

# MAINSTREAM

DisabilityLawCo.org | Protecting the rights of Coloradans of all ages since 1976 | Summer 2015

## The Legal Center Is Now Disability Law Colorado!

You may have noticed that we have a new name! Effective February 1, The Legal Center for People with Disabilities and Older People became Disability Law Colorado. For one thing, it's shorter – something which was a high priority for many of us who got tongue-tied in the first sentence of our “elevator speech.” But the more important reason was our desire to emphasize our commitment to changing the law on disability that impacts so many people in Colorado.

**Our mission remains the same:** Disability Law Colorado pro-

tections and promotes the rights of people with disabilities and older people in Colorado through direct legal representation, advocacy, education and legislative analysis.

**Our commitment remains the same:** Disability Law Colorado is committed to increasing opportunities for adults and children with disabilities to live, work and attend school in the community, enjoying independent and productive lives.

**Our values and beliefs remain the same:** We believe that every life has value and we continue to fight for the rights of people in

institutions – prisons, jails, secure mental health units, and long-term care facilities - to be treated with dignity and respect.

Only our name has changed. During a two-year process of “rebranding” we learned through interviews and surveys that only the people directly involved with The Legal Center understood our mission. The new name is just the beginning of a campaign to ensure that the community we serve understands the full impact of the work that we do.

Part of that outreach campaign includes a new website,

[www.disabilitylawco.org](http://www.disabilitylawco.org), in both English and Spanish. Our goal is to make as much information as possible easily available online. You'll find fact sheets that explain the law on disability issues, easy access to community resources, and the answers to many frequently asked questions. If you need someone to talk to, we still have real live people answering the phone – that hasn't changed either.

We welcome your thoughts, questions and suggestions.

Welcome to Disability Law Colorado!

## Colorado Supreme Court Finds Douglas County Voucher Program Violates Colorado Constitution

Disability Law Colorado has followed this “choice” voucher program for several years. We filed an amicus brief in the Colorado Court of Appeals noting that students with disabilities under the voucher program were required to waive their right to a free appropriate public education in order to participate in the program. We also filed an Americans with Disabilities Act (ADA) complaint with the U.S. Department of Justice (DOJ). Prior to filing our ADA complaint with DOJ, Disability Law Colorado surveyed the private schools in the voucher program regarding their ability to serve students with

disabilities. All but one school indicated they did not offer special education services. The one school that did offer special education focused on children with learning disabilities. So, students with more than moderate disabilities would not only be denied equal access to the choice voucher program, they would not have any meaningful access to special education.

The majority of participating private schools were religious schools, and so Disability Law Colorado decided to await the outcome of the case brought by Taxpayers for Public Education, the Interfaith Alliance of Colorado, and

other groups arguing that taxpayers should not be required to fund private schools, including religious educational organizations. Had the Supreme Court not found the voucher program unconstitutional, Disability Law Colorado was prepared to “activate” the ADA complaint filed with DOJ at the outset of this litigation and on hold pending the Colorado Supreme Court's ruling. Now that the voucher program has been found unconstitutional, the ADA complaint can remain on hold. This ruling assures that children with disabilities retain their right to special education.

## Celebrating Our Volunteers With The Rovira Award



Jenna Bainbridge and Don Mauck of Phamaly Theatre Company brought the Rovira celebration to a rousing finale singing “Be a Lion” from “The Wiz.” Phamaly has changed the lives of hundreds of individuals with disabilities by providing them with an opportunity to perform in professional scale plays and musicals.

On April 9, Disability Law Colorado awarded the Luis D. Rovira Award to recognize and celebrate two wonderful volunteers, Fern Black and Randy Parcel.

This very special award, which has been given only twice since its creation in 1996, is named for former Colorado Supreme Court Justice Luis Rovira, who was one of Disability Law Colorado's founders. Justice Rovira was a long-time friend to the disability community, and he encouraged the legal community to volunteer for our fledging organization. The Rovira Award honors attorneys who have made significant gifts of their time or financial resources to Disability Law Colorado.

