

TRIAL TALK

July - September 2026

Volume 75 Issue 3





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Let's All Rise Together: A Call to All CTLA Members for 2026-27

By Megan Matthews

Thank you for the extraordinary honor of serving as President of the Colorado Trial Lawyers Association.

I am deeply grateful to my firm, Ogborn Mihm, and to my partners for supporting this commitment to CTLA. Their dedication to this organization is remarkable, including their support for three of us serving in leadership in succession. I especially want to thank Jason Wesoky and David Roth for believing in me.

I also want to thank my prior firm, Wahlberg, Woodruff, Nimmo, and Sloane, for helping me find my place in CTLA. Michael Nimmo appointed me to the Diversity Committee and the Board. David Woodruff made me a better lawyer. Steve Wahlberg helped me with my Treasurer speech. And Dan Sloane was my hilarious prank buddy.

Most of all, I thank my husband, who has endured the meetings, happy hours, conventions, late nights, and endless CTLA conversations with patience, humor, and amazing cooking. I could not do this without him.

For those who do not know me well, I did not set out to become a personal injury or medical malpractice lawyer. I went to law school to practice international law. I interned at the Office of the Prosecutor at the United Nations Yugoslavian tribunal in The Hague, and I worked with two other UN criminal tribunals. I thought my path was set.

Then the recession hit. The district attorney offers I had hoped would launch me toward that international career were frozen. I had a mortgage. I needed a job. So, I found one at a personal injury firm. At first, I liked the work, but I had not yet found my passion. I moved back toward international law and worked at a nonprofit focused on combating maritime piracy. Then I received an offer to work with the incomparable

Natalie Brown and Bill Marlin. I took it. Natalie brought me into CTLA. And that is where I found it: my passion for helping injured people. And I found my people.

In CTLA, I found lawyers doing the opposite of what law school had trained us to do. CTLA lawyers helped each other. They answered questions. They taught. They mentored. They opened their files, their briefs, their strategies, and, sometimes, their hearts.

That was not the world I had known in law school. During my 1L year, a professor scheduled a review session for the day before Thanksgiving. Only a few students attended because we were told it would be recorded. The recording failed. So, I offered my psychotically detailed notes to the professor to share with the class. I received a few thank-you emails. I received many more emails accusing me of ruining a competitive advantage.

CTLA was different. Even though we technically compete with one another for business, we choose cooperation over scarcity. We choose generosity over guardedness. We choose the work over the ego. I had finally found my lawyer friends and soulmates.

And as I thought about what makes CTLA lawyers special, I kept coming back to two words we hear in every courtroom: All rise.

Every time a jury enters, we stand. We rise out of respect for the people who will decide the case. But for us, those words mean more than courtroom protocol. They are a reminder of who we are and what this organization requires of us.

"All rise" means we rise for our clients, people who come to us after the worst moments of their lives. People whose bodies, rights, jobs, families, dignity, or futures have been

harm. People who often have nowhere else to turn.

“All rise” means we rise for one another. We do it when we answer a listserv question. We do it when we share a brief that took hundreds of hours to create. We do it when we mentor a younger lawyer, co-counsel a difficult case, donate to EAGLE, give to 7th Amendment, or support an initiative that protects access to justice. “All rise” means we understand that individual courage matters, but collective power changes the law.

Two years ago, we passed our caps bill and significantly increased general negligence and medical malpractice caps. That was a generational victory. But only a small percentage of our membership contributed the money and time that made it possible. Imagine what we could accomplish if more of us stepped forward. Imagine what this organization could do if every member treated CTLA

not as something they belong to, but as something they build.

This year, we have serious work ahead. We need to fight to overturn Wenzell. We need to resist immunity for utility companies in wildfire cases. We need to plan for a corporate practice of medicine bill. We need to address Gill and Scholle. We need to develop a strategy to increase minimum auto insurance limits. And we need to prepare for the likely fight against Uber.

The corporate practice of medicine issue is especially important. We need to hold hospitals and corporate health systems accountable when they place profits over patient care. These institutions make enormous sums while telling doctors how long they can see patients, what treatments they can offer, and how care must be delivered.

We also have to be clear-eyed about politics. A favorable legislative majority does not mean our work is easy.

Corporate money still speaks loudly. Some elected officials who should stand with injured people do not. That is why our 7th Amendment program matters. That is why we need to help elect representatives who understand civil justice and will protect it.

We know collective action works. The California trial lawyers showed us what it looks like to rise together. When Uber threatened the contingency fee system, they raised the resources, fought back, and won. Uber nearly brought that same fight to Colorado this year. CTLA officers and staff, led by Jason Wesoky and Julie Whitacre, were ready. We avoided the battle this time, but Uber may come for us again in 2028. If they do, we cannot wait for someone else to save us.

So, I ask each of you to rise, and to bring someone with you. If a lawyer asks you to post on the CTLA listserv but is not a member, ask them to join. If someone at your firm does not attend CTLA events, bring them. If a colleague benefits from this organization but does not yet invest in it, invite them in. Our strength grows when our circle grows.

We are civil justice trial lawyers. We rise for the injured, the overlooked, the underpaid, the mistreated, and the dismissed. We rise when the powerful count on silence. We rise when the odds are long. We rise because that is what justice demands.

Over the next year, I will work to lead CTLA in these fights and to expand access to civil justice for all of our clients. But this cannot be one person’s work, the officers’ work, or just our board’s work. It has to be CTLA’s work—as a group.

So when the moment comes, when the fight comes, let us remember those two words. “All rise.” And let us rise together. ▲▲▲



THURSDAY, NOVEMBER 12



Tim Galluzzi *Emily Swanson*

In recognition of Legal Professionalism Month, CTLA and Colorado Defense Lawyers Association (CDLA) will come together for a special ethics CLE and reception on Thursday, November 12, beginning at 4:30 p.m. at the University of Denver Sturm College of Law.

This year, CDLA will recognize **Tim Galluzzi of CGH Injury Lawyers**, while CTLA will honor **Emily Swanson of Lasater & Martin, P.C.** with the Legal Professionalism Awards.

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Celebrating Convention and Looking Forward What Comes Next

By Julie A. Whitacre

Another CTLA Convention is in the books, and Vail once again reminded me why this is one of my favorite weeks of the year.

Yes, the CLE was outstanding. The receptions were lively. And, as always, there were probably a few conversations that lasted later into the evening than originally planned. But what makes Convention special isn't the schedule or the setting. It's having so much of the CTLA community together in one place.

A huge thank you goes out to our Convention co-chairs, Sarah McEahern and Kurt Zaner of Zaner Law, who put together a terrific CLE program and an impressive lineup of speakers. Anyone who has helped plan Convention knows that "co-chair" is a deceptively short title for a very big job. Sarah and Kurt gave an enormous amount of time and thought to making this year's program a success, and we are grateful.

We also couldn't do it without our sponsors. Their support makes the education, networking, social events, and even the coffee possible. More importantly, they are true partners in the CTLA community. You'll find the full list of Convention sponsors on page 24 and on the CTLA website. Please support the businesses that support us.

Convention also marks the changing of the guard at CTLA. We welcomed Megan Mathews as our new President, along with Nicole Quintana as president-elect, Kevin Cheney as vice president, Haley Rank as treasurer, and Chris Koupal as secretary. We also welcomed a new group of Board members who have agreed to lend their time and talent to CTLA. I am looking forward to the year ahead with these dedicated leaders.

And then there is the team that makes the whole thing actually happen.

Nick Jurjovec, Janelle Hruby, Rachel Hurst, Kelly Hogan, Kelsey Hawkins, Trish Zickefoose, John Grant, and our lobby team of Amber Burkhart, Will Coyne, and Aly Schmidt do an extraordinary amount of work behind the scenes, not just during Convention, but every day. Some have been with CTLA for less than two years and others for more than two decades. Together, they keep this organization moving forward, and I am incredibly fortunate to work alongside them.

Now, About What's Next...

Convention is a wonderful celebration of what CTLA is. But this year, I am particularly excited about what comes next.

For more than 30 years, CTLA members have shared their knowledge and experience with one another, making our community stronger and helping all of us do what we do best, protect people and right wrongs.

A member encounters a difficult expert. Someone else has dealt with that expert before. A lawyer has an unusual liability issue. Someone remembers a case from ten years ago. Need a motion, an expert recommendation, a strategy, or simply someone who has been there before? Ask CTLA.

That generosity has created an extraordinary body of collective knowledge. Thirty years of Listserv posts, educational materials, expert information, shared documents, litigation strategies, and institutional knowledge is incredibly valuable. That is, if you can actually locate the thing you're looking for.

That just became a whole lot easier.

CTLA has partnered with FasterOutcomes to create the CTLA Knowledge Environment (or Know for short), a

Continued on page 10...



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What We Carry

By Nicole Quintana

As Plaintiffs' lawyers, we carry significant responsibilities associated with each client we represent. We carry their trauma, the financial consequences they're facing from being harmed, the importance of posturing case strategies correctly, the duty to adhere to professional obligations—and sometimes, we carry the weight of defeat. This profession is not for the faint of heart.

Each of the articles in this issue address these things we carry and provide insight into how to manage those loads. Stacy Benner offers lessons in trauma-informed practice to better assist our clients. Jeremy Babener and Kent Hansen discuss settlement options to maximize clients' recovery and set them up for more financial success. Summer Davidson

and Brennan Delaney explore potential avenues of liability in UTV cases. And Rich Webster addresses the emotional toll of losing a case.

