



**DISABILITY LAW  
COLORADO™**

Promote Change | Protect Rights | Improve Lives

## Disability Law Colorado's Older Americans Act Programs



**30** CELEBRATING  
**YEARS**



## **2018 ANNUAL REPORT** Colorado Long-Term Care Ombudsman Program Legal Assistance Developer Program

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# ABOUT DISABILITY LAW COLORADO & THE OLDER AMERICANS PROGRAMS

Disability Law Colorado protects and promotes the rights of people with disabilities and older people in Colorado through direct legal representation, advocacy, education and legislative analysis. As Colorado's Protection and Advocacy System, Disability Law Colorado has authority under federal law to gain access to facilities and records in order to investigate allegations of abuse and neglect.



The Colorado Long-Term Care Ombudsman and Legal Assistance Developer programs were created by the federal Older Americans Act and are administered by Disability Law Colorado under a contract with the Colorado Department of Human Services, Division of Aging and Adult Services. They operate in conjunction with the 16 regional Area Agencies on Aging (AAA) to coordinate services statewide, protecting and promoting the rights of Colorado's older adults and improving their quality of life.

## OLDER AMERICANS PROGRAM STAFF

**Anne Meier**  
*State Long-Term Care Ombudsman*

**Kelsey Lesco**  
*Legal Assistance Developer*

**Leah McMahon**  
*State PACE Ombudsman*

**Vinni Ferrara**  
*Ombudsman Program Manager*



Left to right: Kelsey Lesco, Leah McMahon, Vinni Ferrara, and Anne Meier

## WHAT DO OMBUDSMEN DO?

Ombudsman is a Swedish word meaning "one who speaks on behalf of another." Colorado's long-term care ombudsmen protect the rights of people living in nursing homes and assisted living residences. Colorado has 54 full- and part-time staff ombudsmen. They are joined by 13 volunteer ombudsmen who gave 1,213 hours in 2018. Additionally, the State PACE Ombudsman Program has three full-time staff members who advocate for the approximately 4,000 people who are enrolled in PACE. The role of the ombudsman is to act as an advocate for the resident and



assist the resident in resolving issues related to care, health, safety, or the resident's rights. Ombudsmen strive to resolve complaints that range from simple quality of care issues, such as a resident's preferred time for breakfast, to very serious, sometimes life-threatening, concerns involving abuse and neglect.

**Mary Anne Harvey**  
*Executive Director*

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## WHAT DO LEGAL ASSISTANCE PROVIDERS DO?

Legal assistance providers are attorneys who contract with each of Colorado's 16 Area Agencies on Aging (AAAs) to coordinate the delivery of free civil legal services for older adults (defined as 60 and older). These services are targeted toward older adults with the greatest social and/or economic need. Colorado has a total of 22 paid attorneys and numerous pro bono attorneys who in 2018 provided legal assistance to 7,163 older adults throughout Colorado. Based upon the needs of the community, each AAA establishes both the types of legal services to be offered to older adults in the region and what services should be prioritized. Legal assistance providers help older adults with a variety of issues, from protecting them against financial exploitation to assisting with wills, guardianships and advance directives. They also represent people in danger of losing their home, or who are struggling to maintain needed public benefits such as Medicaid and Social Security.



# A LETTER FROM KELSEY LESCO

## Colorado's Legal Assistance Developer



Elder abuse is a present and growing problem internationally, nationally, and in Colorado. The precise definition of elder abuse varies across jurisdictions, but fundamentally it is the mistreatment of an older adult by another that causes harm. Elder abuse can take many forms including physical or emotional abuse, neglect, abandonment and financial exploitation. Elder abuse can occur in any setting and can affect any older adult, regardless of race, religion, education, or income level.

Data on the prevalence of elder abuse is limited because it remains a largely hidden problem. Whether due to misplaced loyalty to an abuser, shame, misunderstanding of the law, or inability to report the crime, most instances of elder abuse go unreported and unprosecuted. However, available estimates demonstrate that elder abuse is a major human rights and public health issue.