In 1998, Justice Rovira presented the first award to George Curtis, former Disability Law Colorado

## Who is DLC?

Disability Law Colorado is a nonprofit organization protecting the human, civil and legal rights of people with disabilities and elders. As Colorado's federally mandated Protection and Advocacy System since 1977, Disability Law Colorado has authority under federal law to gain access to facilities and records in order to investigate allegations of abuse and neglect.

We promote systemic change to sustain or improve the quality of life for children and adults with disabilities and elders.

Our services include direct legal representation, education, advocacy and legislative analysis to promote independence, self-determination, empowerment and community participation.

We help people obtain state and federally funded services, such as special education, mental health care, developmental disabilities services, and vocational rehabilitation.

Disability Law Colorado specializes in civil rights and discrimination issues. Similar organizations exist in every state and territory as part of the National Disability Rights Network.

### Contact Information:

**Denver Office**  
455 Sherman Street, Suite 130  
Denver, CO 80203  
1-800-288-1376

**Grand Junction Office**  
322 North 8th Street  
Grand Junction, CO 81501  
1-800-531-2105

[www.DisabilityLawCo.org](http://www.DisabilityLawCo.org)

[cont. page 5]

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Julie Z. Busby &amp; Mandy M. Rigg

# Meet Advocate Julie Bansch-Wickert



Julie Bansch-Wickert joined Disability Law Colorado in May 2015 as the Medicare/Medicaid Advocate for the Accountable Care Collaborative (ACC). The ACC-Medicare/Medicaid Program serves people in Colorado who are dually eligible for both health programs, and is designed to integrate and coordinate their physical, behavioral and social health needs. Colorado is one of 15 states in the nation to implement this new approach to streamlining health care for vulnerable clients.

Julie's first interaction with Disability Law Colorado (then The Legal Center) was several years ago when she was working for

Rocky Mountain Human Services on investigations into abuse and neglect of people with developmental disabilities.

"One day a call came from Andrea Faley at The Legal Center about a host home provider who was ill-treating and neglecting two vulnerable adults in his care," Julie recounts. "Andrea phoned me to inform me of the allegation and then she and Randy Chapman went off to the home to check out the report. Sure enough, they could see through the basement window that these two men, who required line-of-sight supervision, were locked in their bedrooms in just their underwear. Randy and Andrea were talking to me on their cell phone as they crept around the house, and I thought - I want to do that - I want to wear a cape and swoop in and save people! Seriously, I have such admiration for all the lawyers who are so passionate about their work - I wanted to be part of that incredible organization. So, when this opportunity came up, I didn't hesitate because this is where I want to be."

Julie explains that as this is a brand new position, she is doing a lot of listening to and learning from people in the field about how Medicare and Medicaid are and are not working for its dual-eligible enrollees.

"We're just beginning to reach out to people to let them know we're available and want to help," she says. "My key role is to respond to complaints and concerns of beneficiaries. As the program ramps up, I expect to be talking with consumers, family members, providers and policy-makers as we look for solutions to making these critical programs work for the people who need them."

Julie has a 20-year career in the Community Centered Board system where her various roles included case management, investigations and advocacy on behalf of children and adults with intellectual and cognitive disabilities. She received her Master of Social Work degree in Chicago, Illinois and is a Licensed Clinical Social Worker with the state of Colorado.

## A New Program For People Dually Eligible For Medicaid And Medicare

Currently, the system serving Medicare/Medicaid enrollees is fragmented, which often results in unnecessary and duplicative services. The Department of Health Care Policy and Financing (HCPF) and the Centers for Medicare and Medicaid Services (CMS) have partnered to implement a program designed to integrate care for Medicare and Medicaid clients, also referred to as "dually eligible" individuals. The demonstration

program is called "The Accountable Care Collaborative: Medicare/Medicaid Program." Colorado is one of 12 states in the nation in the Demonstration Project. States are encouraged to create an Ombudsman Program to assist in the execution of the program. The Colorado Department of Human Services has received the grant for the Ombudsman Program from CMS

and is contracting with Disability Law Colorado to implement the program.

