



**Colorado Defense Lawyers Association**  
The Civil Defense Bar

FOR IMMEDIATE RELEASE  
November 11, 2016

**COMMENDING PROFESSIONALISM:**

**Attorneys Honored; Federal Judge Suggests Avoiding “Nonsense” and “Noise” of Discovery Battles**

The Colorado Defense Lawyers Association and the Colorado Trial Lawyers Association honored two attorneys who exemplify the standards of professionalism in the practice of law during an event held November 10, 2016 at the University of Denver Sturm College of Law. U.S. Magistrate Judge Craig Shaffer also offered his tips for preparing for case management conferences and developing scheduling orders, and encouraged more opportunity for young lawyers, women, and lawyers of color.

**Honoring Consummate Professionals**

CDLA member Timothy Schimberg, with Fowler, Schimberg, Flanagan & McLetchie P.C., said he was “honored, appreciative and humbled” to receive the award and emphasized the need to “communicate, communicate, communicate” when interacting with opposing counsel on a case. CTLA member Scott Eldredge, a shareholder with Burg Simpson Eldredge Hersh & Jardine, P.C., also was awarded for his professionalism in practicing as a plaintiff-side attorney since 1983. “There is nothing I’ve received other than the title of father and husband that I feel as honored about,” Eldredge said in accepting the award.

The CDLA/CTLA annual event honors one defense and one plaintiff’s attorney – each chosen by members of the other’s organization – who have demonstrated an ability to zealously advocate for their clients while remaining professional and respectful in the process.

**Judge Offers Tips for Success**

Magistrate Judge Shaffer led a discussion in which he offered his advice to attorneys preparing for a case management conference in federal court. He urged attorneys to be more creative and strategic in their approach to planning for their cases, noting that many of the case management orders submitted to him “are not well thought out and reflective of rote thinking.” Judge Shaffer emphasized cooperation among counsel. “Cooperation does not mean you have to subordinate any client interests to the other side – I’m not saying you simply cave to every demand the other side makes. You cooperate because it is a matter of self-interest.”

Judge Shaffer said he spends about 30 minutes reviewing a proposed scheduling order, going backwards, and one of the first things he looks at is how long the parties think a trial will be. “There should be a correlation with the time taken to prepare the case,” he said. Often there is a disconnect, such as requesting eight months of discovery for a three day bench trial. “It’s difficult for me to get my hands around that equation,” Judge Shaffer said.

He urged attorneys to think strategically, focusing on the nature of the case, whether there are motions that might limit the claims that would warrant targeted early discovery, and how to best meet the goal of “just, speedy and inexpensive” as set out in Federal Rule of Civil Procedure 26. Judge Shaffer noted that only about one percent of federal cases go to trial, and that attorneys who focus solely on the prospect of trial premise their scheduling orders “on perhaps the least likely outcome. You probably have a better chance of being hit by a bus.”

Judge Shaffer also talked about common discovery battles he sees in the courtroom, including battles over which party will be deposed first, overly inclusive affirmative defenses, and the amount of interrogatories that should be permitted. “Three to four times a week I’m embroiled in discovery disputes that have nothing to do with the case,” he noted. “It seems like they are fighting for the sake of fighting.” Such battles that have no strategic value for clients are “just noise.”

Finally, Judge Shaffer encouraged more diversity and opportunity for younger lawyers, women, and lawyers of color. Most of the time, he said, the lawyers who appear in his courtroom and do all the talking “look just like me.” Young lawyers, he said, “never get to do a thing – they just sit there.” He urged older lawyers to give such lawyers a chance. “There’s little they could do in front of a magistrate judge that is irreversible.”

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*The Colorado Defense Lawyers Association is a nonprofit association of nearly 800 members that supports and serves the interests of lawyers principally involved in the defense of civil litigation. CDLA works to enhance the skills of the state’s civil defense lawyers, promote professionalism and civility among all lawyers, and to improve the civil justice system.*