

# Talent Strategies for the Well-Being of Colorado Law Firms

BY GENE COMMANDER

A perfect storm of demographic, economic, and professional trends is shrinking the pipeline of affordable and productive legal talent across the nation and in Colorado. The storm threatens to shake firms to their core by 2030<sup>1</sup>—which means that law firm leaders have a six-year window of opportunity to adopt future-focused smart-growth strategies that invest in human capital while serving the best interests of the firms' clients, the profession, and the communities in which the firms do business.<sup>2</sup>

Smart growth does not necessarily entail increasing lawyer headcount, but rather encompasses a wide range of strategies that invest in talent and add value to the business enterprise, like nontraditional staffing arrangements, talent-driven mergers and acquisitions, and succession planning initiatives.<sup>3</sup> The end goal is to scale law firms' business models to ensure that revenue growth outpaces the increased costs of doing business, thereby ensuring sufficient profits per equity partner (PPEP) to sustain the business enterprise.

This article focuses on smart-growth strategies that are designed to cultivate and secure productive talent. At its heart, this means doubling down on the firm's existing talent through an approach where firm leaders humbly and openly explore innovative methods and refine existing best practices to satisfy the needs of the firm and the expectations of talent and clients. Doing so will require an intentional effort to cultivate a magnetic workplace culture that attracts and retains productive talent.

Experience tells us that law firms are fragile enterprises, unusually vulnerable to collapse for talent-related reasons.<sup>4</sup> So the stakes could not be higher: law firms that are passive in the face of a shifting labor market may fail not only to thrive but also to survive.

## The Shrinking Talent Supply

The perfect storm of trends that law firms in Colorado and across the nation are confronting is shrinking the supply of talent and changing the face of the legal industry. And there is no end in sight.

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Dramatic demographic trends are at the eye of the storm. Our country is aging: The number of Americans over 65 years old is predicted to climb from 54 million in 2021 to 74 million by 2030.<sup>5</sup> Baby boomers are rapidly departing the profession. By 2030, today's youngest boomers will be 65 and older. Meanwhile, the graying of the population is expected to constrain women's labor force participation as they care for aging parents.<sup>6</sup> At the other end of the spectrum, US birth rates have tumbled over the last five decades.<sup>7</sup> College enrollment is expected to drop sharply starting in 2025,<sup>8</sup> and law school enrollment in 2021 (117,305) was far lower than at its peak in 2010 (147,525).<sup>9</sup> Thanks to COVID-19, law schools saw a bump in applications in 2021, but applications have continued their prior downward trend for the past two years.<sup>10</sup>

Economic forces are the second contributor to the perfect storm. Since the pandemic, law firms across the country have waged a bruising price war for talent, and Colorado firms of all sizes have suffered the effects because of the influx of deep-pocketed national firms into the Denver legal market.<sup>11</sup> Associate compensation growth nationwide hovered between 1.8% and 4.5% each year from 2011 to 2020 but then spiked to 9.3% in 2021 and 9.4% as of November 2022.<sup>12</sup> Given rising costs of living and staggering law school debt, up-and-coming talent can be expected to continue demanding high salaries. Overall, law firms' direct expenses and overhead expenses have reached some of their highest levels since 2008, with higher recruiting, office space, and marketing and business development costs layering on top of compensation growth.<sup>13</sup>

A suite of disappointing professional trends makes up the third element of the storm. Legal careers appear to have lost some of their luster for college graduates. Looking ahead, a 2023 survey found that the long-term career objectives of Gen Zers (currently aged 11 to 26) "are veering away from traditional law firm paths."<sup>14</sup>

Moreover, a substantial number of US workers left their jobs during the Great Resignation, and the outlook remains unsettled for Colorado law firms. Nationwide, just 51% of 2018 law graduates surveyed were working in law firms

three years after graduation.<sup>15</sup> The State of the Law Firm Survey published this summer in *Law Week Colorado* found that more than half of respondents expected to leave their current firm within six years.<sup>16</sup> Still more troubling, about 28% of respondents anticipated they would leave within three years.<sup>17</sup> Law firms thus can no longer rely on a traditional organic growth strategy in which they recruit and invest in rookie lawyers with the expectation that those lawyers will devote their career to the firm.<sup>18</sup>

In addition to a contracting labor supply, several trends are reducing lawyer productivity. For example, the Great Resignation was accompanied by a trend described as "quiet quitting," where workers have arguably become less invested in their jobs.<sup>19</sup> Likewise, COVID-19 normalized the pre-pandemic trend toward remote work, which can limit the professional growth opportunities that feed off the "power of proximity." Moreover, lawyers' poor well-being in the "most stressful profession"<sup>20</sup> often manifests in sick leave and underperformance, if not attrition.