Clients who receive both Medicare and Medicaid rely almost entirely upon government pro-

barriers to receiving appropriate, customer-centered services, all of which results in very costly care. In an effort to reduce these barriers, the Accountable Care Collaborative (ACC) Medicare/Medicaid Program

strives to improve care coordination for recipients. The goals of the ACC program are three-fold. First, the program hopes to improve health outcomes for full benefit Medicare/Medicaid enrollees; secondly, improve the enrollee experience through enhanced coordination

and quality of care; and finally, realize a cost savings by decreasing unnecessary and duplicative services.

At Disability Law Colorado, the title of the ombudsman for this program is Medicare/Medicaid Advocate. She will respond to complaints regarding care or rights violations from beneficiaries receiving services from the ACC.

*Compared to average Medicaid recipients, these individuals generally require a higher level of care, but face more barriers to receiving appropriate, consumer-based services.*

grams to help meet their health needs. Forty-one percent of Medicare/Medicaid enrollees have at least one mental health diagnosis while 60 percent have multiple chronic illnesses. Some also have cognitive impairments, low literacy and long-term care needs. Compared to average Medicaid recipients, these individuals generally require a higher level of care, but face more

# 2014 DLC ANNUAL REPORT

In FY2014, Disability Law Colorado provided direct service to 1,169 individuals statewide. Of these, 332 individuals received direct legal representation from Disability Law Colorado. We helped clients in 51 of Colorado's 64 counties, with 63% of clients residing in urban settings and 37% in rural settings. For those clients' cases that were closed with a resolution, the outcome was in the clients' favor 87% of the time.

**In 2014, Disability Law Colorado operated 10\* programs:**

- Protection and Advocacy for Developmental Disabilities (PADD)
- Protection and Advocacy for Individuals with Mental Illness (PAIMI)
- Protection and Advocacy for Individual Rights (PAIR)
- Protection and Advocacy for Assistive Technology (PAAT)
- Protection and Advocacy for Beneficiaries of Social Security (PABSS)
- Protection and Advocacy for Traumatic Brain Injury (PATBI)
- Client Assistance Program (CAP)
- Protection and Advocacy for Voting Accessibility (PAVA)
- Colorado Long-Term Care Ombudsman Program (OMB)
- Legal Assistance Developer Program (LAD)

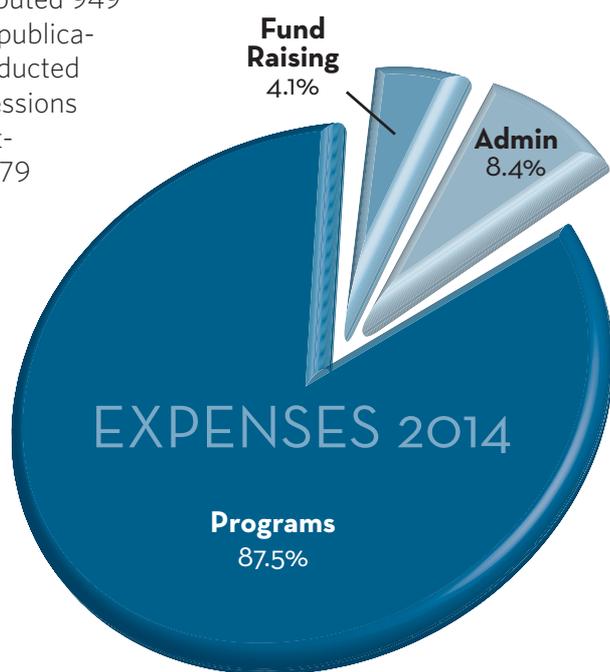
\*The Accountable Care Collaborative: Medicare-Medicaid Program began operations at the end of 2014.

**Examples of our impact:**

- Education - 349 cases
- Housing - 160
- Employment - 201
- Abuse/neglect and other rights violations - 272
- Mental health services - Access - 254
- Access to healthcare - 118

Our Long-Term Care Ombudsman and Legal Assistance Developer jointly responded to 2,000 calls from consumers and professionals. Together, the two programs they oversee supported the work of the 16 area agencies on aging statewide meeting the needs of more than 37,000 residents in long-term care and providing legal assistance for more than 4,000 older adults.