The important lesson is that we do not carry these things all alone. Our members and colleagues help to shoulder the weight of all we do, and we are appreciative of our authors who help to provide some of that support through their articles. If you are interested in writing an article or hear from a speaker or read an article from an author that contributes to improving our practices, please reach out to Nicole Quintana, Editor-in-Chief, nicole.quintana@omtrial.com, or Astra Lincoln, Managing Editor, astral@ctlanet.org. ▲▲▲

...continued from page 7.

secure, members-only, AI-powered platform built around CTLA's own collective knowledge. Think of it as more than 30 years of CTLA experience that you can finally ask a question.

Instead of digging through old emails and archived Listserv threads, you can ask Know a question in plain English. It searches CTLA's historical materials and gives you an answer with citations to the actual posts and documents it used, so you can always go back to the source.

You can use Know to find prior discussions, documents, experts and litigation strategies; ask follow-up questions as your research develops; organize research into private notebooks by case or issue; and use what you find to help develop motions, demands, clauses, and other work product.

I also see a lot of potential in what this can mean for younger lawyers and new staff. We talk a lot about mentoring the next generation of trial lawyers. Imagine giving someone new to the practice the ability to learn from decades

of conversations among some of Colorado's best trial lawyers. They can see not just what the law says, but how CTLA members have actually handled these issues in the real world.

Technology is the new part. The idea behind it isn't. CTLA has always been a community where members share what they know, help one another solve problems, and make each other better lawyers. Know simply gives us a new, and much easier way to do what CTLA members have been doing for decades. ▲▲▲

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Managing Civil Litigation Clients Through a Trauma-Informed Lens

By Stacy Benner

Civil litigation is often discussed in terms of legal strategy, procedural deadlines, discovery obligations, settlement negotiations, and trial preparation. That is how we as lawyers, paralegals, and staff look at our cases. Yet for many clients, a lawsuit is not simply a legal matter. It can be an emotionally demanding experience that reactivates prior trauma, intensifies existing stress, or creates new feelings of fear, uncertainty, and loss of control. This is particularly true for clients whose legal claims arise directly from traumatic experiences, such as personal injury, sexual assault, domestic violence, medical malpractice, or other forms of harm. However, even clients whose underlying legal dispute does not involve an obviously traumatic event they may experience the litigation process itself as overwhelming or distressing.

A trauma-informed approach to client management recognizes that legal professionals do not need to become therapists in order to understand how trauma may affect a client's participation in the legal process. Rather, attorneys and legal professionals can adopt practices that promote safety, trust, transparency, collaboration, empowerment, and respect. When applied thoughtfully, a trauma-informed lens can improve communication, strengthen the attorney-client relationship, reduce unnecessary distress, and help clients participate more effectively in their own legal matters.

Understanding Trauma in the Civil Litigation Context

Trauma is not defined solely by the event that occurred. Individuals respond differently to difficult or threatening experiences, and an event that may appear manageable to one person may have a profound impact on another. Trauma can result from a single incident, repeated experiences, or prolonged exposure to situations involving danger, abuse, humiliation, discrimination, loss, or powerlessness.

In the context of civil litigation, clients may enter the legal process carrying the effects of experiences that occurred long

before the lawsuit began. They may also experience trauma directly connected to the matter at hand. A deposition may require a client to describe an assault in detail. Discovery may require the production of deeply personal medical or mental health records or personal documents. A personal injury lawsuit may require repeated discussions about pain, disability, and the life the client had before an accident and remind them of what they have lost as a result of this incident.

Going through the legal system brings its own kind of stress that can be separate from the original problem. Litigation frequently involves uncertainty, long periods of waiting, adversarial interactions, financial concerns, invasive questions, and situations in which the client has limited control. Clients may be asked to tell their story repeatedly to attorneys, insurance adjusters, opposing counsel, experts, mediators, and others. They may not understand why certain information is necessary, or why a legal strategy requires them to wait, disclose personal and sometimes unrelated information, or participate in a difficult process.

Trauma-informed attorneys and paralegals recognize that a client's behavior should not automatically be interpreted as resistance, dishonesty, lack of interest, or non-compliance. A client who repeatedly misses appointments may be overwhelmed. A client who appears angry or distrustful may have had prior experiences with systems or authority figures that caused harm. A client who has difficulty recalling details may be experiencing the effects of stress or trauma rather than intentionally withholding information.

This does not mean that attorneys and paralegals should ignore inconsistencies, missed deadlines, or other issues that affect a case. Instead, a trauma-informed approach encourages legal professionals to ask a different question. Rather than immediately asking why a client is being difficult, an attorney might ask, "What may be contributing to this client's

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response, and how can I communicate expectations in a way that increases the likelihood of productive participation?”

Creating Psychological Safety

One of the central principles of trauma-informed practice is the creation of safety. In a legal setting, safety includes both physical and psychological safety. Clients should understand where they are, who they are meeting with, what will happen during the meeting, and what information will be discussed, and why this information is necessary.

Simple practices can make a significant difference. Before beginning a difficult conversation, an attorney or paralegal can explain its purpose and provide an overview of what the client can expect. For example, rather than immediately launching into questions about a traumatic event, the attorney might say: “Today, I need to ask you some detailed questions about what happened so I can understand the facts and prepare your case. Some of these questions may be difficult. If you need a break, please let me know.”

This approach does not weaken the attorney's role or eliminate the need to obtain necessary information. Instead, it provides predictability. Predictability can be especially important for individuals who have experienced situations in which they felt powerless or unable to control what happened to them.

Psychological safety also depends on how legal professionals respond when clients express emotion. Crying, frustration, anger, silence, or visible anxiety should not automatically be treated as inappropriate or disruptive. An attorney can acknowledge the emotion without attempting to provide therapy. Statements such as, “I can see this is difficult,” or, “we can pause for a moment if you need to,” demonstrate

respect while maintaining appropriate professional boundaries.

Building Trust Through Transparency

The attorney-client relationship depends heavily on trust, but trust cannot be assumed simply because a client has signed a representation agreement. Clients may be unfamiliar with the legal system, skeptical of attorneys, or fearful that important decisions are being made without their input.

Transparency is therefore a critical trauma-informed practice. Attorneys should explain legal procedures in layman's terms and avoid assuming that clients understand legal terminology. Clients should know what the major stages of litigation are likely to be, what decisions they may need to make, and what information the attorney can and cannot control.

This includes being honest about uncertainty. Attorneys often feel pressure to reassure clients, but unrealistic reassurance can damage trust when the legal process does not unfold as expected.

Consistent communication is another important component of transparency. Litigation can involve long periods in which little appears to be happening from the client's perspective. Without communication, clients may interpret silence as neglect or believe their attorney has forgotten about them. Even a brief update explaining that there has been no significant development can reinforce trust and reduce uncertainty.

Supporting Client Autonomy and Choice

Traumatic experiences often involve a loss of control. The legal process can unintentionally recreate that feeling when clients believe that lawyers, judges, insurance companies, or opposing parties are making decisions for them.

A trauma-informed approach emphasizes client autonomy whenever possible. Attorneys should clearly distinguish between decisions that belong to the attorney as part of legal strategy and decisions that ultimately belong to the client. For example, settlement decisions, should be explained in a way that allows the client to make an informed choice and part of the process.

Choice should not be confused with allowing the client to dictate every aspect of their case. Attorneys have professional responsibilities and must provide candid legal advice. Trauma-informed practice means presenting information in a manner that respects the client's role in decision-making rather than unnecessarily taking control away from them.

Communicating Clearly and Avoiding Re-Traumatization

Civil litigation can require clients to repeatedly revisit painful experiences. Although some repetition may be unavoidable, attorneys should consider whether every request for information is necessary and whether the information can be gathered in a way that minimizes unnecessary distress.

Preparation is especially important before depositions, mediations, independent medical examinations, and other events that may be emotionally challenging. Clients should understand the purpose of the event, who will be present, what types of questions may be asked, and what behavior is expected of them.

Preparation should be realistic. Telling a client “it will be fine,” may not adequately prepare them for a deposition. A more effective approach is to explain that some questions may feel personal or upsetting, but that the attorney will prepare them for the process and help them understand how to respond.

Clear communication is also essential when requesting documents or information. Clients may feel embarrassed or violated when asked to provide medical records, financial information, employment records, or other personal materials. Explaining why the information is relevant and how it may be used can reduce confusion and mistrust.

Recognizing Trauma Responses

Legal professionals should avoid diagnosing clients or assuming that every difficult behavior is trauma related. At the same time, understanding common responses to stress can help attorneys communicate more effectively.

Some clients may become highly anxious when discussing certain topics. Others may appear detached, have difficulty remembering details, become angry, or avoid communication altogether. These behaviors can have many causes, including trauma, stress, finan-

cial pressure, family responsibilities, or simple misunderstanding.

Trauma informed care looks at real actions and helpful fixes. For example, if a client repeatedly fails to respond to lengthy emails, the attorney might consider whether shorter communications, clear action items, or a scheduled phone call would be more effective.

Similarly, if a client becomes overwhelmed during an interview, continuing to press for information may not always produce the most accurate or useful account. Taking a brief break, changing the pace of the conversation, or returning to a topic later may allow the client to participate more effectively.

The goal is not to excuse all conduct or eliminate accountability. Clients must still meet deadlines, provide necessary information, and participate in their cases. A trauma-informed approach simply recognizes that the method used

to communicate expectations can affect whether those expectations are successfully met.