Finally, the profession's Achilles' heel still constrains the talent supply. Even though women now represent majorities in law schools nationwide and the proportion of women with active licenses continues to grow, women and people of color still depart law firms at disproportionately high rates. For instance, a 2022 nationwide survey found that half of female associates at firms of varying sizes plan to quit within one to two years, compared to one-third of male associates.<sup>21</sup> In addition, comparatively few Black associates report that they plan to remain at their law firm in expectation of becoming a partner.<sup>22</sup> Yet issues of diversity, equity, inclusion and belonging (DEIB) are remarkably under-acknowledged by members of the profession; for instance, 74% of male lawyers in an American Bar Association (ABA) survey believed firms were succeeding at retaining experienced women, while only 47% of female respondents said the same.<sup>23</sup> Given the increasing numbers of women and people of color in the talent pool, investing in strategies designed to mitigate attrition of underrepresented talent should be an obvious priority for law firm leaders.

## Viewing Talent Challenges and Solutions Through New Lenses

The need for change is clear: Colorado law firms are facing an unprecedented talent crunch, and surmounting this new obstacle requires a new brand of business-minded leadership to identify possible blind spots in firms' business models.<sup>24</sup>

But cultivating change is difficult. Law firm leaders who view existing practices as tried and true may not see the value in exploring new approaches.<sup>25</sup> Change requires leaders to humbly acknowledge where past practices have fallen short and calls for openness to novel approaches. And law firm leaders—like all of us—harbor unconscious biases that skew their perceptions about what steps are reasonable and necessary.

To address these barriers, law firm leaders should view their firm's circumstances through new lenses. Leaders should strive to create an organizational culture that values courageous conversations and the continuous learning and progress they make possible. Leaders must be willing to learn in public, move on from mistakes, and engage in hard conversations as they test new approaches. Exploring fresh ideas and candidly acknowledging missteps will be uncomfortable for leaders—but they must become comfortable with this discomfort. This includes engaging in vigorous but healthy and respectful conversations with colleagues throughout the organization about their personal and professional goals and how new practices may alter the trajectory of the law firm.

Law firm leaders face the task of not only shifting long-held practices, but doing so in a multigenerational, more diverse workplace. In creating change, all generations' voices must be heard—including those of baby boomers, who may be nearing retirement but who still can play a vital role by sharing their hard-earned knowledge and insights. And "generational friction" should be reduced through open communication that fosters multigenerational empathy and encourages give and take on all sides.<sup>26</sup>

## Smart-Growth Talent Strategies

As the Thomson Reuters Institute sums up the talent crisis, the legal industry may have

“reached a point that calls for a fundamental re-examination of how we approach talent management in law firms of any significant size.”<sup>27</sup>

To develop wise solutions, we must understand the reasons for the current shortcomings in retaining talent. What causes lawyers to leave firms? According to a 2022 Thomson Reuters Institute survey, the primary factors driving associates’ decisions to switch jobs relate to much more than compensation—other key considerations include feeling underappreciated, lack of career progression, lack of genuine regard for well-being, insufficient mentorship, and inflexibility in work timing and location.<sup>28</sup> A broader 2022 survey of ABA members yielded somewhat similar results, finding that work-life balance, compensation, a welcoming and collaborative culture, quality of work, and the ability to work remotely were the factors most

important to attorneys—particularly those who are female or persons of color—when deciding whether to change jobs.<sup>29</sup>

Looking to possible solutions that address these root causes, adhering to catch and release talent practices is not a viable option, as it will break the bank and fail to develop the next generation of leaders. Nor is belt tightening the answer. Instead, Colorado law firms should prepare for the future by making robust investments in human capital and implementing thoughtful measures to protect those investments.<sup>30</sup>

**Compensation**

Every firm should strive for a balanced compensation strategy that plays the “long game”<sup>31</sup> by offering a bundle of rewards to encourage desirable behaviors that support a healthy workplace and profitable business enterprise. While law firm stability depends on sustained

client development, PPEP does not rely solely on cash receipts and business origination. Firm leaders should ask themselves whether their compensation plan encourages repeated investments of their attorneys’ professional time and energy in the development of the firm’s productive talent—on which PPEP ultimately depends. This would require rewarding all valuable contributions to the business enterprise, such as training and sponsoring younger talent, performing firm leadership responsibilities, and enhancing the firm’s culture.

