

August 2015

# ZUPKUS & ANGELL, PC

SUMMER  
NEWSLETTER



DEAR FRIENDS AND COLLEAGUES,

Spring and Summer have been true seasons of change this year. From the US Supreme Court through the Colorado Court of Appeals, change is sweeping the way Americans live and even do



**OFFICE SALE!**

business. It has also been a time to celebrate our country, service men and women, and veterans. Thank you for your service!

“True heroism is remarkably sober, very undramatic. It is not the urge to surpass all others at whatever cost, but the urge to serve others at whatever cost.”

-Arthur Ashe

Each one of us has a chance to be a force of change for the better through service, charity, and even the way we interact with clients, colleagues and opposing counsel.

In this spirit, ZA Law will use this summer to host a firm service project at SAME (So All May Eat) Café in Denver, a dining establishment focused on making meals available to everyone, regardless of economic status. To, in a small way, be heroes for a day seems pretty grand. If you are in the area, feel free to check out what [SAME Café](#) is all about and say “Hi” to our smiling faces on August 14 and 15 in Downtown Denver.

Sincerely,  
**Zupkus & Angell, P.C.**  
**(303) 894-8948**



### P.L.R.B WESTERN REGIONAL ADJUSTERS CONFERENCE

**Z**A Law Partner [Muliha Khan](#) traveled to the great state of Texas in mid-June to serve as a presenter at the Property & Liability Resource Bureau (“PLRB”) Western Regional Adjusters Conference. Muliha was thrilled to be selected as a presenter at this prestigious conference. Presenting on the topic of “Effective Litigation Management,” Muliha was honored that Adam Patton, a claims supervisor at

Know a start-up in need of office equipment? ZA Law is updating some offices and common space. We have office furniture, storage units, exercise equipment, décor, office supplies and more ready to go out the door. We hope you and/or your friends in need join us at our sale this Friday and Saturday, August 8-9, from 8am-2pm. Please contact [Parker Ramey](#) at 720-208-2741 with any questions.

### TRANSPORTATION LAWYERS ASSOCIATION

In May, ZA Law Partner [Kristi Lush](#) attended the TLA Annual Meeting in Scottsdale, AZ. Kristi had the opportunity to moderate a panel entitled “Lights, Camera, Action!: Ethics goes to Hollywood” and had the honor of introducing the Honorable Gary Miller who used classic Hollywood film clips to highlight proper and improper legal and ethical conduct.

United Fire Group, joined her as co-presenter. The presentation covered tools and methods for effectively managing litigation with an emphasis on issues unique to the insurance industry. Using the landmark case of *Liebeck v. McDonald's Restaurants*, the presenters drafted a mock Litigation Plan and Budget with the help of the attendees. While this exercise showcased the unpredictability of litigation, it also emphasized the benefits of creativity and thinking "outside the box" to adequately defend a lawsuit. Adam shared his knowledge as a claims adjuster while Muliha provided the attorney perspective.

Muliha is looking forward to the upcoming Central Regional Adjusters Conference, to be held in Columbus, Ohio from September 8 to 10, 2015, where she will also serve as a presenter. If you are in the area, Muliha would love to hear from you! You can contact her directly at [mkhan@zalaw.com](mailto:mkhan@zalaw.com).

Click [here](#) to learn more about the P.L.R.B. Regional Adjusters Conference.

### SUMMER SWAG SURVEY

ZA Law attorneys have the opportunity to participate in many seminars, conferences and meetings around the country. From speaking about Cyber Security in Florida to presenting the secrets to Effective Litigation Management in Texas to participating in DRI's Diversity for Success Conference in Chicago, our partners use these opportunities to connect with other professionals both in and outside the legal field.

As most of you know, attendees at professional events tend to arrive home with a bag full of "swag": various logoed sundries; some useful, some not. By filling out the survey below, let us know which of these "swag" gifts you would like to receive at a professional conference. If there's an item you once received that particularly impressed you, tell us the story!

Fill out the survey [here](#). The best "swag" story will be determined by the ZA Law Partners and the writer will receive a ZA Law gift basket!



Kristi is also honored to have been selected as a moderator for the upcoming Transportation Law Institute in Columbus Ohio. The panel is titled *How to Eliminate Skeletons and Cobwebs and Humanize the Reptiles of the Road: Winning at Trial (and Pretrial) in Trucking Casualty Litigation.* For more information on the TLI Event, please click [here](#).

### WELCOME!

ZA Law is excited to welcome Drew Gustus as a new associate! Drew's practice focuses on legal professional liability defense, while also bringing a depth of experience in construction defect, premises liability, and insurance coverage law. His full bio and picture will follow on the web site soon. Welcome, Drew!

Fill out the SURVEY!



## WHO'S THE EXPERT?

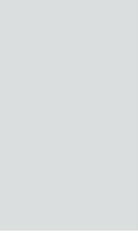
### **The Implications of Allen and Fisher for Insurers and Defense Practitioners**

by Erica Payne, Associate

**H**ow much do experts matter? Two Colorado decisions, *American Family Mutual Insurance Company v. Allen*, 102 P. 3d 333 (Colo. 2004), and the recent holding in *Fisher v. State Farm Mutual Automobile Insurance Company*, --- P.3d --- (Colo. Ct. App. 2015), address this issue in the insurance bad faith context. *Allen* and *Fisher* provide important guidance for insurance companies and insurance defense practitioners regarding the limitations on admissibility of standard-of-care expert testimony—and expert reports—at trial.

*Allen* involved the fallout from the purported sale of a vehicle. The owner of a pickup truck sold the truck to a friend (*Allen*). It was a conditional sale; the seller retained title to the truck while payments were made by *Allen*, and the seller's insurance covered the truck while it was conditionally owned by *Allen*. One weekend, *Allen* was driving the truck with some passengers when *Allen* (who had been driving) got tired and asked a friend to drive. That friend fell asleep at the wheel. The vehicle went off the road and flipped. *Allen* and one other passenger were injured in the resulting accident. *Allen* sought coverage for damage to the truck and injuries sustained in the accident under the seller's insurance policy. The insurance company denied the claim. *Allen* initiated this action, claiming, inter alia, a first-party insurance bad faith claim. *Allen* did not provide expert testimony on the standard of care in the insurance industry for investigating and denying an insurance claim. (cont.)

Read the full article [here](#).



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