

# Colorado Bar Association President's Message to Members

***Coloradans Are Committed to an Independent Judiciary  
Congratulations and Thank You!  
Now, Where Do We Go From Here?***

by Elizabeth A. Starrs



**A**fter seven months of non-stop work, we were successful in defeating Amendment 40. Congratulations to the combined talent of hundreds of you who made this possible!

Debts are not often pleasant, but I am delighted to acknowledge all that we owe to the many wonderful people who played indispensable roles in the successful completion of the campaign to defeat Amendment 40. An effort like this is the result of work by many, too numerous to mention. However, there are a few I simply must publicly recognize.

## **Vote No Steering Committee**

Thank you, John Moye, for agreeing to chair the Issue Committee (first named "Citizens to Protect Colorado Courts" and then changed to "Vote No 40"), as well as for continuing to inspire us all to do our very best throughout this challenging effort. In addition to John Moye, the Vote No 40 Steering Committee comprised several CBA members, including Bill Walters, Mike Smith, D.A. Bertram, Jim Miller, Paul Chan, John Head, Tom Romer, Chris Little, Steve Briggs, Doug Stevens, and John Mill. The Steering Committee met weekly with political consultants Ridder/Braden, Inc. (RBI) and the Colorado Bar Association (CBA) staff to update everyone on how the process was unfolding and to use their critical thinking skills to advance our cause. You couldn't pay for a better team than this.

## **Vote No 40 Fund-Raising Committee**

Thank you to our fund-raising leaders, Dale Harris and Stacy Carpenter, who met and sent e-mails to CBA members several times a week since July. They risked being pariahs, whose phone calls would not be taken and e-mails would not be returned. Dale and Stacy: thank you for refusing to accept excuses and expressed limitations. Without your indefatigable efforts in this regard, we would not have had the money to pay for the television spots, other media buys, yard signs, and everything else that was so necessary to this campaign. Additional members of the fund-raising committee, who contacted many local firms and businesses asking for financial support, were Hal Haddon, Marla Williams, Jim Lyons, Bill Walters, Tom Romer, and Mike Smith.

## **Coalition Subcommittee**

Pete Willis, Gale Miller, and Becky Miller Updike lead our coalition-building subcommittee. Together with the Colorado Judicial Institute, they put together an impressive group of

people and organizations of every political bent, on both sides of the aisle and in between! Thank you! Your unwavering support and confidence in our goal was essential to our success.

## **Non-Denver Metro Outreach Subcommittee**

Thank you to Roger Clark, Jim Witwer, Randy Starr, and others on the outreach/71970 subcommittee who worked to involve the non-Denver metro areas in this project. Ralph Clark traveled around the state and explained to local newspapers and radio stations just what Amendment 40 could mean for Colorado.

## **Political Consultants**

We owe a lot to everyone at RBI, our political consultants: Rick Ridder and Ellen Brilliant, our campaign manager; along with Craig Hughes, Faye Diamond, and campaign staff Chad Repko, Amy Redfern, and Ray Merenstein. They focused our efforts, helped refine our message, and "cracked the whip," so that everything that needed to be done got done. Thank you, RBI, for your energy and creativity, for not letting us dwell on setbacks, and for continually moving us forward.

## **Vote No 40 Communicators, Debaters, and Defenders**

We are forever in debt to John Suthers, who stood up to be counted in an election year. Bob Miller debated John Andrews several times and served as the face of Vote No 40. John Suthers and Bob Miller both were relentless in their support and went above and beyond the call of duty to assist us in these efforts. Thanks also to Gale Miller for heading up our communications task force, as well as to Ellie Greenberg for her extra efforts. Thank you to the CBA staff, who dared to dream with us and without whose dedication and hard work we could not have made this a reality.

## **Individual and Group Supporters**

Last and by no means least, thanks must be extended to all of you who gave so generously to this campaign. I am well aware how difficult the financial and time commitments were, for individuals and firms alike. Thank you for putting yard signs in front of your homes; thank you for sending e-mails to clients, family, and friends; thank you for standing at street corners holding a Vote No 40 sign. We needed all of you. Thank you so very much for your help.