In addition, we helped more than 6,500 people with information and referral, distributed 949 copies of our publications and conducted 40 training sessions which were attended by 3,979 participants.



**Income**

|                                    |                    |
|------------------------------------|--------------------|
| Government grants & contracts..... | \$1,876,980        |
| Charitable contributions.....      | \$188,180          |
| Publications & fees.....           | \$24,598           |
| Investments.....                   | \$47,985           |
| <b>Total Income.....</b>           | <b>\$2,137,743</b> |

**Expenses**

|                            |                    |
|----------------------------|--------------------|
| Programs.....              | \$1,840,866        |
| Fund raising.....          | \$85,904           |
| Administrative.....        | \$176,006          |
| <b>Total Expenses.....</b> | <b>\$2,102,776</b> |
| <b>Net.....</b>            | <b>\$34,967</b>    |

|                               |                  |
|-------------------------------|------------------|
| <b>Ending Net Assets.....</b> | <b>\$726,192</b> |
|-------------------------------|------------------|

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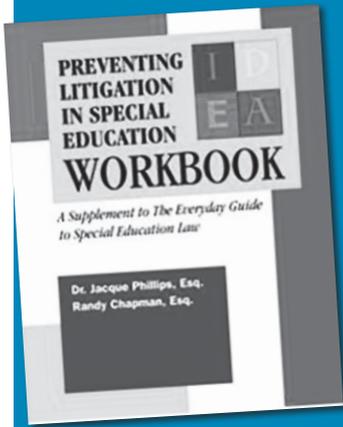
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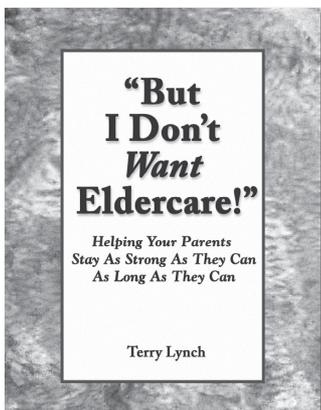
## Preventing Litigation in Special Education WORKBOOK



Published in January 2011, the WORKBOOK is an indispensable companion to Disability Law Colorado's bestseller *The Everyday Guide to Special Education Law*. Dr. Jacque Phillips, an experienced special education teacher and licensed attorney, joins forces with Randy Chapman, author of *The Everyday Guide*, to help parents and teachers understand the likely outcome of special education cases so that parents and school districts can avoid unnecessary legal entanglements. In addition to a wealth of practical information, the book features actual cases presented in a concise, storytelling format. Each case gives the views of the players stated as arguments, together with brief explanations of the special education law relevant to that specific issue. Readers can try to predict the outcomes based on what they have learned—answers are provided at the end of each case.

The *Preventing Litigation in Special Education WORKBOOK* can be purchased for \$19.95. *The Everyday Guide to Special Education Law* is available for \$24.95, BUT both books can be purchased together for only \$35.00. Now available as e-books for \$9.95.

## “But I Don’t Want Eldercare!” Helping Your Parents Stay As Strong As They Can As Long As They Can



This is the guide the author wishes he'd had before his mother's medical crises changed each of their lives. Terry Lynch draws on extraordinary personal experience in this eye-opening guide to the future, from his work with the White House Conference on individuals with disabilities to a decade as his mother's caregiver. While he assisted other families, Terry helped his mother remain at home in spite of significant medical problems and a life-changing memory disorder.

*But I Don't Want Eldercare!* costs just \$14.95. Now available as an e-book for \$9.99.