The National Council on Aging estimates that one in ten Americans 60 years of age and older has experienced elder abuse. Similarly, a 2009 study funded by the National Institute for Justice estimated that 12.4 percent of adults age 60 and older reported emotional, physical or sexual abuse, or potential neglect; 11.7 percent reported financial abuse. In Colorado, Adult Protective Services notes in its Annual Report that it investigated 9,338 cases of mistreatment of at-risk adults during the 2016-2017 state fiscal year.

In addition to the immediate effects of abuse and neglect that can include injuries, high levels of depression, susceptibility to new illnesses and exacerbation of pre-existing health conditions, the National Center for Elder Abuse estimates that older adults who are abused have a 300 percent higher risk of mortality than those who have not experienced abuse. Researchers have also found that older adults who experience abuse are three times more likely to be admitted to a hospital and four times more likely to be admitted to a nursing home. In addition, financial abuse and exploitation costs older adults \$2.9 billion per year, and this number is increasing. There are many reported risk factors for elder abuse, but there is general consensus on six established risk factors: 1) Functional limitation or disability; 2) poor physical health; 3) cognitive impairment; 4) low income and/or socioeconomic status; 5) mental health challenges; and 6) isolation.

As can be seen by these risk factors, elder abuse is a highly complex problem that can involve mental health, access to public benefits and services, physical health, transportation, and social isolation. Clearly, addressing all aspects of elder abuse requires a multidisciplinary approach. This is challenging because funding for elder abuse prevention at any level of government is difficult to obtain. It is incumbent on all of us who advocate for the health and wellbeing of older adults to continue to push for resources that include both responsive and preventive programs to combat elder abuse. As a society, we need more service options, such as emergency shelters, helplines, and caregiver supports, as well as an increase in targeted funds to those most at risk of abuse and neglect.

As we work toward a long-term comprehensive solution, let us all commit to taking small steps every day, beginning right now, to address abuse. Just as isolation is a risk factor for abuse, studies have shown that social support and the experience of belonging within a social system both prevents elder abuse from occurring and promotes resilience after an incident of abuse. A social support system can be more than family, friends, or religious organizations; it can also be the community at large. On a daily basis, if we each take the initiative to be aware of elder abuse and alert to the warning signs, we can destigmatize the shame that elders feel, increase awareness among professionals and family members, and create a much stronger and more supportive community.

Respectfully submitted,

**Kelsey Lesco**  
Legal Assistance Developer



**"We remain steadfast in our commitment to protect the legal rights of elders throughout Colorado."**

Kelsey Lesco, Esq.  
Legal Assistance Developer for Elders

## CELEBRATING 30 YEARS TOGETHER

In 2018, Disability Law Colorado celebrated thirty years of protecting and promoting the rights of elders through our Older Americans Act programs.

In 1988, Disability Law Colorado was awarded the contract for the Colorado Long-Term Care Ombudsman and Legal Assistance Developer programs, and for 30 years we have worked with the Area Agencies on Aging (AAA's) and the Colorado Department of Human Services - Division of Aging and Adult Services, to improve life for elders, whether they live in long-term care facilities, with family, or in their own homes.



## PROTECTING ELDER RIGHTS Boulder County Legal Services Offers Pro Bono Help

The support of Boulder County Legal Services attorneys willing to accept, on a pro bono basis, cases involving extensive litigation led to a remarkable outcome for a 71-year-old low-income senior living in a mountain town. The client's neighbor



blocked the access road to her home – a road she had used for 40 years. This left the senior with limited access to her home and required her to walk a longer route to carry water, firewood, and provisions to her small cabin. Without help, the client faced a challenging future, especially during harsh mountain winters. She was afraid that she would have to leave her home if she was unable to resolve this access issue.

Three pro bono attorneys experienced in real estate and access issues took on the case, representing the client for nearly three years until her case was resolved. After two and a half years, and a combined total of 538 pro bono hours dedicated to this senior's case, the attorneys were able to negotiate an easement agreement with the mountain town, giving the client easier access to her home. The senior was grateful: "It's hard enough to be old and living on the side of a mountain," she said. "I couldn't have done it without them. I love those attorneys!"