## Where Do We Go From Here?

The Vote No 40 campaign cost nearly \$1.3 million to prevail against an insidious attempt to politicize the judiciary. That amount is more than the Colorado Legal Aid Foundation's annual budget for this past year.<sup>1</sup> That is money that could have been spent on so many other things that are important to us, such as providing legal services to the economically disadvantaged, educating the public about the legal system, or expanding our legal research capabilities.

The CBA has neither the time nor the money at our disposal to repeatedly engage in such a demanding effort. So, what can we do, between now and the next general election, to minimize the chances of having to go through this again?

### *Momentary Recuperation*

First, we all will take a well-deserved break for a month or so and enjoy the holidays. However, we cannot rest on our laurels. We have to renew our commitment to educate the public about the separation of powers, judicial review, and the need for an independent judiciary.

### *Celebrate Colorado's Merit Selection System*

We must continue to celebrate Colorado's Merit Selection System of choosing and retaining judges. In the process, we will be reminding ourselves, our colleagues, and the public that the Merit Selection System was developed to remove judges from all forms of political activity, including holding political office, endorsing political candidates, and participating in political campaigns. The importance of separating the judiciary from partisan politics could not be more important. Selecting nominees based on qualifications and an interview process far outweighs the alternative.

### *Stand Up Against Unwarranted Attacks on Our Judiciary*

We must be vigilant and draw the line on inappropriate criticism of our courts. Attacks that imply or expressly state that

a judge has made a ruling merely to follow a political agenda lower the public trust in the fairness and impartiality of our courts. When the public discourse on any court decision swerves from issues to demagoguery, then the line has been crossed.

Take it upon yourself to write a letter to your local newspaper. Keep the CBA in the loop when you do. If you want to be part of a rapid-response media team, please contact Stacy Chesney, CBA Communications Director, at [schesney@cobar.org](mailto:schesney@cobar.org), (303) 824-5347, or (800) 332-6736. A grassroots effort by all of us to write "Letters to the Editor" or simply commenting to friends, family, and colleagues about the role of the judiciary in our system will be essential to this process.

### *Public Legal Education*

Get involved in the CBA Public Legal Education Committee. This committee is best known for its high school mock trial competition but it provides many other opportunities to speak and to become involved in community endeavors. Contact Carolyn Gravit at [cgravit@cobar.org](mailto:cgravit@cobar.org), (303) 824-5323, or (800) 332-6736.

### **Conclusion**

The CBA and Colorado's lawyers must continue to safeguard the independence of our judiciary. In the long term, an educated public is the best defense against irresponsible attacks on our courts.<sup>2</sup> In the short term, we must strongly oppose extremist attacks on the judiciary, whether they come from the left or the right.

#### **NOTE**

1. See Legal Aid Foundation Annual Report, 35 *The Colorado Lawyer* 13 (Nov. 2006).

2. "I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion." Letter from Thomas Jefferson to William Charles Jarvis (Sept. 28, 1820), reprinted in Barlett, *Familiar Quotations* at 473 (1968). ■

## American College of Trial Lawyers Essay Contest

**Deadline: March 1, 2007**

The American College of Trial Lawyers (ACTL) is sponsoring an essay contest for law students. The topic is "Judicial Independence and the Separation of Powers Doctrine." The contest's first- and second-place winners will receive cash prizes of \$10,000 and \$5,000, respectively. The contest is open to all students at law schools in the United States (including those studying for their J.D., LL.M, or other graduate degrees).

Essays should be approximately 5,000 words and are due by March 1, 2007. They should be submitted, by e-mail, to [essaycontest@actl.com](mailto:essaycontest@actl.com). The essays will be reviewed by a panel of distinguished jurists—trial and appellate—who also are Fellows of the ACTL.

The ACTL is an honorary association comprising experienced trial lawyers in the United States and Canada who have mastered the art of advocacy and adhere to the highest standards of ethical conduct and professionalism. For more information, visit <http://www.actl.com>.