## Preventing Litigation in Special Education Training



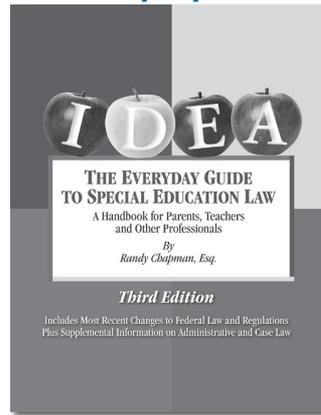
Legal conflicts between parents and schools use resources that are better used for supporting students. Unfortunately, teachers and administrators receive very little training in special education law, and so schools spend money unnecessarily for attorneys because the law is not followed. Let us help prepare and train your school staff for these issues. This training provides the information needed to reduce the time, energy and money spent on preventable legal conflicts.

For more details or to schedule a training, please contact Anna Dubnikov at 303-862-3514 or [adubnikov@disabilitylawco.org](mailto:adubnikov@disabilitylawco.org).

## Fact Sheets

Disability Law Colorado has free fact sheets on a variety of disability law issues. Visit [www.disabilitylawco.org](http://www.disabilitylawco.org) to view and print the fact sheet(s) of the topic(s) you are interested in learning more about.

## The Everyday Guide to Special Education Law, 3rd Edition



Published January 15, 2015 by Randy Chapman, Esq., updated to include new content from Randy's blogs as well as the most recent changes in federal law including:

- the IDEA requirements for services plans for children placed in private schools
- how to file complaints with State Education Agencies for violations of the IDEA including obtaining compensatory services

- timelines for resolving disputes under the IDEA and how to use “mediation” and the new “resolution process”
- the evaluation process and response-to-intervention (RTI)

*The Everyday Guide to Special Education Law, Third Edition* is available for \$24.95. *The Preventing Litigation in Special Education WORKBOOK* can be purchased for \$19.95. BUT both books can be purchased together for only \$35.00.



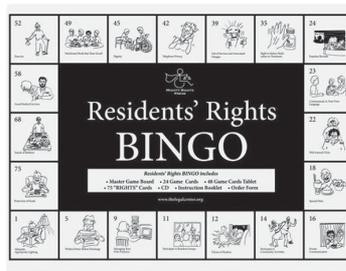
*Guía de la Ley de Educación Especial* is the Spanish translation of *The Everyday Guide to Special Education Law*. The Spanish and English texts are included side-by-side on every page. \$29.95. Purchase *Guía de la Ley* and the *WORKBOOK* together for \$40.

## Colorado Long-Term Care Ombudsman & Legal Assistance Developer Programs Annual Report 2014



The Colorado Long-Term Care Ombudsman & Legal Assistance Developer Programs Annual Report 2014 was published in February and is available free of charge by calling or emailing Disability Law Colorado or by downloading from [www.disabilitylawco.org](http://www.disabilitylawco.org). The two programs work together to protect and promote the rights of Colorado's older adults and to improve their quality of life. The Ombudsman Program protects the rights of all people in nursing homes and assisted living residences in Colorado.

## Residents' Rights BINGO!



The popular Residents' Rights BINGO game is available for purchase! The game has been updated with the addition of culture change concepts and new illustrations. The game also includes a CD so you can print extra game cards. The Instruction Booklet is included on the CD.

The game is an imaginative way to empower residents of nursing homes and provide essential training to staff. The game meets the Medicaid requirement for training residents and staff about residents' rights. It is also a useful tool for residents and staff of assisted living residents and long-term care ombudsmen.

*Residents' Rights BINGO* is played just like regular Bingo. It's a lot of fun, and everyone wins! \$95.00

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/DISABILITYLAWCO

Follow news about Disability Law Colorado online at [www.disabilitylawco.org](http://www.disabilitylawco.org)

Randy Chapman's Ability Law Blog (updated regularly) <https://disabilitylawco.org/resources/ability-law-blog>