## LEGISLATION PROTECTS ELDER RIGHTS Bill Amends Exemption Statute Impacting Elder Abuse



### HB18-1405

#### Providers of Legal Services Reporting Exception

This bill amended the Abuse of Elders and Vulnerable Adults statute to exempt legal assistance providers and other attorneys who are contracted employees of the Area Agencies on Aging from mandatory reporting requirements. These mandatory reporting requirements conflicted with maintaining attorney-client confidentiality, one of an attorney's most fundamental ethical obligations. Disability Law Colorado was and is a major proponent of mandatory reporting, but we became alarmed that some seniors were afraid to talk to the legal assistance providers in case their concerns were immediately reported to law enforcement and social services. The Legal Assistance Developer played a critical role in developing and passing this bill. Kelsey, along with several other stakeholders, developed language for this bill, and Kelsey testified in favor of the bill as the subject matter expert. The confidentiality of communication with one's attorney is a critical protection to assure that individuals seek legal counsel. The passage of this bill not only assures legal assistance providers may adhere to their professional code of ethics without fear of legal action, but it also protects client confidentiality, a basic safeguard that encourages individuals to seek assistance.



Gov. Hickenlooper speaking at the 2017 Senior Day at the Capitol.

# THE LEGAL ASSISTANCE DEVELOPER PROGRAM

## 2018 Program Highlights & Accomplishments

As Legal Assistance Developer for Elders, Kelsey Lesco is charged with providing oversight, training and assistance to the legal assistance providers throughout Colorado, as well as training and technical assistance to ombudsmen, professionals, and members of the public. Kelsey also focuses extensively on tracking state and federal legislation, and advocating for public policies that advance the dignity and well-being of older adults. In 2018, Kelsey:

- Responded to 318 requests for technical assistance:
  - 53 calls from AAA's, legal providers, and ombudsmen
  - 31 calls from other professionals
  - 240 calls from seniors, family members and community members
- Provided training to 360 participants on *Guardianships and Advanced Directives*, the *Fair Housing Act*, *Mandatory Reporting of Abuse of Elders and Vulnerable Adults*, *The Older Americans Act* and the *Legal Assistance Developer Program*
- Tracked 100 pieces of Colorado legislation that impacts older adults
- Was elected to the Board of Directors of Colorado Senior Lobby
- Joined the Jefferson County Senior Law Day Planning Committee
- Served as one of five appointed commissioners for the Office of Public Guardianship Commission
- Engaged in numerous outreach activities including Senior Law Days, resource fairs, and other events that informed hundreds of older Coloradans about their legal rights, the legislative process, and the legal assistance program.



## 2018 LEGAL ASSISTANCE SERVICE IMPACT NUMBERS

Last year the Legal Assistance Developer Program saw an increase in both the demand for services and the provision of legal assistance throughout the state.

In 2018, legal assistance providers served 7,163 elders across the state (up from 6,555 in 2017), requiring 12,071 hours of legal services (compared to 11,494 in 2017). In addition, 3,076 hours of service were provided on a pro bono basis, which is a 73% increase over the previous year. Even with the use of pro bono hours, the program did not have sufficient resources to provide services to all of those in need and 589 eligible individuals could not be served, an increase over the previous year. (In 2017, 442 individuals went unserved.)

REGION	NUMBER OF CLIENTS SERVED	HOURS OF SERVICE	PRO BONO UNIT	NUMBER UNABLE TO SERVE
1	74	72	0	0
2A	433	598	0	82
2B	156	516	0	15
3A	3,233	6,289	601	475
3B	276	969	629	0
4	520	630	349	0
5	0	0	0	0
6	302	384	241	0
7	103	597	78	8
8	0	0	0	0
9	45	63	25	0
10	119	391	97	7
11	1,551	1,311	964	1
12	277	198	23	1
13	53	288	57	0
14	21	59	15	0
<b>TOTAL</b>	<b>7,163</b>	<b>12,365</b>	<b>3,076</b>	<b>589</b>

# A LETTER FROM ANNE MEIER

## Colorado's State Long-Term Care Ombudsman



As a nation, we place an immeasurably high degree of faith and trust in the long-term care system. One only needs to consider the extreme vulnerability of people who require 24-hour around-the-clock care to appreciate the gravity of this work. Yet as we look to the future, we can only expect the challenges facing the long-term care community to increase in severity and complexity. Here is a short, incomplete list of factors that impact everyone involved with long-term care.