When firms instead base their compensation plans exclusively on direct cash receipts and business generation that can be credited to individual lawyers, firm members are not always motivated to devote themselves to the talent and culture development activities that are crucial for the firm’s long-term prosperity. A true “eat what you kill” compensation plan may be appealing to some in the short term. But when the firm’s net income does not support the desired levels of PPEP, and monetary rewards stagnate or even decline—and they will periodically—the firm’s history of long-term inadequate investments in developing talent and culture will be exposed, leading the firm to unravel financially and professionally.

In partner compensation plans, firms should be willing to assign monetary value to well-defined criteria that contribute to the firm’s PPEP *and* that promote the culture and stability of the firm, even when those criteria do not generate measurable cash receipts. These criteria fall largely into three investment buckets: client development, talent development, and culture development. The relative value of each bucket can be weighted appropriately in the firm’s compensation plan and rebalanced as the firm’s talent and profitability circumstances evolve.

Client development—the traditional basis of law firm compensation models—primarily entails producing personal cash receipts by performing legal work for clients and generating additional business from existing and new clients. Talent development involves recruiting, training, mentoring, sponsoring, and other efforts that build younger lawyers’ legal skills, leadership capacity, and business acumen. And culture development means contributions to the

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fabric of the firm’s magnetic workplace culture, including promoting attorney well-being and advancing DEIB. Talent and culture development efforts hold tremendous “long-game” value and should be rewarded monetarily to motivate ongoing investments of time and other resources in the firm’s most valuable asset—its human capital.

When it comes to associate compensation, although some view today’s starting salaries for rookie lawyers as exorbitant, the current labor market requires Colorado law firms to offer higher base compensation to top prospects and to give healthy raises to existing talent. Firms simply cannot afford to lose out on highly productive talent over tens of thousands of dollars in compensation. Keep in mind: The costs of replacing talent are continuing to climb, and the lost revenue from the work of the departing lawyer during the replacement period can devastate annual firm budgets—particularly when the lawyer takes clients to a competitor. The reality is that law firms must find room in their budgets for competitive salaries, which have become the minimum table stakes for talent.

For productive talent across seniority levels, the bundle of rewards should include generous paid time off benefits, the possibility of periodic sabbaticals, and other nonmonetary rewards that acknowledge the value of “the employee as a whole person rather than [just] a revenue generator.”<sup>32</sup> And survey data indicates that younger lawyers are often willing to forgo higher compensation in exchange for more time off, a more flexible work schedule, or a cut in billable hours, so in some instances law firms may be able to attract and retain the next generation of talent by providing a highly attractive total rewards package.<sup>33</sup>

Compensation models are critical not only in their substance but also in how decisions are communicated. Colorado’s Equal Pay for Equal Work Act<sup>34</sup> helps implement pay transparency principles, but even greater transparency may be warranted.<sup>35</sup> Regular, candid communication about pay issues at the individual level is valuable to proactively address law firm and talent concerns regarding firm profitability and attorney productivity.<sup>36</sup>

Last, given the rising costs of talent and the lack of bench strength in most Colorado law firms, leaders can no longer afford to condone attorney underperformance. Obviously, law firm members who do not pull their weight in terms of developing clients, talent, and firm culture should not receive compensation comparable to those members who excel in those areas. But compensation reductions have generally proved ineffective in addressing chronic underperformance issues. Failing to address unacceptable behavior with personalized attention, gracious offers of assistance, and appropriate consequences can both impair internal morale and damage the firm’s reputation, making it harder for the firm to win business, motivate up-and-coming talent, and attract new talent that wants to be part of a vital, energized business enterprise. Voluntary withdrawal and involuntary removal from the firm should be on the table under the right circumstances. Ultimately, law firms should strive for a fair equilibrium in compensation throughout the business enterprise by investing heavily in their existing talent who are eager to commit their energies to the firm’s continued financial and professional success.