@DISABILITYLAWCO

## Disability Law Colorado Pursues Two NIMBY (not in my back yard) Cases

A recent case that came in involves a host home provider who rents a house in Colorado Springs and provides housing for two men with mental health disabilities. Although there has been no misconduct or evidence of violence on the part of the tenants, the neighbors in the area have complained to the owner of the home, making allegations of the tenants being "weird." The neighbors say they do not feel safe with their kids

playing outside near the home of the tenants with disabilities. As a result, the landlord has terminated the lease for the host home provider and the two tenants. Unfortunately, it appears that the Fair Housing Act does not apply in this case. The owner of the property owns only one house, did not use a realtor, and did not discriminate in advertising. Unfortunately, we do not have the law on our side and can only strive to remedy the situ-

ation by educating the owner, the management company, and the neighbors. However, we are considering legal involvement in a similar case in which an eight-bed assisted living residence for people with disabilities is being blocked due to neighborhood covenants restricting homes to single family dwellings. The case is currently in state court and we are evaluating to determine if we should move it to federal court.

## UPDATE ADX LITIGATION

Since 2013, our Protection & Advocacy for Individuals with Mental Illness (PAIMI) Program has been involved in Cunningham v Federal Bureau of Prisons, a class action case seeking mental health treatment for prisoners with serious mental illness incarcerated at the U.S. Penitentiary Administrative Maximum facility (ADX) in Florence, Colorado. Disability Law Colorado is a plaintiff in the case represented by pro bono lawyers from Arnold & Porter and the Washington Lawyers Committee for Civil Rights and Urban Affairs. A Second Amended Complaint was filed that broadened the definition of the prisoner screening class and the treatment subclass by including inmates with "mental illness," when before the inmates had "serious mental illnesses." Judge Matsch also ended the magistrate judge's ability to broker settlement negotiations and now the parties must negotiate on their own. Still pending before the court is our motion for pretrial summary judgment on the issue of whether DLC has standing to represent all inmates with mental illness at the ADX, not just the six inmates who requested our representation.

## Housing Authority Agrees—No Pet Deposits For Any Support Animals

Disability Law Colorado was informed that a local housing authority was violating the Fair Housing Act (FHA) and Section 504 of the Rehabilitation Act (Section 504) by charging a pet deposit of \$500 for emotional support/companion animals. The housing authority's policy stated that, "Companion and emotional support animals are not a protected group under the ADA [Americans with Disabilities Act] and are not considered service animals

unless supported by a disability notice specified in written detail by their physician accompanied by a signed statement from the physician stating 'I am willing to testify in court of law that this disability substantially limits one or more major life activity; a pet deposit will apply to companion animals.'" The use of this policy is discriminatory, overreaching, and imposes a significant burden on persons with companion/emotional support animals. Our Grand Junction staff sent a

letter to the housing authority's attorney requesting a copy of their policy, and asking that they immediately stop assessing a pet deposit for support/companion animals. The attorney responded immediately and stated that the housing authority will work quickly to revise the policy so that it complies with the ADA. Disability Law Colorado staff continues to monitor the revision of the policy.

## Celebrating Our Volunteers [continued from front page]

board president. This year, George Curtis presented it to attorneys Fern Black and Randy Parcel. Each has volunteered countless hours to Disability Law Colorado, 15 years and eight years respectively.



J. Fern Black's legal career included service on behalf of the Colorado Supreme Court, as well as private practice where she was in trials of personal injury cases. This spurred her volunteer interest in working with people with disabilities. As an attorney volunteer, Fern has assisted with research and analysis across all program areas.

"I enjoy coming in and doing legal research and other work for the different programs - I'm available for any assignment. I help out wherever I'm needed," she said. "Justice Rovira had such a

distinguished legal career and he was such a good friend to Disability Law Colorado. I am very honored and pleased to receive this award bearing his name."

Fern has made a special study of the workings of the legislature. Her experience with the League of Women Voters has been valuable as every year she tracks more than 50 bills of interest to Disability Law Colorado. She has also been a key team member in the VOTE! program, which works to assure that the voting process is accessible to people with disabilities in Colorado.