Attorneys and paralegals should listen with empathy, acknowledge difficult experiences, and understand when a client may benefit from additional support. However, they should avoid attempting to diagnose or treat trauma. If a client appears to need mental health assistance, the attorney may provide appropriate information about available resources or encourage the client to seek qualified support, consistent with the attorney's role and ethical responsibilities.

Burned-out professionals may struggle to communicate patiently, respond thoughtfully, or maintain the consistency that clients need. But sustainable, trauma-informed practice recognizes that the wellbeing of clients and legal professionals are connected.

Ultimately, trauma-informed client management is not only a compassionate approach; it can also be an effective legal practice. Clients who understand the process, trust their legal team, and feel prepared for what lies ahead are often better positioned to participate meaningfully in their cases. ▲▲▲

Stacy has dedicated her career to the field of civil litigation since 2005. She joined Greer Law Group in 2018, where she currently serves as the Senior Paralegal. In this role, her work centers on high-stakes, sensitive cases involving personal injury and plaintiffs' civil sex abuse. To better serve her community, Stacy completed specialized trauma-informed training in 2023. This certification allows her to provide enhanced, sensitive, and effective advocacy for clients who are navigating the legal system while recovering from severe physical and emotional injuries.



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ELECTION RESULTS

CTLA would like to thank all members who ran for an officer or board position. Your willingness to share your time and talent is greatly appreciated. Because of members like you, CTLA can continue its mission to protect people and right wrongs. Thank you once again for all you do to make CTLA such a strong organization.

Below are the results of the
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Jed Greenblatt

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Alessandra Morales

Lorraine Parker

Allison Pritchard

James Puga

Amy Rogers

Danielle Sandoval

Paige Singleton

Donald Slavik

Melanie Stuckey

Ross Ziev

CTLA President Megan Matthews also made the following appointments for a two-year board term: Spencer Aitken, John Kellner, Karman Reed, David Roth and Jonathan Stine.

TERMS EXPIRE IN 2027

The following board members will complete their terms in 2027: William Babich, J. Kyle Bachus, Raina Bayas, Timothy Bussey, Morgan Carroll, Courtney Clark, Sarah Freedman, Timothy Garvey, Nicole Greene, Kevin Hannon, K.C. Harpring, Joanna Hayoun, Karen Hen, Edward Lomena, J.C. "Pit" Martin, Sarah McEahern, Jennifer Milne, Amanda Francis Owen, Kimberly Smith, Melanie Sulkin, Stephanie Tucker, Nelson Waneka, and Sean Watkins.

CTLA President Megan Matthews also made the following appointments for a one-year board term: James Anderson.

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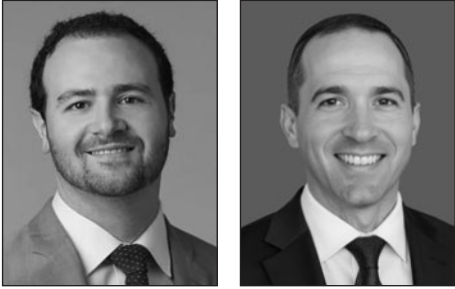
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Meeting the Medical Expense Gap

By Jeremy Babener and Kent Hansen

Every trial lawyer knows the scenario. You take on an injured client with a strong case. Liability is clear, and you're confident they'll ultimately receive a recovery of some amount. But they can't wait for medical treatment.

Medical expenses start immediately, and important treatment isn't covered by insurance, Medicare, or Medicaid. Coverage is denied. Families find themselves balancing medical bills and everyday living expenses.

These pressures don't disappear when the case resolves, either. Settlement is the start of a new set of decisions. Taxes, public benefits, medical expense planning, and other settlement-related decisions can all affect a client's long-term financial security.

Plaintiff lawyers devote enormous effort to maximizing the value of a case. But maximizing a client's outcome also means recognizing opportunities to help clients protect the proceeds they win.

This article explores several opportunities to improve our clients' lives pre- and post-settlement. Charitable fundraising can help bridge the gap during litigation, and even after. Settlement language can cut unnecessary taxes when plaintiffs have past and future medicals. And financial planning can help protect a plaintiff's financial future.

Safe, Effective, Immediate Assistance for Plaintiffs

Many of the financial challenges that accompany a serious injury arrive with the first medical bill. Plaintiffs may be unable to work and facing reduced household income at the same time that out-of-pocket medical costs, transportation, or caregiving requirements become necessary. While attorneys focus on building the strongest possible case, clients are often focused on something more immediate: making it to the next doctor's appointment or paying the next month's bills.

Traditionally, plaintiffs have had few options. Some postpone recommended treatment. Others rely on loans from litigation financing companies. Friends and family frequently turn to general-purpose crowdfunding platforms like GoFundMe. But receiving money from those campaigns may put them over the threshold for means-tested public benefits such as Medicaid and Supplemental Security Income. All of the sudden, a "successful" campaign has cost them more than it raised. Trial lawyer Stephen Burg puts it well: "It's such a loss that donations to help plaintiffs with medical expenses can result in lost Medicaid coverage."

Fortunately, new charitable resources are making it possible for some plaintiffs to continue treatment and address medical needs while litigation is still pending. The Plaintiff Fund, founded in 2024 and administered in partnership with the national nonprofit Help Hope Live, provides an alterna-

tive designed specifically for injured plaintiffs. Instead of simply raising money online, plaintiffs receive the support of a charitable organization with four decades of experience and over \$190 million raised for individuals facing catastrophic injuries and illnesses.

Because donations are made through a qualified charity and distributed for approved medical and related expenses, not only are donations tax-deductible to donors, but fundraising can often be accomplished without jeopardizing eligibility for means-tested public benefits for recipients. In addition, every Plaintiff Fund recipient receives a \$5,000 grant, along with dollar-for-dollar matching contributions on the next \$5,000 raised. This helps campaigns gain momentum during one of the most financially challenging periods of a client's case.

Real Plaintiffs. Real Support.

Every plaintiff's situation is unique, but the need for financial support during litigation is common. The experiences of recipients illustrate the wide range of challenges that Plaintiff Fund support can help address—some of which we'll highlight here.

Every year, millions of people are injured in car crashes. In 2024, Katie Blaser was one of them. Cervical disc replacement surgery left her navigating recovery while unable to work as a self-employed business owner.

Keila Flores spent her career caring for nursing home residents. When she needed care herself, workers' compensation covered her surgery. Unfortunately, far more expenses, like transportation, medications, and rehabilitation, were still her responsibility.

Lynn Knutson just wants to get back to work. She has spent over seven years searching for answers.

She finally found specialists, but the recommended procedures lie outside her coverage and means.

Mayra Neira woke up from what should have been a routine surgery as a quadriplegic. She now faces lifelong rehabilitation and adaptive care.

David Ramirez spent over 10 years in military service and defense contracting. He now navigates physical and mental injuries while caring for two disabled children.

Chris Moore suffered a C4 spinal cord injury, leaving him paralyzed and unable to feel either his upper or lower body. Now he relied on critical care and skilled nursing facilities, and cannot live at home.

No two campaigns are identical because no two plaintiffs are identical, but they all need timely assistance.

Trial lawyer Kurt Zaner serves on the Plaintiff Fund Committee and has seen this first hand. "Plaintiffs shouldn't feel pressure to settle because they can't pay for medical treatment," he says. "The Plaintiff Fund helps cover medicals between injury and settlement, when support is needed most."

Settlement Strategies

While the Plaintiff Fund helps protect public benefits immediately after a crisis, other settlement strategies can support plaintiffs' financial wellbeing after settlement.

Once settlement discussions begin, plaintiff lawyers are presented with opportunities to improve a client's long-term financial outcome. Medical expenses can continue for months, years, or even a lifetime, so the planning decisions made during settlement can have just as much influence on a client's long-term financial security as the amount of the settlement itself.

Allocating for Medical Deductions in Physical Injury Cases

As most trial lawyers know, settlement proceeds compensating for physical injuries are generally received tax-free under Tax Code Section 104(a)(2). But if the settlement includes compensation for future medical expenses, thoughtful allocation can provide additional benefits: the ability to deduct more medicals in the future.

To preserve this opportunity, the settlement agreement should allocate a smaller (but reasonable) portion of the settlement to medical expenses. For example, if a client expects \$1 million in future medical expenses and settles for \$2 million, allocating only \$400,000 to medical expenses could preserve \$600,000 of deductions. Without an appropriate allocation, the IRS may assume those expenses were already reimbursed, eliminating later deductions.

Excluding Medical Expense Reimbursements in Taxable Cases

Not every settlement qualifies for tax-free treatment. Discrimination claims, harassment claims, and other non-physical injury cases are generally taxable. Even so, there are opportunities here as well. Plaintiffs may still be able to secure tax-free treatment on amounts that reimburse or pre-pay for qualifying out-of-pocket medical expenses. In distress cases, for example, this can include therapy costs.

If those expenses were not previously deducted, careful allocation may allow that portion of the settlement to be received tax-free. Because these allocations require appropriate documentation and factual support, they should be evaluated before settlement is finalized.

Qualified Settlement Funds (QSFs)

Something you can't put a price tag on is the ability to evaluate options in an unrushed and low-stress environment.

