

LAW WEEK

COLORADO

DEALING WITH THE MEDIA

Lawyers, take note: Editorial content has credibility with the public. But beware if it's handled poorly or without a plan, and don't count on getting it, **Janet Ellen Raasch** and columnist **Bob Weiss** write. PAGE 7.

case of the **YEAR**

Lawyer On Autism Case Is Honored

Craig Ewing Feted At
CTLA's Spring Dinner

By Kara Lyons
LAW WEEK COLORADO

DENVER — Denver attorney Craig Ewing showed noticeable surprise Thursday as he took the stage to accept the award of Case of the Year from the Colorado Trial Lawyer's Association for his work on *Tappert v. Anthem Blue Cross Blue Shield*.

Ewing's case received the award at the CTLA's Annual Spring Dinner. It was announced in an Academy Award-style presentation, complete with a sealed envelope.

"The winner is always secret," Ewing said. "They keep that very close to their vests. None of the lawyers knew until it was announced. I thought the likelihood was that my case would not win. The Qwest case was pretty momentous and a great case. I just wasn't prepared."

Therapy Won

Ewing's case involved 4-year-old Abigail Tappert, who suffers from severe autism. Tappert needed insurance coverage for



PHOTO COURTESY PHIL CHERNER

CTLA President Darin Schanker, Case of the Year award winner Craig Ewing and CTLA member Mari Bush pose at Thursday's spring dinner.

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CASE

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"ABA autism therapy," an expensive treatment intended to aid with her development. Before the completion of the case, such therapy was deemed experimental and investigational by insurers.

In a landmark decision, the judge on the case ruled the therapy medically necessary and a covered benefit of the insurance policy, requiring Anthem Blue Cross Blue Shield to pay \$110,000 in prior expenses.

"The case is one that really touches your heart," Ewing said. "What's so rewarding about the Tappert victory is here you have a type of therapy now available to kids with autism and this particular type of therapy is standard care. It gives families hope because you have single parents and they are working and taking a lot of their disposable income to pay for this kind of therapy."

With the win, there's hope for them that they are going to be able to get that monkey off their back, Ewing said.

"It really is a huge victory for the disabled children of the world," he said. "It's not a case about money. It's not a case about anybody's self advancement. It's a case about children with disabilities winning in the world."

While accepting the award for Case of the Year, Ewing explained his interest in taking on the Tappert case.

"I remember the summer of '76," Ewing

said. "I was cutting trees in Maine and bartending at night. I said to myself, I hope one day I get to do something with my brain. You have been given these tools to make a difference in someone's life. What you find in doing pro bono work is a great call to service. It's about serving others and making a difference for people. I'm so glad the Tapperts gave me the opportunity to support them."

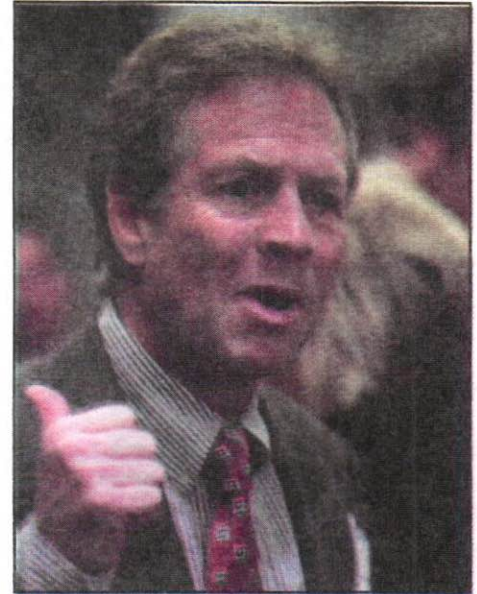
Notable Cases

The Tappert case took the victory over the other nominated notable cases from 2007, *Blood v. Qwest, et al.* and *Bonner v. City of Aurora, et al.*

The Blood case, handled by William Keating and Michael Keating of Fogel Keating Wagner Polidori Shafner, involved a Qwest-owned utility pole that collapsed and paralyzed Xcel workman Andy Blood, leaving him a paraplegic. The jury awarded Blood punitive damages to convey to Qwest the importance of routine inspection and maintenance of their utility poles. The jury also held Qwest 100 percent responsible for failure to have any maintenance and inspection program in place.

In September 2007, Denver District Judge Sheila Rappaport increased the penalty Qwest was ordered to pay from \$39 million to \$84 million.

Rappaport awarded the maximum increase allowed by law on the grounds that Qwest continued "to fail to inspect, maintain and repair" its phone poles despite having lost the jury trial.



CRAIG EWING

Ewing's case also beat out the Bonner case, tried by Darold Killmer and Mari Newman of Killmer Lane & Newman, along with Andrew Silverman of Hochstadt Straw Strauss & Silverman. The case involved an Aurora police ambush in 2003 resulting in the shooting and killing of an unarmed black man during a prostitution SWAT operation.

The case resulted in a settlement including several non-monetary elements aiming to enhance public safety and police accountability. Aurora publicly apologized for their conduct, vowing to make significant changes in their standard operating procedure.