Randy Parcel is a retired attorney with more than three decades of legal experience, none of it, as he cheerfully pointed out, in the field of special education law. Randy was introduced to Disability Law Colorado by his wife, Tracy Kovach, who is a speech language pathologist. "When I retired, I was willing to learn on the job," said Randy, "and it's

been so rewarding working with the attorneys and advocates here. I knew nothing about special education law and they've been very patient as I learn. In my 40-plus years of private practice I was privileged to work with many outstanding and talented attorneys and support professionals. I continue to have that opportunity at Disability Law Colorado for the last eight years. The dedication and care and quality work done by everyone continues to awe and amaze me."



In 2012, Randy researched and wrote the Amicus brief for the Colorado Court of Appeals in support of Disability Law Colorado's position on the Douglas County Choice Scholarship Program. In order to participate in the "choice" program, parents of students with disabilities were required to forgo needed accommodations and support services for their children. Randy's brief detailed Disability Law Colorado's argument that the program violated the anti-discrimination provisions of the Americans with Disabilities Act.

Director of Legal Services Randy Chapman, who joined Disability Law Colorado as a VISTA volunteer in 1977, shared some historical perspective on the importance of the evening's celebration:

"Years have gone by and we've got most kids in public schools, we don't have many kids in segregated schools, most people are not in institutions anymore - they're in the community. We still have lots of things that need to be done, but we're going to take it one step at a time, one case at a time like we always do. We don't quit. I'm very proud to be here tonight and acknowledge the volunteer work of Randy Parcel and Fern Black and on behalf of Justice Rovira."



Auctioneer Reggie Rivers (out of the frame) inspires a roomful of bidders to benefit Disability Law Colorado!

## 10th Annual Attorneys' Night Out

It's hard to believe that it has been 10 years since Disability Law Colorado partnered with the Denver Bar Association Young Lawyers Division (DBA YLD) and the Blake Street Tavern to launch a fund raising event to benefit our legal and advocacy services for people with

disabilities. Attorneys' Night Out is a fun evening that features Blake Street Tavern's award-winning food (try the hummus - you won't be disappointed), the enthusiasm of the DBA YLD, silent and live auctions, and the opportunity to meet the board and staff of Disability Law Colorado. Since 2006 we have raised more than \$250,000 through Attorneys' Night Out.

This year's event was a roaring success, raising nearly \$25,000 to support our services. A huge thanks to our sponsors who help to make Attorneys' Night Out possible, particularly presenting sponsors Berenbaum Weinshienk PC and Sheridan Ross P.C. Our gratitude to our silent and live auction donors, our go-to event experts, Zim Consulting, and our auctioneer, Reggie Rivers.

## ...And A Big **THANK YOU** To This Years Sponsors:

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The Hudson Gardens & Event Center  
The Kitchen Denver  
The Lobby  
The Lodge Casino Black Hawk  
The Melting Pot  
The Museum of Contemporary Art Denver  
Wines for Humanity

## Disability Law Colorado Receives National Award!



The Disability Law Colorado Protection & Advocacy for Individuals with Mental Illness (PAIMI) Program received the National Disability Rights Network (NDRN) Outstanding Advocacy Award for our work on juvenile justice issues and other priority case work. The award was presented at the NDRN annual conference which was held in June in Indianapolis. Mark Ivandick, managing attorney and PAIMI

Program coordinator, accepted the award which was presented by Diane Smith Howard, NDRN senior staff attorney. She applauded Disability Law Colorado's PAIMI Program for the collaborative relationships with other advocacy organizations such as the American Civil Liberties Union and the Colorado Juvenile Defenders Center.



## COLFAX MARATHON Fun In The Sun



Colorado Bar Association Young Lawyers Division celebrate at the end of their race.



Volunteers of all ages - including our canine competitors - are rewarded with a cape to show how super they are!

The 10th annual Colfax Marathon took place on May 16 - 17 and for the fourth year, Disability Law Colorado participated as a charity partner. Our team was 70 strong and included marathon relay teams from the Colorado Bar Association Young Lawyers Division, Colorado Bar Association Continuing Legal Education, CenturyLink, Berenbaum Weinshienk and Fennemore Craig.

Our team members are super and they had the capes to prove it! Some of our team members have been with us for multiple years.

**THANK YOU to the CBA YLD relay teams who raised money to support our services.**