### ***Nontraditional Staffing***

The second ingredient in building a durable talent base is adopting nontraditional staffing strategies. Legal employers can reach untapped pools of talent—such as lawyers who took a hiatus for family reasons—by offering opportunities like part-time roles, flex-time schedules, full-time remote positions and transparent partner track alternatives.<sup>37</sup> Moreover, firms should create on-ramps and off-ramps for existing talent to change their career trajectory as family and other responsibilities shift. By doing so, law firms will protect the investments they have made in training and developing lawyers and open the door for new nontraditional talent.

Nontraditional staffing strategies enable working lawyer parents to balance their legal career and parenthood while addressing talent shortages. Women are particularly likely to value flexibility in terms of work hours and location.<sup>38</sup> Notably, there are now more women lawyers (51.42%) under the age of 40 with active Colorado

licenses than men (4,405 women compared to 4,162 men).<sup>39</sup> This trend will only intensify: ABA-accredited law schools during the 2021–22 academic year had 64,861 female students and just 52,058 male students.<sup>40</sup>

For nontraditional staffing strategies to succeed, it’s critical to offer competitive compensation and a meaningful path for advancement with measurable milestones. What may be still more important is making nontraditional talent an integral part of the firm’s workplace culture and helping instill a strong sense of belonging. Firms have much to gain by creating opportunities for valuable work by lawyers who otherwise might leave the legal industry for good.

### ***Personal Well-Being***

The rampant mental health and personal challenges in the legal profession include high rates of anxiety, depression, addiction, and divorce.<sup>41</sup> To reduce attrition and underperformance stemming from such issues, firms should design their workplace cultures to foster personal well-being. Doing so also will make firms more attractive in recruiting efforts—particularly to the growing talent pool of women, who often prioritize a commitment to well-being.<sup>42</sup> Law firms can publicly signal their commitment to well-being by signing the Colorado Pledge to Lawyer Well-Being.<sup>43</sup> After all, law firm well-being and attorney well-being are mutually beneficial.

There are some positive signs about law firms’ efforts to enhance lawyer well-being. More than half of Colorado respondents in the State of the Law Firm Survey said their firm had made a significant commitment of time and resources to promote lawyer well-being.<sup>44</sup> Yet a much larger proportion of women and people of color than white men disagreed that their firms had done so.

National survey responses on attrition suggest that addressing work-life balance is the first place firms should look in supporting their lawyers’ well-being. The ABA identifies work-life balance as the top factor that lawyers consider when deciding whether to switch jobs.<sup>45</sup> Generational shifts may heighten this trend—in a recent survey of Gen Z law students and lawyers, 92% of respondents said work-life balance was

important or very important to them.<sup>46</sup> Yet data show that many lawyers work outside normal schedules despite preferences not to do so.<sup>47</sup> And those lawyers who do not work traditional schedules report significantly worse mental health.<sup>48</sup> Although some lawyers view work-life balance as a dispensable luxury, law firm leaders today must accept that not all lawyers are ready or able to devote their undivided energy to their work. Unlike the boomers, younger generations are often unwilling to be defined by their careers. Family responsibilities and other matters that divert employees' attention from their careers are realities, and firms that disregard those personal circumstances will fail to capture and retain a sizable share of the talent pool.

Not surprisingly, surveys also indicate that many lawyers value the ability to work remotely. However, achieving a healthy and productive balance of remote work can be a daunting challenge for both law firms and their talent. In-office work can boost professional development and career progression for employees, especially those in earlier career stages. In a noted study at a technology company, researchers found that junior employees who worked remotely—particularly female employees—received less feedback on their work product and remote workers were more likely to leave their jobs.<sup>49</sup> A Microsoft survey reveals that what is most important in persuading workers to return to the office is the value that workers place on spending time with their colleagues, including the benefits of rebuilding team bonds and socializing.<sup>50</sup> So law firms may be able to nudge some employees back to their desks by cultivating a socially connected workplace that is well represented by firm leaders and senior talent. Law firms should also place an emphasis on educating workers about the intangible and perhaps invisible benefits of working in person.

At the same time, working remotely tends to be highly valued by women, people of color, and people with disabilities partly because these employees experience fewer microaggressions and have greater psychological safety at home.<sup>51</sup> Recognizing this part of the equation, firms should undertake to both improve the workplace so it is welcoming for all *and* invest in providing top-notch training and experiential learning

opportunities to lawyers who wish to remain remote.

