camping options.

Ice Climbing: For the more adventurous, climbing a frozen waterfall is an experience that won't be soon forgotten.

Train Rides: This technically may not count as the outdoors, but it is a unique way to enjoy outdoor scenery. Some, like the Royal Gorge Route railroad, also offer dining options.

Cross Country Skiing: This sport is a whole different experience than downhill skiing, and it also happens to be great exercise!

Ski Biking: Colorado Ski Bikes, a ski bike rental service with locations in Lakewood and Littleton, calls ski biking "the greatest sport you've never heard of."

Bonus: In addition to the above, there's also snow shoeing, fat tire biking, snowkiting, dog sledding, snowmobiling, ice fishing, horseback riding, snowman building, snow kayaking, and of course, hiking, which can be an activity for all seasons.

Ice Skating: Evergreen is a popular skating destination, but rinks also pop up in a number of locations, such as Southlands in Aurora.

Ice Bumper Cars: This activity was just introduced within the last few years, and the Gaylord Rockies Resort in Aurora is one place to try it out.

Hot Springs: For a more relaxing option, Idaho Springs offers the closest hot springs to Denver. Steamboat Springs, Glenwood Springs, and other cities ending in "Springs" make great getaways for those willing to travel further.

Sledding/ Tubing: This could range from taking a sled to a local park to traveling to a manicured snow-tubing hill, complete with a lift.

Sleigh Rides: This may require a bit of travel, but several Colorado ranches, resorts, and other business-

Many Thanks for Recent Referrals

Word-of-mouth referrals are priceless to small businesses like ours, so we want to thank everyone who has referred someone to us in the last few weeks:

Ashleigh Beck of Opfer Campbell Beck P.C.

Taylor Bombardiere of Transworld Business Advisors

Michelle Fournier, Life Coach, Dreambuilder, and Possibilitarian

Sam Goodman

Sean Gross of GFL Capital Mortgage

Steve Muth

Anna Nedock of Approval First Home Loans

Buddy Noel of the Noel Law Office

Patricia Sadler

Thank you all!