A QSF often provides just that. The defense is allowed the opportunity to pay, get their release and deduction, and exit the case. Meanwhile, the plaintiff gets time to consult with their team on strategies that need to be executed before settlement proceeds are distributed. QSFs essentially press "pause" on the settlement to preserve planning options.

This timing can make all the difference. Strategies like structured settlements, Special Needs Trusts, attorney fee deferrals, and other planning opportunities generally remain available while funds are held in a QSF. This allows plaintiffs to make properly informed decisions without feeling pressure from the defense.

Structured Settlements

For plaintiffs facing significant future medical expenses, structured settlements can provide both financial stability and tax advantages. Rather than receiving a lump sum (and the tax spike that comes with it) plaintiffs receive periodic payments over time. This allows for tax-friendly customization of the income stream that can be tailored to known or anticipated medical expenses.

Add to that the ability to protect the settlement from premature depletion, and you have a strategy that works well with other planning tools to support a client's long-term financial needs.

Depending on a plaintiff's circumstances, structures can even support public benefits planning by controlling how and when funds are received.

Special Needs Trusts (SNTs)

A properly established SNT allows settlement proceeds to supplement, rather than replace, the plaintiff's benefits. Trust assets can be used for a wide range of expenses that improve the plaintiff's quality of life while preserving access to the government benefits that often provide the foundation of long-term medical care. Plaintiffs with ongoing or lifelong medical needs are especially well served by SNTs.

From Crisis to Stability

Helping plaintiffs with significant medical needs starts with maximizing the settlement. There's no doubt about that. But that's neither the beginning nor the end of the story.

Before settlement, the Plaintiff Fund can help plaintiffs avoid the unintended consequences of general-purpose crowdfunding while providing up to \$10,000 in grants and matching donations to help offset costs while awaiting a settlement. But even settlement is not always a singular resolution. Beyond the number on the check lies the plaintiff's new world, with unique challenges and demands, beginning with the need to protecting every dollar of the settlement amount. This means guarding against unnecessary taxes, preserving public benefits, and helping ensure those funds continue supporting the client's medical needs into their future.

Strategies like Qualified Settlement Funds, thoughtful allocations, Structured Settlements, and Special Needs Trusts help preserve flexibility and protect long-term financial security.

Settlement planners with expertise in these strategies can help maximize clients' outcomes and their peace of mind. Many of these professionals are members of the Society of Settlement Planners, the National Structured

Settlements Trade Association, and the American Association of Settlement Consultants. Bringing them in early helps identify planning opportunities while those opportunities are still available.

The amount of a settlement is only part of a client's journey from crisis to stability. Just as important is how well those funds support the years that follow. With thoughtful planning and the right team in place, plaintiff lawyers can help clients make the most of both. ▲▲▲

Jeremy Babener is Tax & Settlement Counsel with Structured Legal (Portland, Oregon). He serves plaintiffs and plaintiff lawyers across the country, advising on settlement language and arrangements. He serves on plaintiff committees for the AAJ and ABA, writes a Forbes Column on settlements, and helped found the Plaintiff Fund.

Kent Hansen is Tax & Settlement Counsel with Structured Legal (Logan, Utah). He advises on tax, benefits, estate planning, and elder law matters, with more than a decade of experience advising plaintiffs on settlement-related planning. He volunteers with the Plaintiff Fund, helping plaintiffs secure medical grants and direct support.

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How and Why You Should Explore Potential Product Defect Claims in Your UTV Crash Case

By Summer Davidson and Brennan B. Delaney

On May 10, 2026, a 14-year-old passenger was ejected from a 2021 Polaris Ranger while attempting to close the front passenger door, which opened while the vehicle was being operated on a road northeast of Richmond, Kansas. This is not a case we are working on; it is merely one of the top results from a Google search we conducted while drafting this article. At first glance, the description of the case and the cited news story reek of numerous bad facts—13-year-old operator; unrestrained passenger; operating on a public roadway—and ultimately those bad facts may outweigh the upside of pursuing a product liability case against the utility task vehicle (UTV) manufacturer, Polaris. However, the point of this article is that they also may NOT, particularly if the 14-year-old passenger was catastrophically injured and the UTV operator or owner has little to no insurance coverage. But to answer that question, you need insight into recent trends and potential defect theories for UTVs.

Over the past 20 years, the number of UTVs manufactured and sold has increased fourfold. This started in 2004, when Yamaha broadened the market by targeting its UTVs not only for commercial or industrial use but also for off-roading and other recreational uses, introducing the Yamaha Rhino. Three years later, Polaris followed suit by introducing the Polaris RZR. From that point on, an arms race began to have the fastest, most powerful UTVs in the market. Many UTVs are now as powerful and fast as most automobiles, with some reaching top speeds of 80 miles per hour or more. UTV manufacturers boast of these advancements in speed and power in their advertising campaigns that all too often center heavily on high-octane performance and adrenaline. Ads frequently use cinematic, stunt-heavy footage that showcases vehicles conquering extreme conditions such as dunes, mud, rocks, and tight trails. For example, in 2022,

Polaris's ad for its new RZR Turbo R and Pro R models targeted individuals who crave "off-road adrenaline" and promised "exceptional control for conquering the wildest terrain." And yet, UTV manufacturers often deny that straightforward tip-over or rollover events at low speeds are foreseeable crash events. This contradiction is perhaps best understood by examining the industry's self-regulatory framework, which has historically prioritized voluntary standards that do not meaningfully account for the very operating conditions manufacturers emphasize in selling their vehicles.

Like the automobile industry, the UTV industry is self-regulated. In 2009, the Consumer Product Safety Commission ("CPSC") asked "whether there may be unreasonable risks of injury and death associated with Recreational Off-Highway Vehicles (ROVs)." The CPSC conducted testing to answer this question and found that ROVs such as UTVs exhibit "inadequate lateral stability, undesirable steering characteristics, and inadequate occupant protection during a rollover crash." CPSC ultimately, however, deferred to the Recreational Off-Highway Vehicle Association (ROHVA), an association comprised of representatives from the manufacturers themselves, to create a set of voluntary standards to address these issues. And the fruits of this labor were realized on July 11, 2011, in the form of ANSI/ROHVA 1-2011 (the "ROHVA standards"). However, these voluntary standards are just as notable for what they do not include as for what they do.

For example, despite the previously described increased speeds and power of the UTVs and the CPSC's recognition of "inadequate occupant protection during a rollover crash", the ROHVA standards in no way factored the increased

speed of the vehicles in determining the necessary strength of the so-called rollover protective structures (“ROPS”) of the vehicles. Instead, ROHVA borrowed a then 36-year-old agricultural tractor standard from 29 C.F.R. §§ 1928.51-53, which required the ROPS of UTVs to be tested by placing static force on the ROPS to either “a minimum total weight of 110 lbs per maximum power take-off horsepower at the rated engine speed or the maximum gross vehicle weight specified by the manufacturer, which is the greatest.” ROHVA then simplified this formula to test the ROPS based solely on the vehicle's gross weight, as it concluded that UTVs do not have power take-offs. Thus, any consideration of speed or power was completely dropped from the calculation. This has resulted in the ROPS strength of UTVs being insufficient to withstand even rollovers at moderate speeds on dirt surfaces.

And this is just one example. The ROHVA standards include little to no dynamic testing. And the ROHVA standards do not require any crash testing at all! Instead, they require testing of components under circumstances where failure is unlikely, if not impossible. Take, for instance, the standard for the occupant restraint system (ORS) zone for the arms and hands of the occupant, which, at least on its face, requires doors, nets, or “other suitable devices” to keep an occupant's arms and hands in the vehicle. However, one way to perform the test as to whether this standard is met is to put a test dummy in the UTV that is being tested, affix the dummy's hands to the appropriate handholds, e.g., the steering wheel, and then place the UTV on a tilt table and slowly tilt the vehicle to a roll angle of 45 degrees. If the dummy's hands (which are still affixed to the steering wheel) and arms do not extend more than seven inches outside

the width of the vehicle, then the test is passed. Again, this standard has little real-world application, particularly given that one's first reaction in a tip-over UTV crash is often to reach out and brace oneself.

Not surprisingly, given the rudimentary testing for the ROHVA voluntary standards, UTVs have had and continue to have numerous dangerous defects that injure and kill their occupants. Exacerbating this problem has been the industry's failure to address problems when they arise. For example, in 2012, Ken d'Entremont, a Polaris safety director, stepped down from his job after Polaris refused to recall its RZR models due to fire issues. According to d'Entremont, while it was his “heart-felt feeling and belief that the vehicle should be recalled,” Polaris was “hesitant to put the brakes on” the RZR because it “was a big moneymaker.” As a result, “it was no longer possible for [d'Entremont] to continue working there ethically.” When asked about this in his deposition, d'Entremont explained the ethical metric he uses and, in fact, the one he now teaches his engineering students as a professor, is “Would you let your family, your loved ones use this vehicle?” So, when d'Entremont reached the point where he would not let his family and loved ones use a Polaris RZR, it was time for him to leave that company.

The combination of lax voluntary standards and reluctance to address safety issues when raised has led to an increase in UTV-related injuries year over year. While not every injury scenario results from defective design, some can be directly attributed to failing to design these vehicles with the same care as automobiles. The ROPS not being of sufficient strength to withstand the gross weight of the vehicle at even moderate speeds can result in it

deforming and intruding into the occupant compartment, causing injuries to the occupant's head, neck, and brain, which, in some circumstances, can result in the occupant's paralysis or death. A UTV's lack of sufficient nets or doors to keep a restrained occupant's arms or hands in the vehicle can result in amputation and loss of function. Further, plastic components that have not been crash-tested can break or fail during foreseeable crashes, causing fully restrained occupants to impact the vehicle's structure and suffer injury. Ultimately, despite the UTV industry developing vehicles that are capable of operating at speeds comparable to those of all but the most high-performance automobiles, its efforts to maintain vehicle safety in step with increased speed have lagged behind.