Some elements of the bundle of rewards can serve the twin goals of compensating lawyers and improving well-being; examples include health club memberships, mental health support services, sabbaticals, and robust maternity/paternity benefits. Additional well-being strategies that share a common ingredient of respecting lawyers as individuals with important human needs include encouraging interpersonal connections, fostering collegiality, granting lawyers autonomy, and giving lawyers opportunities to perform the type of work that most interests them. Notably, law firms should build cultures that respect lawyers' individual differences,<sup>52</sup> including recognizing that lawyers have varying strengths and needs due to personal characteristics such as ADHD and learning disabilities.<sup>53</sup> For example, small adjustments such as accommodating sound sensitivity or providing advance notice of plans and agendas can make a big difference in making workplaces comfortable for all.<sup>54</sup>

Cultivating a respectful workplace culture can pay rich dividends in terms of lawyer retention. In a recent study, 37.4% of lawyers who said they did not feel valued or lacked feedback at work reported they had considered leaving or already had left the legal profession due to mental health, burnout, and stress, compared to 26.7% of lawyers who said their employer valued them based on their financial worth or availability, and just 15.4% of lawyers who said their employer valued them based on their professionalism, skill, and human worth.<sup>55</sup> This is consistent with the Thomson Reuters Institute's findings noted above that feeling underappreciated and perceiving a disregard for personal well-being were key factors driving associates' decisions to leave their firm.<sup>56</sup>

### **Professional Development**

Career development is one of the primary reasons that employees cite for moving to a new job,<sup>57</sup> so supporting lawyers' professional growth is an essential, cost-effective strategy for retaining talent at law firms. Moreover, given demographic trends, law firms will need to accelerate the development of their existing

talent to fill the leadership opportunities that will open as aging lawyers retire.

Law firm leaders should ensure the path for career advancement is clear to talent and include measurable career milestones. McKinsey recommends also creating "micro" milestones for younger talent that provide opportunities to participate in new experiences or develop important skills.<sup>58</sup> The results will include more actionable feedback for talent and the true belief that they are valued.<sup>59</sup> Providing transparent milestones not only promotes professional growth but also supports employee well-being.

Robust talent development programs that offer training in both traditional legal skills and law firm business acumen will help young lawyers develop an "ownership mentality"<sup>60</sup> that fosters engagement while building the firm's future leadership capacity. Mentoring and sponsorship programs are also valuable for guiding new talent while contributing to a connected and engaged culture. Sponsorship goes beyond traditional mentorship to include advocating for protégés to receive promotions and significant client development opportunities, preparing them for firm leadership and ownership roles and supporting them when they fall short.<sup>61</sup>

As the Thomson Reuters Institute puts it, "Today, if firms want to attract and retain young lawyers, they must offer a different proposition—one that guarantees great training and a range of unique experiences that will prepare associates for their next professional role, whether that's as a partner at the firm or some other position."<sup>62</sup>

### **Technology**

Law firms must stay current on the ever-shifting field of technology to succeed in their talent strategies. Technology plays a critical role in enabling connections among the firm's talent and between the firm and its clients. Using technology to maintain a connected and engaged workplace is essential, especially when part of the talent base is working remotely. Further, advanced technology can help lawyers work more effectively both remotely and in the office, which will in turn boost the firm's productivity and keep both talent and clients

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happy.<sup>63</sup> Firms that lawyers rate more highly for their information technology support functions also tend to experience lower attrition rates.<sup>64</sup>

And the importance of advanced technology will only grow. For younger workers, technology forms a central part of the workplace and their lives, so law firms must invest in top-notch technology to position themselves as attractive employers going forward.<sup>65</sup>

Questions now swirl around the future role of artificial intelligence (AI) tools, such as ChatGPT, in the legal profession. AI is widely acknowledged to have “infinite potential” for transforming the legal industry.<sup>66</sup> At the same time, many lawyers worry that new technologies will displace them. Proactively navigating the opportunities and challenges posed by AI tools can chart a thoughtful path forward,<sup>67</sup> thereby lessening potentially grave concerns about the future and improving lawyers’ well-being.