- Due to medical advances, more people are living longer than ever before. By 2030, **one in four Coloradans will be 60 or over**. According to the Colorado State Demographer's Office, 69% of Coloradans aged 65 and over will have a disability at some point, 35% of Coloradans 65 and older will enter a nursing home and 50% of Coloradans 85 and older will need assistance with everyday tasks.
- The severity and complexity of impairment in the nursing home population has increased. It is not unusual for a home to serve someone who is living with dementia, mental illness, and a brain injury or trauma – and that is just one resident. This increases the need for multiple disciplines to work together to provide comprehensive and compassionate care plans.
- The long-term care system also faces a daunting workforce challenge. At one end are fewer caregivers proportionate to the growth of the older adult group. At the other end are people living longer with multiple problems. The caregiver shortage is felt in direct care staff as well as in practice specialties such as nurses or physicians.
- Colorado also lacks a statewide Office of Public Guardian. While most states enjoy the benefit of having a program that will step in and speak for those who cannot and who have no willing family or friends, our state's "unbefriended" face a patchwork quilt of uneven response at a time when critical treatment or service decisions must be made. (Do we want to mention the herculean effort DLC is putting into this issue?)

Given these factors, it is incumbent on every state to create and adequately fund direct and indirect services to support the older adults who rely on the long-term care system. As Colorado ages, we need to keep in mind this statement from a report by The Colorado Futures Center –

***"The aging of Colorado's population has a significant and increasing impact on the programs, services and budgets of multiple state departments. In fact, it is difficult to identify any state department that is not affected in some way by the growth in the number of older Coloradans."***

This statement reminds us that the pressures go far beyond direct long-term care services. There are ancillary services to be considered: Transportation, durable medical equipment, meaningful social support and yes, even more ombudsmen will be needed to create a robust array of services. As more people choose to age in place and to receive services in their own homes, ombudsmen can help to address individual issues of quality of care and quality of life while also identifying systemic concerns statewide. The outreach and education provided by ombudsmen can serve to engender greater engagement by everyone in these issues.

I close with a word of thanks to the ombudsmen across the state. Their efforts amplify the voice of the recipient, the person at the center of care. These steadfast advocates work daily to preserve and promote the health, safety, welfare and well-being of the person. They help bring into sharp focus the promise and the goals of person-centered thinking, planning and care. As Colorado moves into this new demographic mix, the work of these advocates in congregate settings and in the community, will become more vital than ever.

Respectfully submitted,

  
Anne K. Meier

State Long-Term Care Ombudsman



**"The ombudsman is a great support for people across Colorado. It is a lifeline support for people who are in dependent situations where they feel vulnerable and helpless. They help by speaking up and speaking out."**

Christine Johnson  
Commissioner Colorado Commission on Aging and  
member, Board of Directors, Colorado Senior Lobby

# PROTECTING RESIDENTS FROM NEGLECT & ABUSE

## Long-Term Care Ombudsman Promotes Awareness Through Training

In the summer of 2018, a staff person at a local nursing home was arrested and charged with multiple offenses related to abuse of the residents. The certified nursing assistant (CNA) had worked at the nursing home for several years and other staff had witnessed her mistreatment of the residents, but felt intimidated and were afraid to report her. The investigation began after an anonymous note was left under the administrator's door. Witnesses reported that the CNA was "very profane" with residents who soiled themselves, stating that she "rubbed feces on a resident's face" and that she would "stick residents' soiled underwear in or on their faces." She would "yell and swear at residents and threatened them" according to the arrest affidavit. It was also reported in the affidavit that



**ADVOCATE**  
Colorado Long-Term Care Ombudsman Program

**"Our work to protect the rights of long-term care residents and PACE participants is critical to improving the quality of care and quality of life."**

Anne Meier  
State Long-Term Care Ombudsman



the staff person "would 'double brief' residents so it was easier to change them later and elevate residents' beds so it was easier for her to work with them, even though that increased the risk of falls." When the anonymous report was made to the administrator, he reported it to law enforcement for further investigation, which ultimately resulted in an arrest. The Long-Term Care Ombudsman was included in the reporting and follow up investigation. Notably, just one week prior to the anonymous report, the ombudsman had provided a training to the facility's staff that included information on the law about abuse and mandatory reporting. The advocate believed that this training was likely the impetus for the abuse being reported and the CNA being arrested.