And with that, let's return to the case study example we opened this article with. The fact that one does not know from the face of the article is that the 2021 Polaris Ranger involved in the May 10, 2026, incident likely had doors that were hinged on the rear side. These rear-hinged doors were once popular in the automotive industry as well. But you may be familiar with them by a different name, “suicide doors.” This moniker was bestowed upon this type of door in the 1960s in recognition of the tendency such doors had to get thrown wide open at high speeds and, “due to intense airflow, push the passenger out of the car.” As such, the last American car produced with suicide doors was the 1971 Ford Thunderbird. Yet, in the 2020s, American UTV manufacturers are designing such doors for their high-speed vehicles, with the same safety hazard.

Overall, the recent history of the UTV industry reveals a troubling and recurring pattern: manufacturers have repeatedly introduced faster and more

powerful vehicles without corresponding advances in occupant protection, relying on voluntary standards that fall well short of real-world crash conditions and too often resisting meaningful safety improvements even after serious hazards become apparent. That history matters because it reminds us that not every injury in a UTV crash is simply the product of operator error or poor judgment. In many cases, the vehicle's design can transform a less severe incident into one that results in a devastating injury or death.

Returning, once more, to the May 10, 2026, Polaris Ranger case study, the readily apparent "bad facts" of the case should not end the inquiry if the 14-year-old passenger was catastrophically injured or killed. Instead, one should investigate pursuing a case focused on why a modern UTV was designed with a known hazard that the automotive industry largely abandoned decades ago. To decide whether this case is viable, the next step is to have the engineering experts in the appropriate fields, e.g., ORS design and biomechanics, inspect the subject UTV to determine (1) whether a defect was present, and (2) whether it caused the injuries in question. For this reason, it is imperative that the subject UTV be located and preserved immediately. Assuming that the case appears viable post-inspection, the next step is to determine the best avenue for pursuing it. While it may be possible to engage in pre-suit negotiations with a UTV manufacturer, in our experience, most, if not all, UTV product claims need to be filed to have any hope at a meaningful resolution of the case. As such, one will want to explore all potential jurisdictions where a lawsuit may be brought. This includes the state where the UTV manufacturer is headquartered. If one were to bring a suit against Polaris for the May 10, 2026,

incident, the choices would likely include Franklin County, Kansas state court, Kansas federal court, or Hennepin County, Minnesota state court, where Polaris is headquartered. One would have to carefully research each jurisdiction to determine which is most appropriate for this case, and then file.

Ultimately, it is only through investigating for UTV defects and filing cases that we can begin to hold the UTV industry to a higher standard of safety than it imposes on itself. As such, we encourage you to resist the temptation to dismiss your next UTV case based on a few bad facts at first glance, without at least considering a potential product defect claim. ▲▲▲

This article first appeared in the August 2026 issue of the *Journal of the Kansas Trial Lawyers Association*. Reprinted with the permission of the Kansas Trial Lawyers Association.

Summer Davidson is an Associate Attorney at Langdon & Emison where she represents individuals and families in catastrophic injury cases. She received her degree in psychology at Southern Methodist University and her J.D. at The University of Alabama School of Law. She is an active member of KCMB, Missouri Association of Trial Attorneys, AVL, serves as the Young Lawyers co-chair for AIEG, and is a board member of House of Hope. Originally from Joplin, Missouri, she now resides in Kansas City, Missouri, with her fiancé and two orange cats.

As a former law clerk of both a trial judge and an appellate judge, Brennan Delaney spent countless hours in the courtroom, which has given him a unique understanding of trial practice. Brennan utilizes this knowledge as a partner at Langdon and Emison, where he represents catastrophically injured clients. In the past

five years or so, one area of focus for his practice has been pursuing claims against UTV manufacturers for defects that resulted in injuries to his clients or the deaths of clients' loved ones.

Endnotes:

¹ <https://www.kctv5.com/2026/05/10/teen-ejected-utv-after-door-swings-open-franklin-county/>

² Unlike all-terrain vehicles, which are operated via handlebars like a motorcycle, UTVs have steering wheels, harnesses/belts, and rollover protective structures. In other words, the occupant compartments of UTVs are less like motorcycles and more like motor vehicles.

³ https://www.cpsc.gov/s3fs-public/2024_OHV_Annual_Report_0.pdf

⁴ <https://www.sema.org/news-media/magazine/2019/27/upward-trend-powersports>

⁵ <https://www.swm-powersports.com/blog/how-fast-can-an-atv-go>

⁶ <https://www.ispot.tv/ad/2RXL/polaris-rzr-turbo-r-and-pro-r-off-road-adrenaline>

⁷ Federal Register/Vol. 74, No. 207, RIN 3041-AC78-Standard for Recreational Off-Highway Vehicles (October 28, 2009).

⁸ Recreational Off-Highway Vehicle Association, <https://rohva.org> (last visited on June 29, 2026).

⁹ The Polaris RZR, an Off-Road Thrill That Can Go Up in Flames, <https://www.nytimes.com/2019/09/06/business/polaris-rzr-fires.html> (last visited June 29, 2026).

¹⁰ CPSC's 2024 Report of Deaths and Injuries Involving Off-Highway Vehicles with More than two Wheels, p. 20.

¹¹ <https://www.polaris.com/en-us/shop/off-road/accessories/doors/ranger-doors/> (last visited June 29, 2026).

¹² <https://www.jdpower.com/cars/shopping-guides/why-are-they-called-suicide-doors> (last visited June 29, 2026).



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AAJ Washington Update: August 14, 2026

By Linda Lipsen

Congress adjourned for August, providing five weeks for U.S. House and Senate members to return to their districts and states. Since January, AAJ has played defense against powerful corporations that have worked non-stop to include harmful language in legislative proposals to end lawyers' practices and limit Americans' rights.

The Big Takeaway: Bipartisan Legislation to Protect Kids Online

On August 5, the Senate Commerce Committee passed the bipartisan Kids Online Safety Act (KOSA), the CHATBOT Act, and the Youth AI Privacy Act, all with language that will protect most families' rights to pursue legal accountability through the courts and preserve stronger state laws that protect children and teens. Parents have led the way, fighting relentlessly to hold Big Tech legally responsible for the youth health and safety crisis brought on by tech companies' decision to put profits over kids' safety, and AAJ is proud to stand with them.

Other Looming Issues

AAJ has been battling a tidal wave of different issues this Congress, from driverless cars to pesticide immunity, to antitrust exemptions, and preemption across the board, in addition to a barrage of executive orders aimed at reducing regulatory protections and making it easier for corporations to hurt Americans and evade all accountability.

AAJ recently filed a series of comments with regulatory agencies to prevent them from reducing consumer protection:

National Highway Traffic Safety Administration (NHTSA)

Filed June 25. AAJ opposed NHTSA's proposal on information collection practices because it would reduce the amount and type of information that the Department of Transportation (DOT) would receive about Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS)-equipped vehicles and the collisions in which they are involved.

NHTSA

Filed July 27. AAJ opposed the following rule: Federal Motor Vehicle Safety Standards; Modernization of FMVSS No. 135 To Accommodate ADS-Equipped Vehicles. If this

dangerous proposal takes effect, it would undermine safety on our roadways by allowing ADS-equipped vehicles to operate without manual brakes.

Environmental Protection Agency (EPA)

Filed July 20. AAJ opposed two proposed rules from the EPA that would weaken protections against PFAS. The first is a rescission of previous regulations regarding certain chemical substances including GenX chemicals, which are falsely touted as a safer alternative to PFAS. The second is a proposed extension of the compliance deadline (from 2029 to 2031) for restrictions of certain PFAS substances in drinking water. AAJ member Kevin Hannon of Colorado provided guidance on these comments.

Federal Trade Commission (FTC)

Filed July 31. AAJ opposed the FTC's policy statement on a need for national regulatory "guardrails" for artificial intelligence (AI). These proposed "guardrails" would infringe on states' ability to protect their citizens and provide remedies to the harms of AI.

Trial lawyers, as they have for decades, are the last and best defense when it comes to consumer protection, especially if Americans cannot reliably depend on federal regulatory agencies to ensure that our environment, food, and the products we use every day are safe.

Legal Affairs Updates

Amicus Curiae Program

AAJ's amicus curiae program is more active than ever. Between August 1, 2025, and July 15, 2026, AAJ filed 34 briefs.

These briefs addressed a broad range of legal issues and practice areas. We filed in 13 different jurisdictions, including the U.S. Supreme Court; the Second, Third, Fourth, Sixth, Ninth, and D.C. Circuit Courts of Appeals; and the supreme courts of Illinois, Ohio, Maryland, and Massachusetts. Of the 34 briefs filed in FY26, 20 were filed jointly with 21 co-amici organizations, including the following state trial lawyer associations:

- Illinois Trial Lawyers Association
- Louisiana Association for Justice
- Maryland Association for Justice

- Massachusetts Academy of Trial Attorneys
- Ohio Association for Justice

Be sure to follow AAJ on LinkedIn, Facebook, Instagram and X to see and share our posts on amicus filings and related decisions.