### **Cross-Cutting: DEIB**

Across all these areas—compensation, nontraditional staffing, personal well-being, professional development and technology—law firms should make DEIB a central theme. Truly welcoming and supporting all talent is not only the right thing to do but also will go a long way toward overcoming the talent shortage, since women and underrepresented lawyers leave law firms at strikingly disproportionate rates. It is also economically vital for law firms to have diverse talent to meet clients’ growing demands for diverse representation.<sup>68</sup> In the wake of the US Supreme Court’s recent affirmative action ruling, law firms will need to be even more thoughtful about how they can cultivate and tap into the pipeline of traditionally underrepresented candidates.<sup>69</sup>

The good news is that many lawyers feel their firms have made great strides in DEIB efforts. Still, more than a quarter of respondents in the State of the Law Firm Survey said they disagreed or strongly disagreed that their firm has made a significant commitment of time and resources to promote diversity, equity, and inclusion in the workplace.<sup>70</sup>

To build on the progress made so far, law firms should approach DEIB challenges rigorously by investing the “time and effort to

deeply understand the problem they’re trying to solve.”<sup>71</sup> A key measure is for law firms to ensure their compensation plans appropriately reward attorney time spent performing DEIB work—as they routinely do for pro bono work. McKinsey has found that women leaders perform up to twice as much DEIB work as their male counterparts, yet their employers often do not formally recognize those efforts.<sup>72</sup>

Moving forward, lawyers ranging from young to old and representing all demographic groups should commit themselves to creating a workplace where everyone feels they belong. Older lawyers, in particular, can play a valuable role by raising their influential voices in support of DEIB principles. And law firm leaders should encourage all these efforts through tangible rewards and by setting a personal example.<sup>73</sup>

### **Conclusion: Smart Growth in Action**


As Colorado law firms navigate the evolving trends affecting talent, smart-growth strategies are imperative if firms are to achieve revenue growth that outpaces the skyrocketing cost of doing business. Implementing the right strategies can make a striking difference in talent recruitment and retention—firms with successful models have witnessed roughly one-third less associate turnover than firms with unsuccessful models.<sup>74</sup> Moreover, firms with lower attrition rates tend to outperform their competitors on key financial performance indicators.<sup>75</sup> This tells us that the well-being of the law firm business enterprise and the well-being of its talent go hand in hand.

Colorado law firms implementing forward-looking strategies should adopt a culture of continuous organizational learning and smart growth that respects the common interests and the voices of all generations. Law firms’ mantra should be to learn, grow, and invest each day.

The Thomson Reuters Institute stresses the value of organizational capability: a firm’s ability “to renew itself over and over again, by constantly monitoring the changing environment in which it operates and making the most intelligent strategic choices about where and how to deploy its scarce resources in support of its plan for winning.”<sup>76</sup>

The task ahead for Colorado law firms is to enhance their ability to attract, develop, and retain productive talent with the entrepreneurial instincts to strive for the personal and professional achievement needed to sustain the firm’s prosperity. The primary means for doing so is to thoughtfully design a magnetic workplace culture that satisfies the expectations of talent, clients, the profession, and the community. Doubling down on law firm talent will offer clients an enhanced brand of service and provide firms a competitive advantage with existing clients and new prospects. The prize for these efforts will be repeat clients willing to pay respectable fees for the high-quality services they have come to expect.

2030 is a key marker for Colorado law firms as they endeavor to stay ahead of the talent curve. Why? By 2030, most baby boomers will be out the door. Law firms will be led by Gen X and millennials. And as of yet, millennials’ leadership capabilities are largely untested. Women and people of color and other diverse backgrounds will have further remade the face of the profession. Last, new technologies like AI will have transformed the way we practice law. All these circumstances will have tested firms’ organizational capability.

With future-focused strategies in place to secure productive talent and bench strength, Colorado law firms will reach 2030 prepared to greet the decade ahead with vitality and resilience. 



**Gene Commander** is an executive business counselor for the legal industry, with a special focus on Smart Growth in Action: 2030™ through proactive business growth strategies for Colorado law firms. He has more than 40 years of experience in the legal industry while practicing construction law with small, midsize, regional, and national firms. His past roles include serving on the management committee of a midsize firm and as managing shareholder in the Denver office of an Am Law 100 firm—gene@genecommanderinc.com.

**Coordinating Editor:** Jeffery Weeden, jlweeden@weedenlaw.com

## NOTES

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