## SNAPSHOT OF LONG-TERM CARE IN COLORADO



Colorado has **232** nursing homes with a total of **21,489** beds and **664** assisted living residences with a total of **23,258** beds.

In Colorado, nursing facilities must be visited by an ombudsman at least once a month and assisted living homes at least quarterly. In SFY 2017/18, local ombudsmen made **8,879** visits to homes – many more than were required – to monitor the quality of care, quality of life and to investigate and act upon concerns and complaints. This includes conversations with individual residents and attending resident council meetings.

In Fiscal Year 2017/18, across Colorado, local ombudsmen:

- Investigated **3,787** complaints of which **2,868** were partially or fully resolved to the satisfaction of the resident.
- Provided **6,583** consultations to staff or administrators of facilities and **10,434** consultations to residents, their family or friends or to the community at large on a wide range of long-term care issues and concerns.
- Attended **1,506** resident council meetings and conducted **167** community education sessions and **112** training sessions for people who work in long-term care settings.

The top five complaints in nursing homes and assisted living settings:

1. **Resident Care** | includes medical, personal and therapeutic services such as counseling [1,030]
2. **Quality of Life** | includes resident conflict, diet and environmental complaints [710]
3. **Autonomy, Choice and Respect of Rights** | includes honoring choice and preference for care and care providers, being treated with dignity [556]
4. **Admission, Discharge, Eviction** | includes involuntary discharge, room changes, admission contracts [362]
5. **Other Resident Rights** | includes abuse, neglect, right to visitors and information [327]

Data for FFY 2018 is provisional, pending final approval from the Administration for Community Living.

# PACE OMBUDSMAN PROGRAM EXPANSION & SUCCESS

## Program for All-Inclusive Care for the Elderly

The State PACE Ombudsman Program, which is part of the Colorado Long-Term Care Ombudsman Program, had another very successful year. Established by the Colorado Legislature in 2016, the program serves vulnerable adults 55 and older who live in their community of choice, which includes their own homes, assisted living residences or nursing homes.

PACE ombudsmen provide free independent advocacy to help elders and their families navigate the service delivery system within the PACE Program, including: access to services, such as appointments with doctors and specialists; transitions of care; denial of services; grievance and appeals; and timeliness of service delivery.

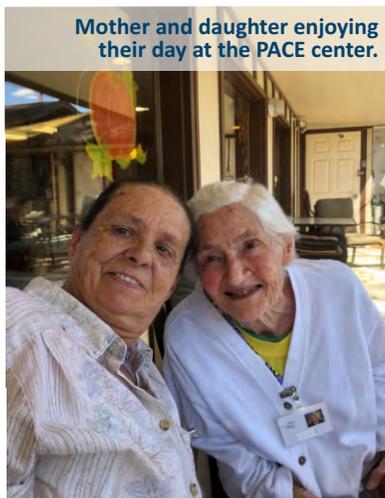
Over the past two years, the PACE Ombudsman Program has collected and presented statewide complaint data across the four PACE organizations/10 centers in Colorado. Data collected from participants informs future focus areas for the program. The top concerns expressed by people enrolled in PACE include timeliness in response to requests for symptoms to be addressed, autonomy and choice within the program, being treated with dignity and respect, and being included in the ongoing care planning process.

The State PACE Ombudsman, Leah McMahan, has ensured that the voices of PACE participants are heard by sharing their concerns with all the PACE providers, people enrolled in PACE, family members and other professionals in our communities.

During the last fiscal year, the PACE Ombudsman Program worked on 300 cases, completed 165 visits to PACE centers or people's homes, and provided outreach to 1,030 people. During visits, ombudsmen interview PACE participants, family members, community professionals and PACE staff. PACE ombudsmen use every opportunity to increase the program's visibility by educating community members and professionals about the services available. At the same time, they continue to advocate for improving the overall experience for all participants across all the PACE organizations.



Ombudsman provides program information to PACE participants.



Mother and daughter enjoying their day at the PACE center.