Federal Rules Program

Our Federal Rules program is similarly busier than ever. AAJ closely monitors proposed amendments to the federal rules and advocates for rules that protect the rights of injured people before the U.S. Judicial Conference.

The following rules proposals will be published for public comment in mid-August, with a comment period running through mid-February 2027 (exact dates TBA):

- Amendments to privacy rules that would require the full redaction of social security numbers in non-bankruptcy filings and mandate the use of pseudonyms for minors.
 - AAJ supports these amendments and will recommend additional improvements to these rules to protect minors' privacy, including the use of pseudonyms for their parents and guardians.
- Amendments to FRE 902(1)(A) that would treat tribal documents like all other government documents and make them self-authenticating.
 - This proposed change should be helpful to members representing tribes in environmental and other health-related litigation.
- Amendments to FRE 104 that would add a default preponderance standard for deciding

preliminary questions in 104(a) and remove conditional relevance under 104(b).

- AAJ is evaluating its position on this proposal.

Stay tuned for information about submitting comments.

Working Together

AAJ will continue to fight attacks from industries and powerful interests that seek to prevent trial lawyers from pursuing justice for their clients. When people's rights are threatened, AAJ will rise to the challenge. We will work with affiliated trial lawyer associations to oppose legislation that limits accountability for corporate wrongdoing across all industries. Together, we will remain at the forefront of protecting access to justice and the right to trial by jury. ▲▲▲

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When the Outcome Goes Against You: A Strategy for Dealing with Loss in Litigation

By Rich Webster

There is a particular kind of suffering that sometimes comes to trial lawyers. It is not the ordinary frustration of a demanding job. It is something closer to a punch in the gut: the vertigo that follows an outcome that you had hoped would not happen, a loss or a verdict overturned. You've spent years on this case. You fronted the experts, the depositions, the trial prep. You believed in your client. And now the case has resolved, the result is what it is, and you are sitting with a loss that is financial, relational, and personal all at once.

Before we even get to loss in the conventional sense, it's worth naming something the legal profession rarely says out loud: justice, as the law delivers it, is always incomplete. A significant settlement is a real achievement, but it does not undo what happened to your client. It doesn't restore what was taken, make scars or disability go away, or give back the years spent in pain and uncertainty. Money is the instrument the legal system has available, and it is a crude one. Even in victory, there can be grief. Even the best outcome is a negotiation with an injustice that was never fully correctable to begin with. Even still, trial lawyers put everything they have toward the justice that is available and fight for their client.

We are trained to project confidence and move forward. Vulnerability is treated as a liability. And the muscle that suppresses doubt, fear, and grief gets exercised constantly, until suppression becomes automatic. The problem is that

this reflex doesn't stop when the case ends with a loss. And when the loss is large, the hurt can be huge.

There is a more useful framework for understanding what happens inside a litigator when things go wrong. At its center are three interlocking patterns: the impulse to push away pain, the tendency to cling too tightly to outcomes, and the distorted stories we tell ourselves when we're hurting. To address these skillfully requires something most lawyers are not trained to do: the capacity to sit with discomfort without immediately trying to resolve it.

The impulse to push away is the first pattern. Pretending it does not matter, or worse yet just getting angry at the system, judge, or the other side. What gets pushed away doesn't disappear, it accumulates and resurfaces as cynicism, anxiety, or withdrawal from the work. Discomfort is not a problem to be solved. It is an experience needing to be felt.

The tendency to hold onto the reality you wish happened is the second pattern. For contingency fee lawyers it has a particular flavor, you didn't just argue this case, you funded it. You carried it. By the time you reach a resolution, the line between professional investment and personal attachment has often blurred. When a deserving client walks away without what they needed, the loss isn't abstract. And even when the outcome is favorable by any legal measure, the attachment doesn't simply dissolve. Sitting with the shortcomings of the system itself is hard enough without an adverse outcome.

The distorted story is the third pattern, and perhaps the most quietly damaging. It takes a single result and extrapolates it into a permanent truth about the system, your meaning for being a trial lawyer, and maybe whether justice exists at all. This is grief talking, and grief is not known for its accuracy. Feelings are real, but sometimes are not true.

What all three patterns share is a flight from the vulnerability of caring deeply about outcomes you cannot fully control, inside a system that cannot fully deliver what your clients actually need. The antidote is not positive thinking or tougher skin. It is the willingness to turn toward experience

rather than away from it, the willingness to give yourself time and support.

This means building deliberate structure for processing losses such as peer consultation, a trusted colleague, or a therapist who understands high-stakes professional life. It means being willing, at least in private, to sit in the discomfort of an outcome that didn't go the way you gave everything for it to go. It also means understanding that your current emotional state is temporary as are all emotions.

Caring deeply about your client is not the problem. It is what makes you good at this. The goal is to care without collapsing, and to recognize that these

patterns, once seen clearly, become something that will likely be part of the process. Seeing things clearly, the way they are is sanity, even when you do not like what you see. ▲▲▲

This article first appeared in *The Iowa Trial Lawyer*, a publication of the Iowa Association for Justice. Reprinted with the permission of the Iowa Association for Justice.

Rich Webster received his JD in 1993 and practiced law until 2018. He eventually decided he could help people more effectively as a therapist, and now works as a Licensed Mental Health Counselor in private practice. He has served as adjunct faculty at the Department of Education and Drake University.

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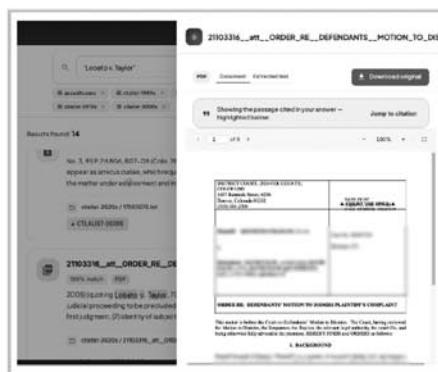


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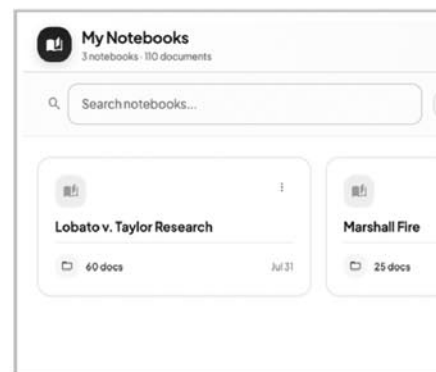
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For more info on I4ers Circle, contact Kelly Hogan at CTLA, (303) 831-1192



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CTLA Member Case Outcomes

Our members often advocate for those who cannot advocate for themselves. And though not every case is successful, we ensure our clients' voices are heard and that they have access to our justice system. In an effort to assist and educate each other, this section highlights the successes and lessons learned so that we may all be better lawyers.

Case Name: *Duke v. Kissell*

Type of Claim: Negligence

Plaintiff's Counsel: Jake Kimball, Kimball Injury Law

Defense Counsel: Angela K. Wood, Law Offices of Annalisa N. Grant (The Hartford)

Judge: Judge Daniel M. St. John II, Larimer County District Court

Brief Description: Four-year old client was in public when defendant's dog—unprovoked—attacked her face and arm, leaving a scar running from her nose to her chin. The Hartford made no offer in response to a policy limits (\$500,000) demand, which included the police report, medical records, future care opinions, and photographs of the injury and scarring. Plaintiffs filed suit. Hartford defense counsel answered arguing comparative negligence of the child; John Doe non-party at fault; and disputed strict liability on basis of injury not being "serious bodily injury." After exchange of initial disclosures, with the threat of an excess judgment, the Hartford accepted excess settlement demand.

Outcome: \$2,505,000 settlement

Case Name: *Wesch, et al. v. Mills, et al*

Type of Claim: Negligence

Plaintiff's Counsel: David Krivit, Krivit Law; Michael Stegman, Balaban Law, LLC

Defense Counsel: Chris Witte, State Farm

Judge: Judge Priscilla Loew, Adams County District Court

Brief Description: While traveling to Texas from Colorado, defendant, in a large commercial roofing van, crashed into

the rear of the plaintiffs' Chevrolet Tahoe with a trailer hitch. Plaintiff wife suffered neck strain with herniation and bulging discs, and plaintiff's husband suffered left-wrist strain. The jury awarded full medical bills and non-economic damages exceeding pretrial offers from the defendant.

Outcome: \$126,000 verdict (including post-judgment interest)

Case Name: *Tolentino v. Colorado Designscapes, Inc., et al*

Type of Claim: Negligence

Plaintiff's Counsel: Tim Galluzzi and Gianfranco Sotomayor, Cheney, Galluzzi & Howard, LLC

Defense Counsel: Hall & Evans

Judge: Judge Don T. Toussaint, Arapahoe County District Court

Brief Description: Plaintiff was riding in a van with his brother and cousin when the van broke down in the middle lane. A red truck, driven by people the plaintiff knew, stopped behind them with its flashers on. The two vehicles' occupants formed a plan to tie a rope to the van and use the red truck to tow it up the road. Plaintiff, after volunteering to tie the rope, was in front of/underneath the van, when defendant at-fault driver drove into the back of the red truck, pushing it into the van, which pushed into plaintiff. The tire ran up on his right shoulder, leaving a tire mark. Plaintiff suffered a concussion with mostly resolved symptoms; a partially torn rotator cuff with tendinopathy; cervical instability through damage to three main ligaments in the neck; a disc herniation at C6-7; and a TMJ disorder in the order. The neck and shoulder injuries are permanent and will require future treatment. Defendant denied liability, claiming the sun was in his eyes, preventing him from seeing the vehicles stopped in front of him, and also defended on the basis of comparative fault. The jury returned a verdict for \$552,978 in economic damages, \$226,857 in non-economic damages, and \$468,660 in impairment damages.

Outcome: \$1,248,113 verdict, with 75% apportionment to defendant and 25% apportionment to plaintiff

CASE OUTCOMES

Case Name: *Moore v. Lawson et al*

Type of Claim: Negligence

Plaintiff's Counsel: Tom Byrnes and Adeline Mager of Caplis Law

Defense Counsel: Michael Sullivan, Alyssa Amonitti of Tucker Holmes, LLC

Judge: Judge Stacy Guillon, Douglas County District Court

Brief Description: Plaintiff was driving down Parker Road in May of 2023 when the defendant driver, traveling in the opposite direction, lost control of his car in wet/rainy conditions and spun over the median into plaintiff's lane of traffic, causing a head-on 45 m.p.h. collision. Plaintiff's injuries included a fractured sternum, fractured rib, fractured heel, and over time included diagnosed back, neck, and ankle ligament injuries. While the plaintiff did not have to undergo any surgeries, his treatment and recovery included physical therapy, injections for his back and ankle pain, and chiropractic care. He also suffered impairments related to low back facet injuries and his ankle tendons/ATFL, causing pain and instability.

Plaintiff waived economic damages. The jury returned a verdict of \$275,000 in non-economic damages and \$200,000 for physical impairment.

Outcome: \$475,000 verdict

Case Name: *Stunkel v. Oscar Noel, DO, Center for Spine and Orthopedics, Inc., and Jaqueline Carbone, NP-C*

Type of Claim: Medical Malpractice

Plaintiff's Counsel: Paige Singleton, Julian Bendinelli Law Firm; Madeline Robbins, Ramos Law; Frank Cristiano, Cristiano Law

Defense Counsel: Tom Kresl, Kresl Law Group, P.C.; Paul Nguyen, Quintairos, Prieto, Wood & Boyer, P.A.

Judge: Judge Priscilla Loew, Adams County District Court

Brief Description: Plaintiff alleged defendants failed to appropriately manage a minimally displaced acetabular fracture in a 41-year-old mother of twins, allowing the fracture to catastrophically worsen. The progression re-



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sulted in protrusion of the femoral head into the pelvis, and she suffered significant additional damage to her hip and pelvis. Despite multiple surgeries, the injuries left Plaintiff with permanent physical impairment and disability, including the need to use a walker for ambulation. Defendants denied negligence and causation and asserted defenses of contributory negligence for failing to follow medical advice and treatment plans.

Outcome: \$12,999,963 verdict

Case Name: *Anthony Carter v. Matthew Munday, Monte Fiore, LLC, and Rise Up Therapeutics, LLC*

Type of Claim: Negligence

Plaintiff's Counsel: Paula Slaughter and Sandra Hagen of The Wilhite Law Firm

Defense Counsel: Jason Melichar and Brandon Freide of Wilson Elser

Judge: Judge David Prince, El Paso County District Court

Brief Description: Plaintiff was the 74-year-old driver of a late model Mercedes on northbound I-25. He slowed to a stop for a construction zone. A transit van behind him did not stop, and plaintiff was hit at approximately 65 m.p.h., decimating the back of his car and breaking the bolts on the driver's seat, dislodging it. He reported little in the emergency room following the crash, and there was a three week gap in treatment. Later imaging revealed a thoracic compression fracture and acute edema in his neck and lower back. He denied headaches, loss of consciousness, and any cognitive complaints to the physicians, but did note it on intake paperwork. He ultimately suffered an ischemic stroke about seven months later. He was later diagnosed with a mild traumatic brain injury. Following several months of injections, he also began complaining about his shoulder – which was overlapping with his neck pain and radiculopathy. He had \$185k in past medicals with future recommendations for additional injections and cognitive and physical therapy. The jury returned a verdict for \$500,000 in economic damages, \$1.2 million in non-economic damages, and \$1.5 million in impairment damages.

Outcome: \$3.2 million verdict

Case Name: *Nash v. Target Corporation*

Type of Claim: Premises Liability

Plaintiff's Counsel: Vernon Ready, Ready Law

Defense Counsel: Lori Bell and Sarah Vogel of Montgomery Amatzio

Judge: Judge Daniel D. Domenico, U.S. District Court for the District of Colorado

Brief Description: Plaintiff, 68 years old, was injured in a trip and fall, which occurred in the parking lot of a Target store. She tripped over a parking sign that had blown over in the wind and suffered ulnar nerve damage, mainly affecting her right small and ring fingers and the palm of her right hand. The sign was a portable customer pickup area sign with a plastic fillable base for weighing it down, and wheels on the side so it could be rolled off and back as needed. Target lacked documentation regarding the wind resistance or policies related to use of such signs in windy conditions. Defendant defended on the basis of preexisting issues related to vision impairment, low back pain, and knee pain contributing to the incident.

Outcome: \$2.6 million verdict

Case Name: *Anton v. Bowers, et al*

Type of Claim: Negligence

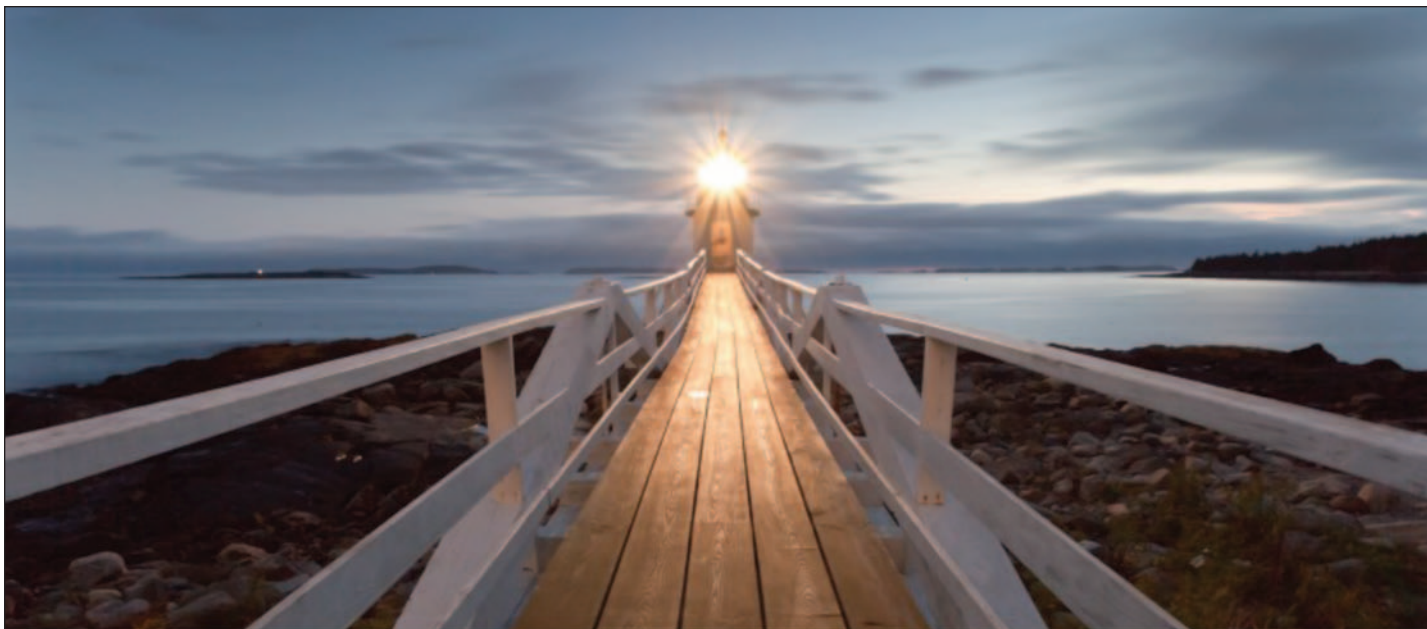
Plaintiff's Counsel: Kevin Cheney and Gianfranco Sotomayor, Cheney, Galluzzi & Howard, LLC

Defense Counsel: Tom Rollins and Vincent Velardo of Litchfield Cavo, LLP

Judge: Judge Andrew Patrick McCallin, Denver County District Court

Brief Description: Plaintiff was driving up Josephine Street in Capitol Hill when a large white van tried to parallel park and swung out too far into plaintiff's lane, causing a side-swipe collision. No airbags deployed, although the crash totaled plaintiff's vehicle because of substantial damage to the door. This was defendant's first time parallel parking, as he had recently moved to Denver from a small town in North Carolina. The crash caused pain to plaintiff's neck, mid-back, and low back, which impacted his extreme physical fitness activities. Defense defended on the basis of comparative fault and failure to mitigate related to plaintiff's ongoing physical fitness activities. The jury returned a verdict for \$145,693 in economic damages, \$373,000 in non-economic damages, and \$165,000 in impairment damages.