One example of individual advocacy from the PACE Ombudsman Program illustrates how a key role of the ombudsmen is opening up communication so that PACE participants and their family members understand their rights and the issues relevant to their care, and are better able to direct their own living and care arrangements. A family member requested help for a loved one who was living in a nursing home and receiving PACE services. The family member reported that nursing home staff expressed concerns about the participant's marked change in behavior, and were discussing the possibility of discharge from the home. The family member was anxious about the difficulties in locating another living arrangement that offered the appropriate level of care, and the PACE participant did not want to leave the nursing home. With the permission of the PACE participant, the PACE and long-term care ombudsmen worked together to communicate these concerns to both the PACE and nursing home care teams and then organized a group meeting to fully address the family's wishes and needs. Through our advocacy we were able to secure the PACE participant's continued housing within the nursing home.



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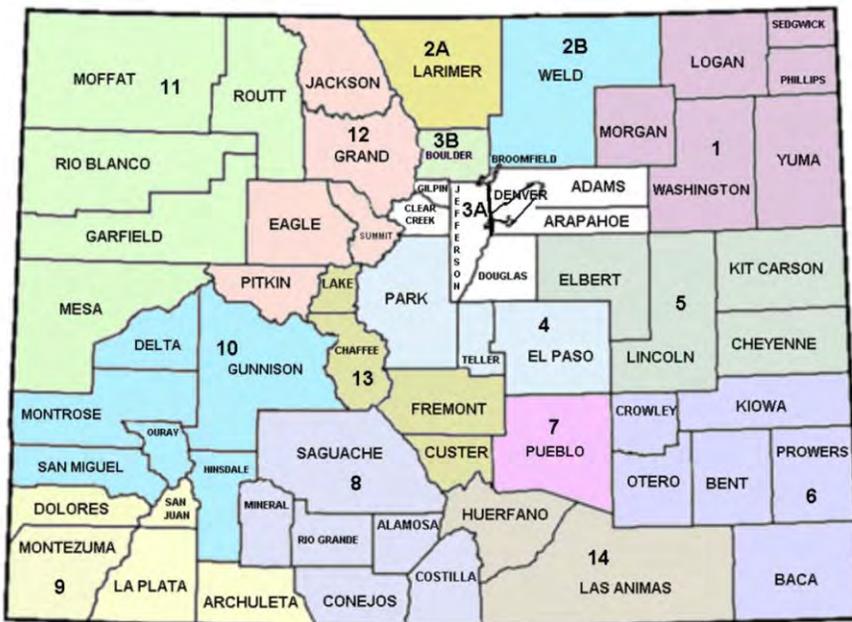


CELEBRATING  
**30 YEARS**

REGION	LEAD OMBUDSMAN	LEGAL ASSISTANCE DEVELOPER	AREA AGENCY ON AGING
<b>8</b> Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	<b>Dorothy Horton</b> 719.589.4511 deeh@qwestoffice.net	<b>Tamara Sullivan, Esq.</b> 719.589.4993 tsullivan@colegalserv.org	<b>Monica Wolf</b> 719.589.4511 monicaw@qwestoffice.net
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## STATE OF COLORADO

### 14 Regions of Area Agencies on Aging (AAA)



## Contact Information

**Legal Assistance Developer for Elders at Disability Law Colorado**  
Call 303.722.0300

**State Long-Term Care Ombudsman at Disability Law Colorado**  
Call 303.722.0300

**State PACE Ombudsman at Disability Law Colorado**  
All PACE Centers Outside of the Denver Metro Area  
Call 303.722.0300

**Local PACE Ombudsman Program at Denver Regional Council of Governments**  
For Denver, Lakewood, Thornton and Aurora  
Call 303.455.1000

**State Unit on Aging at the Colorado Department of Human Services**  
Call 303.866.2750

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# DISABILITY LAW COLORADO™

Protecting and promoting the rights of Colorado's older adults and improving their quality of life.

## 2019 RESOURCE DIRECTORY

Colorado Long-Term Care Ombudsmen  
Legal Assistance Developers  
Area Agency on Aging



REGION	LEAD OMBUDSMAN	LEGAL ASSISTANCE DEVELOPER	AREA AGENCY ON AGING
<b>1</b> Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	<b>Marlene Miller</b> 970.848.2277 mmilleraaa@yahoo.com	<b>Mark Earnhart, Esq.</b> 970.522.4135 mark@earnhartlaw.com	<b>Bob Held</b> 970.867.9409 bheld@necalg.com
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