Outcome: \$683,693 verdict



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Case Name: *Nicholas Lara v. Gary Bricham, OD, LasikPLUS*

Type of Claim: Medical malpractice

Plaintiff's Counsel: Jennifer Simpson, Buckley Simpson Law; Alana Anzalone, Anzalone Law Offices; Todd Krouner, Law Office of Todd J. Krouner

Defense Counsel: C. Greg Teimeier, Teimeier & Stitch, LLC

Judge: Judge Chantel Contiguglia, Jefferson County District Court

Brief Description: Plaintiff, a 27-year-old pilot at a private plane charter company, was cleared to undergo Lasik despite objective findings supporting a contraindication that indicated increased risk of post-surgical ectasia, which he developed. While the Plaintiff can still fly with difficulty, expert testimony confirmed Plaintiff's eyesight will eventually deteriorate to such a point that he will be disqualified from being a pilot. Jury awarded a verdict for future economic wage loss, plus past and future medicine, and past and future non-economics.

Outcome: \$8,030,000 verdict

Case Name: *Fraker-Armann v. Villarreal, et al*

Type of Claim: Negligence

Plaintiff's Counsel: Natalie Gray, Gray Law, LLC; Kevin Cheney, Cheney, Galluzzi & Howard, LLC

Defense Counsel: Josh Proctor, Ross-Shannon & Proctor, P.C.

Judge: Judge Kimberly Schutt, Weld County District Court

Brief Description: Plaintiff was a 28-year old mother traveling south on Highway 85 when Defendant semi-truck driver heading north turned left in front of her, causing Plaintiff to slam into the semi-truck. She suffered an open, displaced intra-articular fracture of the medial femoral condyle of the right distal femur requiring emergency surgery, as well as five fractured ribs and a back injury. The defense raised issues with Plaintiffs speed at the time of the crash and her failure to wear a seatbelt. The jury awarded economic and non-economic damages, including physical impairment and disfigurement damages of \$244,000.

Outcome: \$957,000 verdict after reduction and interest; 85% fault on Defendant, 15% fault on Plaintiff

Case Name: *Cody v. American Family Insurance*

Type of Claim: Insurance Bad Faith

Plaintiff's Counsel: Ryan Nichols, Ramos Law; Marc Levy, Levy Law; Heather Campbell and Chris Dugan, Dugan & Campbell

Defense Counsel: Jacquelyn Booker and Katie Johson, Sutton Booker P.C.

Judge: Chief Magistrate Judge Scott Varholak, United States District Court for the District of Colorado

Brief Description: Plaintiff was ejected in a motorcycle crash caused by a 17-year old pulling over in traffic as though stopping, but then attempting a U-turn. American Family insured both the tortfeasor and Plaintiff. Plaintiff sought consent to settle the bodily injury claim eight months post-crash, and American Family delayed and denied under-insured motorist benefits on the basis of alleged delay in receiving records, pre-existing conditions, and a post-accident snow shoveling incident. Plaintiff asserted that American Family violated its duty of good faith and fair dealing by failing to timely pay benefits owed and engaging in a results-oriented, biased claim investigation. The jury awarded full contract damages (\$500,000 UIM policy benefit), common law bad faith damages, unreasonable delay/denial damages, and punitive damages.

Outcome: \$3.55 million verdict

Case Name: Unknown

Type of Claim: Premises Liability

Plaintiff's Counsel: Nares Law Group

Judge: Adams County District Court

Brief Description: This matter involved prolonged residential carbon monoxide exposure within a leased residential property caused by systemic HVAC and ventilation failures that resulted in traumatic brain injuries and neurocognitive impairment to multiple family members, including minor children. Over a period exceeding 4 months, Plaintiffs experienced escalating symptoms (fatigue, headaches, cognitive dysfunction, vertigo, behavioral changes), culminating in multiple emergency responses with the Westminster Fire Department documenting dangerous CO levels—reaching up to 900 ppm inside the home.

Outcome: \$7,250,000 settlement

Case Name: *Dial v. Bruckbacher*

Type of Claim: Malicious prosecution, false arrest

Plaintiff's Counsel: David Maxted and Stephanie Fristinger, Maxted Law; and Kathryn Stimson and John Graham, Stimson LaBranche Hubbard

Defense Counsel: Andrew Ringel, Hall and Evans; and Sara Cook, Vaughan Demuro

Judge: Judge Stacy Guillon, Douglas County District Court

Brief Description: In 2022, Plaintiff hired a lawyer to represent Plaintiff's son who had shot two roommates, killing one and injuring the other. The lead investigator in the shooting incident later authored an arrest warrant for the Plaintiff, charging Plaintiff with false allegations for tampering with evidence and accessory to a crime. Charges were dismissed, but Plaintiff's reputation was damaged to the point of being forced into early retirement. He sued the police detective for malicious prosecution and false arrest. Jury found liability for both and awarded \$22 million in economic and \$2 million in non-economic damages.

Outcome: \$24 million verdict

Case Name: *Duncan v. Forque and Rent-A-Center West, Inc.*

Type of Claim: Negligence

Plaintiff's Counsel: Madeline Robbins and Jared Mazzei, Ramos Law

Defense Counsel: David Anderson and Hailey Standridge, Tyson & Mendes

Judge: Judge Heidi Kutcher, Denver District Court

Brief Description: Defendant was driving a Rent-A-Center truck in the course of his employment when he made a left turn in front of a vehicle occupied by Plaintiffs. Liability was admitted before trial, and the case was tried on causation and damages only.

Outcome: \$8,371,518 verdict



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CTLA Member Spotlight: Spencer Aitken

Spencer B. Aitken is the founding attorney of Aitken Injury Law, LLC. He earned his law degree from the University of Denver in 2022, and is an active member of the Colorado Bar Association, the Colorado Trial Lawyers Association, the Colorado LGBTQ+ Bar Association, the Denver Bar Association, and the Aurora Bar Association. In 2026, he was recognized as a Rising Star by Super Lawyers.

What did you want to be as a child, and how did you make your way to the law?

I wanted to be a professor, though the topic was vague—I just really liked the idea of being a professor when I was a kid. As I grew up, I found that the topic that fascinated me the most was history, which narrowed further in high school when I took Latin as my language course. I entered undergrad with the plan that I would go all the way through a PhD and become a Classics professor so I could get paid to discuss mythology, Latin, and Roman history. However, as I was finishing my MA in Classics, I came to the realization that I wanted to do something that helped people a bit more directly, and I didn't think I could do that in academia. When I made that decision, I chose to take the LSAT to see if law was even a possibility. I got into the University of Denver and walked into the first day unsure if I had made a mistake, but within a week I had fallen in love with studying the law. I have not regretted it since.

What inspires you to do plaintiff's work?

I am inspired each day by the ways I have seen our work benefit our clients. I came to law to do some good and have really found plaintiff side work to be a fantastic opportunity to make good on that goal. Our clients come to us on some of their worst days, dealing with injuries and losses thrust upon them by others not doing the right thing. I have found a lot of purpose in being able to be a resource for them, to help them navigate the often frustrating hoops of insurance, and to be by their side as they take the very brave step of seeking justice. Every hard day is been worth it when you

can see a client who feels like they have been heard and have someone understand what they have had to endure.

What's something you wish more people knew about plaintiff's trial work?

I wish people knew how personal these cases are. For many clients, this is about being heard and seen. It's about recognizing and expressing their fears, frustrations, anger, sadness, and uncertainty after having a new normal thrust upon them by another's negligence. For some, it's about having someone look at what they have been through and say, "what happened to you wasn't right." While end results will always involve money, as that is the remedy available to injured people, at the end of the day it's about righting wrongs as best we can and helping an injured person get that closure.

What is a book, podcast, or resource you would recommend to others in your field?

Don't Eat the Bruises by Keith Mitnik.

What's your go-to productivity hack?

I put literally everything as an event on my calendar: calls, goals, reminders, things I want to look up, ideas I want to flesh out, and so on. Then I color coordinate everything (i.e., blue is client calls, red is hard deadlines, purple is administrative tasks, yellow is optimistic goals, etc...). It keeps everything in one place, it has built in reminders, I can add to it whenever something comes into my head through the mobile app, and the color coordination helps me differentiate between things that need to be done versus general reminders or thoughts that I didn't want to lose.

What do you do to recharge or take care of yourself outside the practice of law?

I recharge by singing. I am in the choir at my church, in an LGBTQ+ community choir in Denver, and in the Law Club of Denver, where we sing parody songs about legal

WHO ARE WE?

ethics. These singing groups allow me to take time to be creative with others and to decompress from my day. Plus, minus the Law Club, it's an opportunity to use my brain for something that is not law related, which provides a nice break.

What is your favorite book or the current book on your nightstand?

Current favorite is This Inevitable Ruin by Matt Dinniman, but really any book in his Dungeon Crawler Carl series is up there.

If you could pick up a new skill instantly, what would it be and why?

Shorthand. I hold my pencils and pens a bit weird, so my hand tends to cramp quicker than I think it should. I like to think knowing shorthand would hopefully reduce the amount of physical writing I am doing to get my notes down. Plus, I would think there is a low chance that someone could look across the table during a deposition and read my notes if I didn't want them to.

What historical event or invention fascinates you the most?

The Eruption of Vesuvius in 79 CE. It was the backdrop of my first Latin textbook in high school and really captured my interest enough for me to learn the first year of Latin. It continued to intrigue me as I got my BA and MA in Classics, both from the account by Pliny the Younger and the archeological treasure troves it made of Pompeii and Herculaneum. It was one of my first Roman history events I really became a bit nerdy about and started the Classics obsession that still follows me to this day.

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